



PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the Planning Commission will be conducted electronically through Zoom and broadcast live through Granicus on the City's website which can be located on the [Streaming Media](#) page. If you do not have internet access, the meeting will also be available to the public in a listening-only mode via telephone call-in line. To listen to the meeting, dial 1 (669) 900-6833. When prompted, dial in the Webinar ID, 897 6240 0537 and Password 086252.

Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Planning Commissioners will be participating electronically and will not be physically present in the Council Chamber.

As of January 26, 2021, Planning Commission Meeting, live comments will be allowed by members of the public via teleconferencing during Zoom meetings and emailed comments will no longer be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided, or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the Streaming Media link on our website – www.ci.pittsburg.ca.us) you can phone in to Zoom. If you log in before the event has started, you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- Begin your comment by providing your name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.



City of Pittsburg Planning Commission Agenda

August 24, 2021

**City Hall Council Chamber
65 Civic Avenue, Pittsburg, CA 94565**

**Regular Meeting
7:00 P.M.**

Planning Commission Members

**Christopher Moreno, Chair
James Coniglio, Vice-Chair
Elissa Robinson, Commissioner
Heliodoro Moreno Jr., Commissioner
Henry Perkins, Commissioner
Ivelina Popova, Commissioner
Sarah Foster, Commissioner**

A decision by the Planning Commission is not final until the appeal period expires 10 calendar days after the date the decision occurred. The applicant, City Council member(s), City Manager, or any affected person may appeal the denial, approval, recommendation, or any condition of approval of an item within the 10-day appeal period. A completed appeal form and the applicable filing fee must be filed with the City Planner, 65 Civic Avenue, Pittsburg. The appeal form must include the name and address of the appellant and state the reasons for the appeal. The appeal will be set for City Council consideration and appropriate public notification given.

The Commission requests that you refrain from disruptive conduct during the meeting and that you observe the order and decorum of the Council Chamber. Please turn off or set to vibrate all cellular phones, and refrain from making personal, impertinent, or slanderous remarks. Boisterous or disruptive behavior while the Commission is in session, is considered counterproductive and will not be tolerated.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

DELETIONS, WITHDRAWALS OR CONTINUANCES

COMMENTS FROM THE AUDIENCE

CONSENT

1. **Minutes**
Minutes of July 13, 2021
2. **Minutes**
Minutes of August 10, 2021

PUBLIC HEARINGS

3. **Consideration of a Resolution Recommending City Council Approval of a Use Permit Amendment, Design Review, CEQA Addendum, and a Development Agreement for Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)**
This is a public hearing on a request for a recommendation for City Council approval of: 1) an amendment to the existing use permit (originally approved in 2018) for operational enhancements at the existing Recycle Center Transfer Station/Mt. Diablo Resource Recovery Park; 2) design review approval of plans to construct sixteen new structures totaling 448,900 square feet of new building area for a total of 570,580 square feet of development; and 3) approval of a Development Agreement. The Commission is also being asked to consider the 2nd Addendum to the Final Environmental Impact Report (FEIR) prepared for the project. The Project is located at 1300 Loveridge Road in the IG (General Industrial) and IL-O (Limited Industrial with a Limited Overlay) districts. Assessor's Parcel Nos. 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028, and 073-200-029.

COMMISSION CONSIDERATIONS

4. Consideration of a Resolution Approving Design Review of the Pittsburgh Renal Center, AP-21-1552 (DR)

This is a request for design review approval of plans to construct a new 11,225 square foot commercial shell building for future development of a dialysis clinic, along with site and landscaping improvements, on vacant land located along the north side of North Park Boulevard, in the CC (Community Commercial) District. Assessor's Parcel No. 088-151-045.

STAFF COMMUNICATIONS

COMMITTEE REPORTS / COMMISSIONER COMMENTS

ADJOURNMENT OF PLANNING COMMISSION MEETING

NOTICE TO PUBLIC

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the city of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Commission meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the city to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

GENERAL INFORMATION

Copies of the open session agenda packets that are distributed to the Planning Commission are on file in the office of the Planning Department, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning no fewer than 72 hours in advance of the meeting, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except city holidays). Additionally, if any reports or documents that are public records are distributed to the Planning Commission fewer than 72 hours before the meeting, those reports and documents will also be available for public inspection in the city's Planning Department and at the Commission meeting. The Pittsburg Library is also provided a full agenda packet for your convenience. As a courtesy, the agenda is also located on the city's website at www.ci.pittsburg.ca.us.

**MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION**

July 13, 2021

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the Planning Commission for July 13, 2021, was conducted telephonically through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated telephonically or through Zoom and were not physically present in the Council Chamber.

Chair Moreno called the meeting of the Pittsburg Planning Commission to order at 7:00 p.m. on Tuesday July 13, 2021, via Zoom teleconference.

ROLL CALL

Present: Chair C. Moreno, Vice-Chair Coniglio, Commissioners H. Moreno Jr., Perkins, Popova, Robinson

Absent: Commissioner Foster

Staff: City Attorney Donna Mooney, Acting Secretary Jordan Davis, Assistant Planner Celina Palmer, Assistant City Clerk Amanda McVey, Administrative Coordinator Shelby Rose

PLEDGE OF ALLEGIANCE

Commissioner Coniglio led the Pledge of Allegiance.

DELETIONS / WITHDRAWALS / CONTINUANCES

There were none.

COMMENTS FROM THE AUDIENCE

Public comment was received through call-in from the following:

Bruce Ohlson, Pittsburg

CONSENT

1. Minutes of June 22, 2021

On motion by Commissioner H. Moreno Jr., seconded by Commissioner Popova to approve the Minutes of June 22, 2021, and carried unanimously.

PUBLIC HEARINGS

2. Consideration of a Resolution Approving a Use Permit for Day Spring Spa, AP-21-1570 (UP)

A public hearing on a request for approval of a use permit to establish a foot reflexology and massage therapy business within an existing 1,536 square foot commercial space located at 1353 Buchanan Road, within the Highlands Square Shopping Center. The property is within the CC (Community Commercial) District. Assessor's Parcel Number: 088-460-002.

Assistant Planner Palmer gave a presentation.

Applicant Jing Lin and Bob Garrison spoke on behalf of the project.

Chair C. Moreno opened the public hearing.

There being no one to speak, Chair C. Moreno closed the public hearing.

On motion by Commissioner H. Moreno Jr. with the amendment to condition 2 that the hours of operation for the business shall be limited to those identified within Pittsburg Municipal Code Chapter 5.64.070, A-5, and seconded by Commissioner Perkins to approve the application and carried unanimously.

PRESENTATION

3. Railroad Avenue Specific Plan (RASP)
Acting Secretary Davis gave presentation.

ZONING ADMINISTRATOR REPORTS

The Zoning Administrator submit one resolution previously approved under the delegated authority (Planning Commission Resolution No. 9918).

STAFF COMMUNICATIONS

Acting Secretary Davis updated the commission on the tentative schedule. Notified the commission of the September 16th Land Use Subcommittee Meeting being held via Zoom, the new city website, and Open Counter website.

COMMITTEE REPORTS / COMMISSIONER COMMENTS

Commissioner Robinson notified commission of the upcoming Land Use Subcommittee meeting on September 16th.

Commissioner Coniglio reported the July TransPlan meeting was cancelled.

ADJOURNMENT

The meeting was adjourned at 8:44-p.m. to July 27, 2021.

Respectfully Submitted,

Jordan Davis, Acting Secretary

**MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION**

August 10, 2021

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the Planning Commission for August 10, 2021, was conducted telephonically through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated telephonically or through Zoom and were not physically present in the Council Chamber.

Chair Moreno called the meeting of the Pittsburg Planning Commission to order at 7:00 p.m. on Tuesday August 10, 2021, via Zoom teleconference.

ROLL CALL

Present: Chair C. Moreno, Commissioners Foster, H. Moreno Jr., Perkins, Popova, Robinson

Absent: Commissioner Coniglio

Staff: City Attorney Donna Mooney, Acting Secretary Jordan Davis, Assistant Planner Celina Palmer, Assistant City Clerk Amanda McVey, Permit Center Supervisor Shelby Rose

PLEDGE OF ALLEGIANCE

Commissioner Robinson led the Pledge of Allegiance.

DELETIONS / WITHDRAWALS / CONTINUANCES

There were none.

Acting Secretary notified commission that item 2 on the agenda is a public hearing and not a consideration item and was properly noticed as a public hearing.

COMMENTS FROM THE AUDIENCE

There were none.

PUBLIC HEARINGS

2. Consideration of a Resolution Approving a Use Permit for Harbor Food Mart, AP-20-1546 (UP)

A public hearing on a request for approval of a use permit to establish a self-service restaurant within an existing 1,087 square foot commercial space located at 1996 Harbor Street. The property is within the CO (Office Commercial) District. Assessor's Parcel Number: 086-211-024.

Assistant Planner Dacey gave a presentation.

Chair C. Moreno opened the public hearing.

Applicant Dina Shurrab and Suheil Shatara spoke on behalf of the project.

There being no one else wishing to speak, Chair C. Moreno closed the public hearing.

On motion by Commissioner Robinson with added condition to include two bike parking spaces and include the sale or use of e-cigarettes, vaping, or similar products and paraphernalia as items prohibited for sale, and seconded by Commissioner H. Moreno Jr. to approve the application and carried unanimously.

STAFF COMMUNICATIONS

Acting Secretary Davis updated the commission on the tentative schedule.

COMMITTEE REPORTS / COMMISSIONER COMMENTS

Commissioner Robinson reported on the Land Use Subcommittee meeting of September 16th.

ADJOURNMENT

The meeting was adjourned at 7:56-p.m. to August 24, 2021.

Respectfully Submitted,

Jordan Davis, Acting Secretary

**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT
August 24, 2021**

ITEM: Consideration of a Resolution Recommending City Council Approval of a Use Permit Amendment, Design Review, CEQA Addendum, and a Development Agreement for Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)

ORIGINATED BY: Contra Costa Waste Services, Inc., 555 California Avenue, Pittsburg, CA 94565

SUBJECT: This is a public hearing on a request for a recommendation for City Council approval of: 1) an amendment to the existing use permit (originally approved in 2018) for operational enhancements at the existing Recycle Center Transfer Station/Mt. Diablo Resource Recovery Park; 2) design review approval of plans to construct sixteen new structures totaling 448,900 square feet of new building area for a total of 570,580 square feet of development; and 3) approval of a Development Agreement. The Commission is also being asked to consider the 2nd Addendum to the Final Environmental Impact Report (FEIR) prepared for the project. The Project is located at 1300 Loveridge Road in the IG (General Industrial) and IL-O (Limited Industrial with a Limited Overlay) districts. Assessor's Parcel Nos. 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028, and 073-200-029.

RECOMMENDATION:

Staff recommends that the Planning Commission consider the 2nd Addendum to the Final Environmental Impact Report (FEIR) and adopt Resolution No. 10173 recommending City Council approval of Planning Application No. 21-1553, subject to conditions.

BACKGROUND:

As a local, family-owned company, Mt Diablo Resource Recovery, a *Garaventa Company*, (MDRR) is one of the few remaining family-owned recycling and resource recovery companies in Northern California and takes great pride in providing an excellent customer experience. MDRR is seeking to continue its goal of providing excellence in customer service while maintaining competitive rates and operating recycling and recovery programs designed to increase sustainability and reduce greenhouse gasses. In order to achieve this goal, MDRR must address the forever-changing standards of the State of California, and is proposing to further enhance their facility in Pittsburg to comply with recent and forthcoming regulations as well as the recycling needs of their community.

The stated goal of MDRR with this application, is to prepare the communities it serves for the future, particularly around the adopted regulations set forth by Senate Bill (SB) 1383. Consistent with their business mission, MDRR is investing in programs and technology that maximize diversion but maintain customer convenience and service. As

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part of the prior approvals in 2015 & 2018, and with this new Master Plan, RCTS & Mt. Diablo Recycling would be transformed into the “Mt. Diablo Resource Recovery Park” (MDRRP), a facility that would recover as much recyclable material as possible, diverting it away from the landfill.

The facilities current diversion rate for all incoming materials has increased to over 40%, assisting the Contra Costa County and Solano County jurisdictions in meeting and exceeding their Assembly Bill (AB) 939, AB 341, and AB 1826 goals.

PRIOR CITY OF PITTSBURG APPROVALS:

In 1995, the City of Pittsburg certified an Environmental Impact Report (EIR) and issued an initial use permit for the original facility, which consisted of only the RCTS. Following these approvals, the RCTS received a Solid Waste Facility Permit from the City’s Environmental Services (formerly Solid Waste Management) Division to operate a 1,500 tons/day (TPD) recycling center and transfer station. In December 1995, the California Integrated Waste Management Board (now known as CalRecycle) issued a formal concurrence with the Solid Waste Facility Permit. The permit is reviewed every five years and has been modified accordingly to address additional recycling programs.

In March 2007, the City adopted a Negative Declaration and approved a new use permit to physically expand the facility and add the Mt. Diablo Recycling Facility (MDRF) to the Solid Waste Facility permit, which had its own maximum capacity of 130 TPD of recyclable material processing.

In April 2008, the City approved another use permit to establish a construction and demolition sort line which was designed and installed at the Recycling Center and Transfer Station (RCTS), which diverts more than 90% of all construction and demolition material from the landfill. Also included in this approval was a green material processing operations area.

In January 2010, the City adopted another Negative Declaration and approved operational changes to the MDRF’s use permit to expand its capacity, hours of operation and number of employees working at the site.

In May 2015, the City certified a new EIR for the site and approved a new use permit in order to bring all operations, including the MDRF, RCTS, Green Material Processing Operations Area, and the Mixed C&D Processing Area under a single entity (referred to as the MDRRP), facilitate minor operational changes and expand the facility’s total capacity to 5,500 TPD. The changes and expansion approved under this 2015 EIR and use permit are part of the current Master Plan and will be phased in over time. The applicant is now requesting a new use permit to amend the 2015 proposal in order to allow several enhancements to the processing of the waste stream.

In 2018, the City approval included the relocation of the truck maintenance facility to the southern end of the property (a smaller building for the same intended use is nearing completion), an increase in the number of gasification units from one to three, and a reorganization of the operations to allow a more efficient utilization of the property.

All components included in the 2015 and 2018 approvals would carry forward, as modified by the current proposal described below.

PROJECT DESCRIPTION:

Existing Conditions: The MDRRP encompasses approximately 36 acres (plus an adjacent 3.72-acre detention basin) located on the western side of Loveridge Road just north of the Pittsburg-Antioch Highway, and just south of the BNSF Railway. The facility currently has a total of approximately 143 full-time employees and is permitted to receive 31 three-axle semi-trucks with trailers and 26 garbage collection trucks per day.

The MDRF and RCTS consist of two large interconnected industrial buildings adjacent to Loveridge Road that currently have a total floor area of 190,804 sq. ft. A summary of the existing MDRRP facilities and their individual current operations is provided below.

- **MDRF:** The MDRF is a recycling facility that sorts and processes a variety of mixed recyclable materials including newspaper, cardboard, junk mail, and magazines, as well as California Redemption Value (CRV) and non-CRV glass, plastic, and aluminum. Material is dumped onto the tipping floor of the enclosed facility and then pushed onto a conveyor hopper, where it follows along a series of sorting belts and screens. This processing equipment separates the material, after which it is stored in enclosed containers and baled daily for storage and transport. This facility operates approximately 20 hours per day, seven days per week.
- **RCTS:** The RCTS sorts and transfers municipal solid waste, including bulk materials from the public, green waste, wood waste, and mixed construction and demolition debris. The RCTS is the only facility onsite that accepts waste directly from the public. Waste materials are weighed at a drive-up scale and are then sorted on the tipping area floor and transferred to the appropriate on-site facility for further sorting, processing, and transport offsite for recycling or reuse. Materials that cannot be recycled are stored and then transported to a permitted landfill. This facility receives waste from the general public from 7:00 a.m. to 6:00 p.m., seven days per week.
- **Mixed Construction and Demolition (Mixed C&D) Processing Area:** This facility consists of a 9,831-square-foot concrete pad that serves as a base for the Mixed C&D processing equipment and provides a stable platform for the loading of materials onto the sorting equipment. The equipment includes a loading hopper, elevated pick-line and walkways, storage bins beneath the pick-line, and shade canopies over the pick-line and workstations. Processing material is delivered to the facility in debris box trucks and commercial vehicles. After sorting, residual, non-recyclable wastes are stockpiled and then loaded into transfer vehicles for transport to a permitted landfill for disposal within 48 hours. Recyclable materials are stored, processed, and marketed as recycled products. Fine materials separated during sorting are used as alternative daily cover (ADC) at a landfill. This facility currently operates from 7:00 a.m. to 5:00 p.m., seven days per week.

- **Green Material Processing Operations Area:** Green materials and wood waste are delivered to this facility from collection vehicles and are stockpiled on storage pads prior to chipping and grinding. The storage pads are constructed with compacted gravel. Processed green materials are loaded onto transfer trailers and transported to a permitted facility for composting or may be used as alternative daily cover at a landfill. Wood chips are loaded onto transfer trailers and transported to off-site biomass energy facilities. This facility operates from 7:00 a.m. to 5:00 p.m., seven days per week.

Figure 1 provides an aerial view of the MDRRP facilities.

Figure 1 – Map of Current MDRRP Facilities



The proposed project consists of modifications and enhancements to the MDRRP facility operations that were approved in 2015 and most recently updated in 2018. This section includes a brief description of the previous approvals and the modifications that are currently proposed by the applicant.

2015 Approved Project: The 2015 approval brought all operations, including the MDRF, RCTS, Green Material Processing Operations Area, and the Mixed C&D Processing Area under a single entity referred to as the MDRRP. The approval increased the total amount of materials to be processed per day at all facilities from 2,200 TPD to 5,500

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TPD. It also designated 18.5 acres for parking; commodity storage; new recycling and organic processing programs; and a truck yard and maintenance facility which included a new 18,000 square-foot structure in the southeastern portion of the site.

2018 Updated Project: The 2018 updated approval included relocation of the truck yard and maintenance facility to the southern end of the property; an increase in the number of gasification units from one to three; and a reorganization of the MDRRP's operations to allow for a more efficient utilization of the property. Gasification is a process of converting waste to energy. The 2018 application included a specific technology from Aires Clean Energy which is no longer under consideration. The future concept proposes that the Biomass Gasification Facility would receive, hold, and convert feedstock-ready biomass fuel (initially consisting of wood waste) from the MDRRP into reusable energy. For a more detailed description of the 2018 project, see Attachment 8 (Planning Commission Staff Report, dated October 23, 2018).

Current Proposal: All components included in the 2018 approval would carry forward, as modified by the current proposal described below. The current application contains several modifications to the use permit that was approved in 2018 in order to comply with forthcoming State and regional mandates related to the processing of waste materials. The primary change is that individual operations (such as the processing of organic waste) would be brought indoors. To accomplish this and other objectives, the applicant proposes construction of 11 new buildings totaling 505,600 square feet over a Twenty-year period. Additional site modifications are also proposed in order to further organize and optimize MDRRP operations.

The applicant has submitted a complete set of drawings which show the following:

- Master Plan by Phase, Sheets A1-A8A (Attachment 3)
- Master Site Plan, Sheet MP (Attachment 3)
- Architectural Drawings, Sheets A.2.1-A.4 (Available for view online at: <http://www.pittsburgca.gov/MDRR>)
- Renderings, Sheets R1-R1.2 (Available for view online at: <http://www.pittsburgca.gov/MDRR>)
- Civil Drawings, Sheets C1-C5 (Available for view online at: <http://www.pittsburgca.gov/MDRR>)
- Landscape Concept, Sheets 1-5 (Available for view online at: <http://www.pittsburgca.gov/MDRR>)

The staff report will discuss the following items in hierarchical order:

- Master Plan
- Architecture
- Landscaping

Master Plan:

The proposed Master Plan would guide the anticipated buildout of the project site over a Twenty-year period. It would establish the framework for organizing the various functions of the site, making sure that the overall flow of traffic and materials proceeds

in a logical manner and provides an efficient use of the 36-acre project site. The plan shows that the layout of the project site would remain essentially the same in terms of the individual operations, and that new buildings would be integrated into the site as each phase is constructed. Having the overall template establishes the relationships between the buildings and the circulation system throughout the site. These relationships are defined by the individual processing units and the order in which materials are delivered and transferred from the project site once sorting and processing is complete. The Master Plan would organize the site so that when fully built out it would form a corporate campus that provides the necessary facilities to carry out the processing of the permitted 5,500 tons per day in compliance with state and federal mandates.

The primary change is that individual operations (such as the processing of organic waste) would be carried out inside a structure rather than in the open air, as is the current practice. The Master Plan shows the construction of five primary structures with ancillary facilities for a total of 505,600 square feet of built area as summarized in Table 1 below and defines additional site modifications necessary to organize the facility's operations. Simply put, the existing site contains four structures and when the Master Plan is completed it would contain seven structures plus the future gasification units. The Project Phasing Description (Attachment 5) outlines a conceptual order of improvements (grading, construction of roadways, utilities, and structures) for each phase necessary for the completion of the Master Plan.

The circulation plan for this site is complex due to the variety of users and functions that will ultimately utilize the site at full buildout. The traffic plan must provide for public users, commercial solid waste, public organics, public construction and demolition, commercial construction and demolition, transfer trailers for solid waste, for organics and construction and demolition, and commercial recyclables.

The main entrance to the project site would continue at the current location from Loveridge Road into the center of the site, directly south of the corporate offices. From there, traffic would separate according to function as noted for each of the processing units. To ease congestion at the main entrance, transfer trucks would be directed north to the existing RTCS, drop their contents, and proceed along the north border of the site back onto Loveridge Road with a right-hand turn. Public users would enter the site as they currently do, drop material off at the proper location, then proceed back out through the main entrance. As the new buildings are constructed, the circulation would extend to these structures (for example, to the Organics Processing Building or the Construction and Demolition Building). Also, a roadway would be constructed north of the gasification operation around the western perimeter of the site and ultimately along the northern border of the site.

The Master Plan organizes the site according to the specific operations that process waste material, such as the recycling center, the processing of organic material, or of construction and demolition waste. The circulation through the site enters through the existing main entrance and then travels along a central spine that directs traffic to each specific operation and then to exit the site. For example, a transfer truck would enter the site through the main entrance, proceed to the appropriate building, then proceed

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north to exit the site at the north-eastern edge of the site. This separates commercial collection truck traffic from self-haul patrons dropping off household waste or from contractors dropping off construction waste.

Initially, MDRR must start to relocate some of their outside operations indoors. The critical operation affected by regulations is the organics processing, then to eventually be followed by the Mixed C&D processing. These two operations alone would need dedicated buildings sized for the projected incoming materials that are a portion of the projected facility capacity. Additional expansions of the existing bale storage, commercial tipping operation, and the site area needed for a future food waste and the potential for anaerobic digestion and gasification process comprise the full projected development of the facility capacity of 5,500 TPD. All these components were considered and placed in buildings and on the site according to the most efficient traffic patterns to separate the public self-haul traffic from the commercial traffic.

Table 1. Proposed Building Area

Phase	Proposed Improvements	Sq Ft	Total Sq Ft
Phases 1 & 1a	Vehicle Maintenance Facility	11,750	11,750
	Northwest Truck Parking		
Phase 2	North Building (Organics Processing)	81,220	95,500
	North Building Offices	6,400	
	North Building Tunnel	1,280	
	Air Filtration Equipment	6,500	
	Kiosk	100	
Phase 3	South Building (C&D Processing)	73,520	89,100
	South Building Employee Facilities	6,400	
	South Building Equipment Pad Area	7,750	
	South Building Tunnel	1,280	
	Scalehouse(s)	150	
Phase 4 & 4a	South Building (C&D) Expansion	46,800	46,800
	Southeast Employee Parking		
Phase 5	Gasification Operation	97,500	97,500
Phase 6	Expansion Tipping & Receiving	23,200	23,200

Phase 6a	Mixed Waste Expansion For Processing	19,850	19,850
Phase 7	Existing Bale Storage (<i>removed</i>)	-34,214	-69,700
	Existing Self HAU (<i>removed</i>)	-35,480	
Phase 7	Self Haul / Bale Storage Expansion	83,900	83,900
Phase 8	AD Expansion	40,000	40,000
Phase 8a	AD Dewatering	11,000	11,000
Total Square Footage All New Buildings			448,900
Existing Buildings (To Remain)			Total Sq Ft
Material Recovery Facility			88,380
Tipping Building			33,300
Total Existing			121,680
Future Improvements			Total Sq Ft
Total Future			448,900
Total Building Area			570,580

Design Review - Architecture

Design review approval is being sought for proposed improvements onsite that would result in an increase of 505,600 square feet of building area (summarized in Table 1) beyond what was previously approved.

Design Intent: The architectural plans shown on Sheets A3.3-A4 show the overall design concept for the buildings. JRMA, the architectural firm that designed the buildings for this application describe their approach as follows: with a larger campus operation designed expand the processing of materials from 1,500 TPD to 5,500 TPD, it is critical that the design of the proposed facility have a vision based on material processing knowledge, a sense of place, with continuity and character, and sustainability in mind, but at the same time does not lose the integrity and history of MDRR.

Building types: The MDRR facility is a recycling and processing operation that receives multiple types of recyclable products and solid municipal waste. Current operations are both exterior and enclosed depending on the material to be processed. The proposed buildings will relocate all exterior operations into enclosed buildings to be processed indoors, which will comply with local regulations and good neighbor relationships.

The three existing buildings on site are comprised of a material recovery facility (MRF), bale storage, self-haul, and commercial tipping building. They are described in detail, since they define the existing character of the site, and provide the context for the future

design character of the site. The buildings will remain as they are until further phases of the campus/masterplan are constructed.

- The existing MRF, constructed in 2008, consists of a metal building system (MBS) with steel architectural accent trusses along the south and east sides of the building (easily seen from Loveridge Road). The south façade also has entry accents made of stucco and metal panels, along with a low masonry wainscot and shade canopies over the windows.
- The existing bale storage operation occurs under a building constructed in 1995 that consists of wood structure with corrugated metal facades and built-up membrane roof.
- The existing self-haul operation occurs under a building constructed in the 1950s that consists of corrugated metal facades and roofing.
- The existing commercial tipping operation consists of a MBS with steel architectural accent trusses along the south and east sides of the building (easily seen from Loveridge Road). The north and west facades are metal panels. The roof is a standing seam metal roof.

Building Massing: The property abuts a solar panel farm on the west side. To maintain the 140-foot good neighbor set back of not casting shadows onto the photovoltaic panels, the buildings along the west side of the property start at an eave height of 30-feet. For the interior operations MDRR wanted as much height clearance as possible on the east side of the buildings. These requirements inspired a design approach that has the one building roof slope up from west to east allowing an east façade eave height of approximately 50-feet. With a higher eave height on the east side, the office component of each western building is designed with a lower roof to both break up the massing and to save costs for the office structure.

Other proposed phases of the project have massing to complement the existing buildings on site, the MRF and the Commercial Tipping Building. The Bale Storage and Self-Haul expansion improvement have a split roof slope to portray the existing roof slopes and to minimize the eastern façade along Loveridge Road.

Building Dimensions: Table 2 summarizes the proposed new building dimensions upon completion of the Master Plan. The building heights (ranging from 45-51 feet with the exception of the Vehicle Maintenance Building at 34 feet high) are designed to define a continuous roofline across the site which will unify the structures in creating the campus character of the site.

Table 2. Proposed Building Dimensions

Phase	Proposed Improvements	Dimensions - Feet			Total Sq Ft
		Length	Width	Height	

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Phase 1	Vehicle Maintenance Facility	210	56	34	11,750
Phase 2 & 4	North Building (Organics Processing)	515	240	51.3	121,600
Phase 3	South Building (C&D Processing)	350	240	51.3	95,500
Phase 5	Gasification Operation	n/a	n/a	n/a	97,500
Phase 6	Expansion Tipping & Receiving	200	118	51	23,200
Phase 6a	Mixed Waste Expansion For Processing	200	98	51	19,850
Phase 7	Existing Bale Storage (removed)		-34,214		-69,700
	Existing Self HAU (removed)		-35,480		
Phase 7	Self Haul / Bale Storage Expansion	200	118	51	83,900
Phase 8	AD Expansion I-shaped	212 84	143 100	45	51,000
	Total Square Footage All New Buildings				448,900
	Existing Buildings (To Remain)				Total Sq Ft
	Material Recovery Facility				88,380
	Tipping Building				33,300
	Total Existing				121,680
	Future Improvements				Total Sq Ft
	Total Future				448,900
	Total Building Area				570,580

Color and Materials: Apart from maintaining the east side view from Loveridge Road with the existing MRF and commercial tipping buildings, the proposed processing buildings will have an architectural design that enhances the property and provide a sense of place with consistent materials, color scheme, and a master planned presence. For each of the new buildings, the exterior walls have a mixture of vertical and horizontal metal ribbed panels consistent with a MBS structure. The colors of the panels are a medium gray and royal blue, with the blue depicting blue found in the MDRR logo, which will be prominently displayed on the building façade of the south building. The gray panels will be a majority of the exterior wall finish which will also have translucent panel window systems strategically located to bring in natural lighting

from the sides of the building. The translucent panels would be a clear polycarbonate that transmits light but is obscure enough to not be see-through. The consistency of the materials and colors was meant to celebrate the new and have a common theme and function throughout.

The three figures below show the building type and the way that each building is designed with a consistent use of massing, colors and materials so that the buildings relate to each other in scale and character to create a corporate campus. This theme is carried throughout each of the new buildings, with the exception of the New Bale and Self- Storage Building, which will be designed to integrate with the two abutting structures now located on the eastern edge of the project site.

Figure 1. Front elevations of proposed buildings



Figure 2. Rear elevations of proposed buildings



Figure 3. Rear elevation of Bioenergy Facility at southwest corner of project site

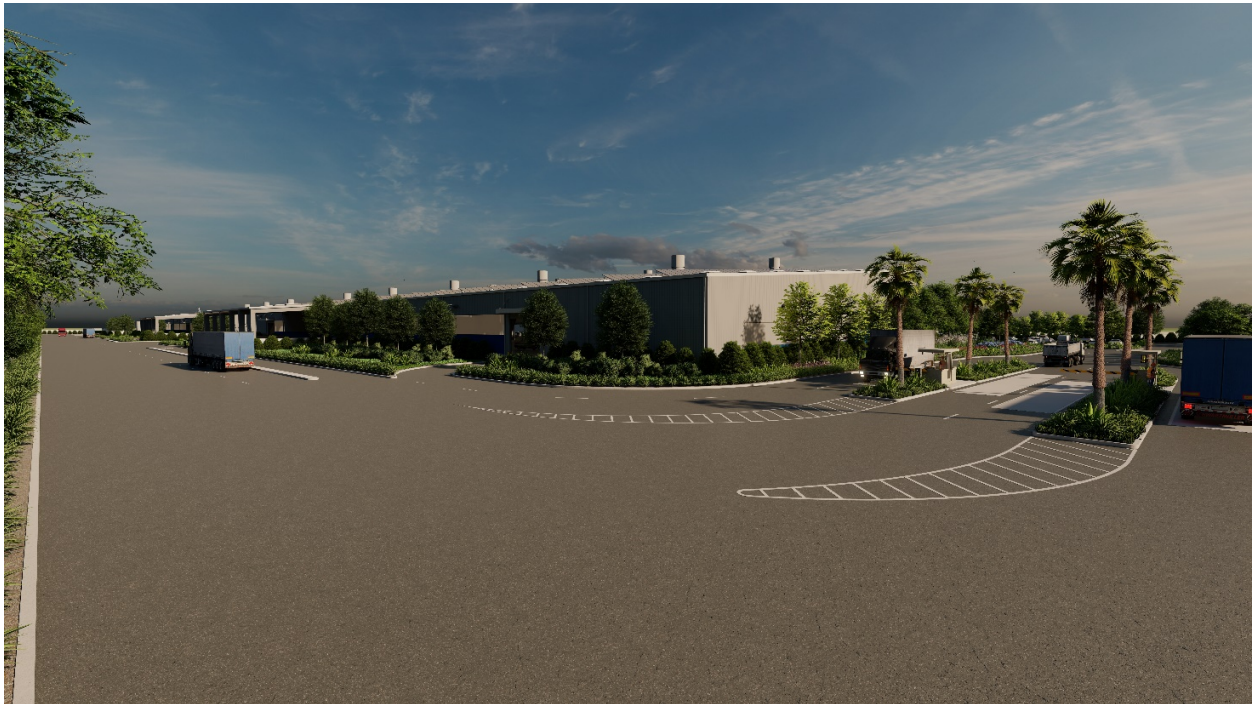


Design Review - Landscaping

Figures 4 and 5. Landscaping at Main Entrance to the Project Site



Figure 6. Landscaping



Development Agreement:

The objective of a Development Agreement (DA) is to provide assurance that, upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules, and regulations, subject to the conditions of approval. The DA (Attachment 3) defines the long-term responsibilities of the applicant as well as those of the City in implementing the project. This includes the responsibilities of the applicant to fund traffic improvements which are required as mitigation measures upon development of the project.

The application outlines development of the project in eight phases with complete buildout expected to be completed in twenty years. The Development Agreement vests the right to develop the project site in substantial conformance with the project approvals (as and when issued), and amendments thereto, as shall from time to time be approved subsequent to this agreement.

GENERAL PLAN/CODE COMPLIANCE:

General Plan: The City of Pittsburg General Plan identifies the project site as *Industrial*, which permits manufacturing, wholesale, warehousing and distribution, commercial and business services, research and development, agricultural, food and drug, industrial processing and storage uses. The proposed project would be consistent with this land use designation and would be consistent with Loveridge General Plan sub-area Goal 2-G-15, which aims to maintain industrial activities in appropriate designated areas. Additionally, the proposed project is consistent with General Plan Goal 11-G-6,

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and Policy 11-P-19, which seeks to reduce the amount of solid waste generated in the City through intensification of recycling efforts.

Zoning: The eastern half of the project site is in the IG (General Industrial) District and western portion is in IL-O (Limited Industrial with a Limited Overlay) District.

The IG district is intended to provide sites for intense industrial uses on large sites adjacent to existing heavy industrial uses.

The IL-O District provides opportunities for service-oriented commercial and limited industrial uses in transitional areas, between heavy industry and commercial or residential land uses. Large recycling facilities, such as the MDRRP, require a use permit within the IG and IL-O Districts. As shown in Attachment 7 of this report, the proposed project meets or exceeds the property development regulations for each zoning district. The proposed project would also comply with the zoning standards for large recycling facilities contained in Pittsburgh Municipal Code (PMC) section 18.84.575(c).

Development Review Design Guidelines: In 2010, the Planning Commission adopted Resolution No. 9864 amending the City's Development Review Design Guidelines (DRDGs). The DRDGs provide a framework for the design review of residential, commercial, and industrial projects. As shown in Attachment 8 of this report, the proposed project either complies or conditionally complies with the City's DRDGs.

Required Findings (Use Permit): According to PMC section 18.28.060, a request for modification of an approved use permit shall be treated as a new application. PMC Section 18.16.040 specifies that the following findings must be made before approval of a use permit:

- A. is in accord with the objective of the zoning ordinance, the purposes of the land use district in which it is located and is appropriate to the specific location;
- B. is not detrimental to the health, safety, and general welfare of the City;
- C. would not adversely affect the orderly development of property within the City;
- D. would not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City;
- E. is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;
- F. would not create a nuisance or enforcement problem within the neighborhood;
- G. would not encourage marginal development within the neighborhood;

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- H. would not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints imposed by law; and
- I. is consistent with the City's approved funding priorities.

Required Findings (Large Recycling Facilities): Before approving a conditional use permit for a large recycling facility, the Planning Commission must also find in accordance with PMC 18.84.575.C that the facility meets the following standards:

- A. The facility is at least 150 feet from property zoned or planned for residential use;
- B. The facility must be screened from public view by operating in an enclosed building or behind dense landscaping or fencing;
- C. Yards and landscaping requirements must comply with those provided for the zoning district in which the facility is located;
- D. All exterior storage of material would be in sturdy containers which are covered, secured and maintained in good condition. Oil storage must be in containers approved by the chief building official and Riverview fire protection district. No storage, excluding truck trailers and overseas containers, would be visible above the height of the fencing or other screening;
- E. The site would be maintained free of litter and any other undesirable materials, and would be cleaned of loose debris on a daily basis;
- F. Noise levels would not exceed 60 dBA as measured at the property line of residentially zoned property, or otherwise not exceed 70 dBA;
- G. If the facility is located within 500 feet of property zoned, planned or occupied for residential use, it would not be in operation between 7:00 p.m. and 7:00 a.m.;
- H. Any containers provided for after-hours donation of recyclable materials (newspaper, cardboard, aluminum cans, etc.) would be at least 150 feet from any property zoned, planned or occupied for residential use, and they shall be made of sturdy, rustproof construction. Containers would have sufficient capacity to accommodate materials collected for at least a 24-hour period, and be secure from unauthorized entry or removal of materials;
- I. Donation areas would be kept free of litter and any other undesirable material, and the containers would be clearly marked to identify the type of material that may be deposited. The facility would display a notice stating that no material may be left outside the recycling containers;
- J. The facility would be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs would meet the standards of the use. Directional signs, bearing no advertising message,

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may be installed with the approval of the planning director to facilitate traffic circulation or if the facility is not visible from the public right-of-way;

- K. Power-driven processing, including aluminum foil and can compacting, plastic shredding, or other light processing activities, may be used as necessary for efficient temporary storage and shipment of material.

Required Findings (Design Review): The Planning Commission may grant design review approval for a project only after the Commission makes a determination that the proposed project is consistent with PMC section 18.36.220 (B), summarized below:

- A. the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
- B. the structure would be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
- C. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
- D. the structure is in harmony with proposed developments on land in the general area; and,
- E. the application conforms with the criteria set forth in any applicable City adopted design guidelines.

Environmental: An Environmental Impact Report was previously prepared for the 2015 MDRRP project (2015 EIR). On May 26, 2015, the Planning Commission adopted Resolution No. 10001, certifying that the Final 2015 EIR was prepared in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. This resolution also approved CEQA findings, adopted a Statement of Overriding Considerations, and a Mitigation and Monitoring and Reporting Program (MMRP) for the MDRRP project.

Section 15162(a) of the State CEQA Guidelines states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines that, either: 1) the project proposes substantial changes which would present a new significant impact; 2) there are substantial changes with respect to the circumstances under which the project is undertaken that would present a new significant impact; or 3) there is new information available that was not previously available relating to new or previously identified significant impacts.

Since the current project proposal further refines what was originally reviewed in the 2015 EIR, and since no new significant impacts were found, preparation of an Addendum to the 2015 EIR pursuant to CEQA Guidelines section 15164 (Addendum to

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an EIR or Negative Declaration) is the appropriate method for achieving CEQA compliance for the current project.

Public Notice: On or prior to Friday, August 13, 2021, notice of the August 24, 2021 public hearing to consider this application was posted at City Hall, at the proposed project site, and on the 'Public Notices' section of the City's website; was delivered to the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies expected to provide services to the use, and to individuals who had previously filed written request for such notice, in accordance with the requirements of the PMC and Government Code sections 65090 and 65091, as applicable.

ANALYSIS:

Staff believes the Planning Commission can make the required findings to approve the use permit and design review application, subject to conditions.

The City of Pittsburg is certified by the California Department of Resources, Recycling and Recovery (CalRecycle) as the Local Enforcement Agency (LEA), which is responsible for ensuring that all solid waste disposal facilities follow state and local regulations. The LEA currently inspects the MDRRP on a monthly basis and would continue to do so moving forward. According to the LEA's inspections, the facility is operating in accordance with the requirements of the existing Solid Waste Facility Permit. Staff believes that with the addition of the project enhancements described above, the MDRRP would be more effective in meeting the State's mandates for diversion of landfill material.

The proposed project would be consistent with the Industrial designation of the General Plan, which specifically permits general industrial uses and processing, including large recycling facilities. The proposed project would comply with all of the Industrial District development standards set forth in the Zoning Ordinance. The proposed project is also generally consistent with applicable DRDG's in that: the architecture would unite the new buildings to create a corporate campus identity. Moving the processing units within buildings would improve the overall appearance of the project site.

The proposed Master Plan would unify the various functions on the project site and create the infrastructure necessary for this operator to meet current and future federal and state guidelines regarding the processing of waste material. The overall design would create the necessary template for organization and expansion of the processing units within this facility over a ten- to fifteen-year period. It would also create an attractive corporate campus for this facility when it is completed. This is essential if the site will evolve from the current treatment of 1,500 tons per day of waste material to the permitted volume of 5,500 tons per day. This amendment will be required before MDRRP can complete its application revise the Solid Waste Processing Facility under City of Pittsburg Local Enforcement Agency noted above.

ACTION REQUIRED:

Planning Commission Staff Report

Move to adopt Resolution No. 10173, recommending the City Council adopt an EIR Addendum, and approve Planning Application No. 21-1553, subject to conditions.

ATTACHMENTS:

1. Resolution No. 10173
2. Exhibit A to Resolution No. 10173 – 2nd Addendum to the EIR
3. Exhibit B to Resolution No. 10173 – Development Agreement
4. Project Plans, Master Plan Sheets 1-8A, dated February 2, 2021
5. MDRRP Project Description, Phasing, stamp dated December 4, 2020
6. Map of Surrounding Uses
7. Property Development Regulations Table
8. DRDG Consistency Table
9. Planning Commission Staff Report, dated May 26, 2015
10. Approved Resolution No. 10002 (2015 Use Permit)
11. Approved Resolution No. 10001 (2015 EIR Certification)
12. 2015 EIR and 1st Addendum (available online at: www.pittsburgca.gov/MDRR)
13. Notice of Public Hearing

Prepared by: Joan Lamphier, Consulting Planner

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Recommending City Council Approval of a)	
Use Permit Amendment, Design Review,)	Resolution No. 10173
and a Development Agreement for, "Mt.)	
Diablo Resource Recovery Park)	
Enhancements Project, AP-21-1553 (UP,)	
DR, DA)")	

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On February 2, 2021, Contra Costa Waste Service, Inc., filed Use Permit, Design Review, and Development Agreement Application No. 21-1553 requesting: 1) an amendment to the existing use permit (approved in 2018) for operational enhancements at the existing Mt. Diablo Resource Recovery Park (MDRRP); 2) design review approval of plans to construct five new structures totaling 448,900 square feet of new building area for a total of 570,580 square feet of development; and 3) approval of a Development Agreement at 1300 Loveridge Road. The project site includes a total of 36 acres. The eastern portion of the property is in the IG (General Industrial) District and the western portion of the property is within the IL-O (Limited Industrial with a Limited Overlay) District. Assessor's Parcel Nos. 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028 and 073-200-029.
- B. The existing solid waste and recycling facility became operational in 1995 and has expanded its operations to include additional recycling and disposal services. The facility serves as a regional recycling facility serving multiple communities and special districts.
- C. On March 6, 1995, the City Council adopted Resolutions Nos. 95-8143, 95-8144, and 95-8145, approving a use permit, variance, and design review of architectural plans (respectively) for the Recycling Center and Transfer Station (RCTS), on a 17.5-acre site located at 1300 Loveridge Road. Prior to that approval, the City Council adopted Resolutions Nos. 95-8134 and 95-8142, certifying the Final Environmental Impact Report (1995 EIR) and adopting mandatory findings of significant environmental impacts and mitigation measures for the project (respectively).
- D. On December 18, 1995, the City Council approved Resolution No. 95-8150, authorizing an agreement that allowed the recycling center and transfer station to begin operation.

- E. On March 27, 2007, the Planning Commission adopted Resolution Nos. 9691 and 9692 approving a new use permit and design review application to locate the Mt. Diablo Recycling Facility (MDRF) on the existing RCTS site. The MDRF was approved to share the same site as the RCTS; however, both facilities operated independently.
- F. On April 22, 2008, the Planning Commission adopted Resolution No. 9755, approving another use permit and design review application, establishing a mixed construction and demolition (Mixed C&D) recycling facility, including a green material processing operations area, on a 6.52-acre portion of the RCTS site. Conditions of approval for the RCTS and the MDRF were carried forward to the subsequent approvals.
- G. On January 12, 2010, the Planning Commission adopted Resolution No. 9822 modifying the use permit for MDRF in order to expand the maximum amount of material that could be processed per day, expand hours of operation and the number of employees working at the facility.
- H. On May 26, 2015, the Planning Commission adopted Resolution No. 10002, approving a subsequent use permit modification in order to bring the current solid waste and recycling operations at the RCTS, the MDRF and the Mixed C&D facilities under a single entity referred to as the Mt. Diablo Resource Recovery Park (MDRRP). The approval also included an increase in the total amount of materials processed per day at all three facilities from 2,200 tons per day (TPD), to a total of 5,500 TPD; establishment of a new commercial recycling and organic processing programs for residential and commercial food wastes; construction of one biomass gasification unit to process clean wood waste into energy for on-site use; construction of an 18,000 square foot building and related site improvements for the relocation of the SEG Trucking maintenance facility; and, as a possible future phase of the project, a rail haul option for waste transportation purposes.
- I. On November 20, 2018, the Planning Commission adopted Resolution No. 10109, approving a subsequent use permit modification to permit improvements, including the relocation of the truck maintenance facility to the southern end of the property; an increase in the number of gasification units from one to three; and a reorganization of the operations to allow a more efficient utilization of the property.
- J. The improvements to the MDRRP included in the 2015 and 2018 approvals, as applicable, and proposed with this current application will assist the City of Pittsburg and the region in reducing greenhouse gas emissions by generating renewable energy, increasing solid waste diversion rates, and expanding programs to provide recycling to business and family residences.

- K. The proposed expansion and reorganization of the existing facilities will also assist the City of Pittsburg and the region in meeting increasing regulatory requirements and diversion goals established pursuant to Assembly Bill (AB) 1826, Senate Bill (SB) 1383, and related regulations.
- L. The proposed project conforms to the applicable General Plan land use designation of *Industrial* and the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).
- M. An Environmental Impact Report was previously prepared for the 2015 MDRRP project (2015 EIR). On May 26, 2015, the Planning Commission adopted Resolution No. 10001, certifying that the Final 2015 EIR was prepared in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. This resolution also approved CEQA findings, adopted a Statement of Overriding Considerations, and a Mitigation and Monitoring and Reporting Program (MMRP) for the MDRRP project.
- N. Section 15162(a) of the State CEQA Guidelines states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines that, either: 1) the project proposes substantial changes which will present a new significant impact; 2) there are substantial changes with respect to the circumstances under which the project is undertaken that will present a new significant impact; or 3) there is new information available that was not previously available relating to new or previously identified significant impacts.
- O. Since the current project proposal further refines what was originally reviewed in the 2015 EIR, and since no new significant impacts were found, preparation of an Addendum to the 2015 EIR pursuant to CEQA Guidelines section 15164 (Addendum to an EIR or Negative Declaration) is the appropriate method for achieving CEQA compliance for the current project.
- P. Pursuant to PMC section 17.16.100, an applicant may request that two or more applications for separate discretionary approvals requested or required in conjunction with a project be consolidated. The findings and decisions for each approval must be considered individually.
- Q. According to PMC section 18.28.060, a request for modification of an approved use permit shall be treated as a new application. PMC Section 18.16.040 specifies that the following findings must be made before approval of a use permit:
 - 1. is in accord with the objective of the Zoning Ordinance, the purposes of the land use district in which it is located and is appropriate to the specific location;

2. is not detrimental to the health, safety and general welfare of the City;
3. will not adversely order development of property within the City;
4. will not adversely affect the preservation of property values;
5. is consistent with the general plan and applicable specific plan;
6. will not create a nuisance or enforcement problem;
7. will not encourage marginal development within the neighborhood;
8. will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints; and
9. is consistent with the City's approved funding priorities.

R. Before approving a conditional use permit for a large recycling facility, as indicated in PMC 18.84.560, the Planning Commission must also find that the proposed use complies with the standards outlined in PMC 18.84.575.C for 'Large Recycling Facilities,' including:

1. The facility is at least 150 feet from property zoned or planned for residential use;
2. The facility must be screened from public view by operating in an enclosed building or behind dense landscaping or fencing;
3. Yards and landscaping requirements must comply with those provided for the zoning district in which the facility is located;
4. All exterior storage of material will be in sturdy containers which are covered, secured and maintained in good condition. Oil storage must be in containers approved by the chief building official and Riverview fire protection district. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing or other screening;
5. The site will be maintained free of litter and any other undesirable materials, and will be cleaned of loose debris on a daily basis;
6. Noise levels will not exceed 60 dBA as measured at the property line of residentially zoned property, or otherwise not exceed 70 dBA;
7. If the facility is located within 500 feet of property zoned, planned or occupied for residential use, it will not be in operation between 7:00 p.m. and 7:00 a.m.;

8. Any containers provided for after-hours donation of recyclable materials (newspaper, cardboard, aluminum cans, etc.) will be at least 150 feet from any property zoned, planned or occupied for residential use, and they shall be made of sturdy, rustproof construction. Containers will have sufficient capacity to accommodate materials collected for at least a 24-hour period, and be secure from unauthorized entry or removal of materials;
 9. Donation areas will be kept free of litter and any other undesirable material, and the containers will be clearly marked to identify the type of material that may be deposited. The facility will display a notice stating that no material may be left outside the recycling containers;
 10. The facility will be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs will meet the standards of the use. Directional signs, bearing no advertising message, may be installed with the approval of the planning director to facilitate traffic circulation or if the facility is not visible from the public right-of-way; and
 11. Power-driven processing, including aluminum foil and can compacting, plastic shredding, or other light processing activities, may be used as necessary for efficient temporary storage and shipment of material.
- S. The Planning Commission may grant design review approval for a project only after the Commission makes a determination that the proposed project is consistent with PMC section 18.36.220 (B), including:
1. the structure conforms with good taste, good design and in general contributes to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
 2. the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
 3. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
 4. the structure is in harmony with proposed developments on land in the general area; and
 5. the application conforms with the criteria set forth in any applicable city-adopted design guidelines.
- T. Pursuant to City Council Resolution No. 96-8371, the Planning Commission must

make a recommendation on a development agreement prior to City Council consideration. The City Council may adopt the ordinance approving a development agreement if it finds that:

1. the development agreement is consistent with the General Plan and any applicable specific plan; and
 2. the development agreement will promote the public health, safety, and general welfare.
- U. On or before August 14, 2021, notice of the August 24, 2021, public hearing to consider this application was posted at City Hall, the project site and on the City's website; was delivered to the Pittsburg Library; and was mailed via first class mail or email to the property owner, applicant and all other owners of property within 300 feet of the subject site, to utility companies and other agencies anticipated to provide service to the project, and to all interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010 and 18.36.350 and Government Code sections 65090 and 65091, as applicable.
- V. On August 24, 2021, the Planning Commission held a public hearing to consider Application No. 21-1553, at which time oral and/or written testimony was considered.

Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled "Consideration of a Resolution Recommending City Council Approval of a Use Permit Amendment, Design Review, and a Development Agreement for Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)," dated August 24, 2021, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Planning Commission finds that:
1. All recitals above are true and correct and are incorporated herein by reference.
 2. Since the current project proposal for the MDRRP site further refines what was originally reviewed in the 2015 EIR and does not include any new significant impacts, preparation of an Addendum to the 2015 EIR pursuant to CEQA Guidelines section 15164 (Addendum to an EIR or Negative Declaration) is the appropriate method for achieving CEQA compliance for the current project.

3. The 2nd EIR Addendum prepared for the proposed project has been reviewed by the Planning Commission and considered as part of the adoption of this resolution.

Use Permit Findings:

4. The proposed project, in its entirety, is consistent with the following standards for approval of a use permit, in that:
 - a. The proposed use is in accord with the objectives of the Zoning Ordinance, the purposes of the land use districts in which it is located and is appropriate to the specific location, in that the use is an expansion of an existing use that has operated since 1995 in accordance with the requirements of the existing previously approved use permits and the Solid Waste Facility Permit administered by the City of Pittsburg Local Enforcement Agency (LEA). The proposed expansion and enhancement project will comply with the development standards set forth for the IL-O (Limited Industrial with a Limited Overlay) and IG (General Industrial) Districts.
 - b. The proposed use will not be detrimental to the health, safety and general welfare of the City, nor will it involve any activities that will be injurious to the City, its residents, or its workforce, if conditions are added to require: 1) the operator obtain from the City of Pittsburg Local Enforcement Agency (LEA) a Solid Waste Permit to allow the proposed operational expansion and enhancements, and 2) all regulations of the PMC and the LEA are adhered to throughout the life of the facility.
 - c. The proposed use will not adversely affect the orderly development of property within the City, in that the operational expansion and enhancements will continue the existing context of industrial uses in the area north of the Pittsburg-Antioch Highway.
 - d. The proposed use will not adversely affect the preservation of property values, in that the proposed operational expansion and enhancements will utilize properties that have been vacated by previous industrial activities.
 - e. The proposed use is consistent with the General Plan, in that the expansion and enhancements meet the intent of the Industrial land use designation in accordance with General Plan (page 2-20).
 - f. If the use complies with all provisions of the PMC and the conditions of this resolution, and the operator obtains a Solid Waste Permit administered by the City of Pittsburg LEA, then the proposed use will

not create a nuisance or enforcement problem.

- g. The proposed use will not encourage marginal development within the neighborhood in that the use consists of enhancements to the existing facility and utilizes vacant parcels from previous industrial uses.
- h. The proposed use will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints, in that the use is private and does not require any additional public services and shall be required to operate in conformance with the standards outlined in PMC 18.84.575.C for Large Recycling Facilities.
- i. The proposed use is consistent with the City's approved funding priorities, in that there are no public funds involved with the project.

Large Recycling Facility Findings:

- 5. The project, in its entirety, is consistent with the following applicable standards for a large recycling facility, in that:
 - a. The recycling facility will be screened from public view by operating in an enclosed building or behind dense landscaping or fencing.
 - b. Yards and landscaping requirements will comply with those provided for the zoning district in which the facility is located, in that the application proposes to install and maintain a minimum ten percent of the site as landscaped area.
 - c. All exterior storage of material will be in sturdy containers or containment areas that are covered, secured and maintained in good condition. Oil storage containers will be subject to approval by the Chief Building Official and Contra Costa County Fire Protection District. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing or other screening.
 - d. As required by a condition of approval, the site will be maintained free of litter and any other undesirable materials and will be cleaned of loose debris on a daily basis.
 - e. As required by a condition of approval, noise levels will not exceed 70 dBA as measured at the property line.
 - f. The facility will not be located within 500 feet of property zoned, planned or occupied for residential use.

- g. There will be no designated outdoor donation areas for recyclable materials. The facility will display or provide notice to customers stating that no material may be left outside the designated recycling areas.
- h. The facility will be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs will meet the standards of the use. Directional signs, bearing no advertising message, will be installed/maintained subject to approval by the Planning Division.

Design Review Findings:

- 6. The proposed project, which consists of the Master Plan and associated site improvements:
 - a. Will conform with good taste, good design and in general contributes to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that the proposed design of all new construction will be consistent with the surrounding industrial development and the existing on-site transfer processing facility building.
 - b. The inclusion of additional landscaping along Loveridge Road will ensure that the project conforms to the good taste, good design and in general will contribute to the character and image of the City as a place of beauty, taste and high quality.
 - c. The new buildings will not be subject to exterior and interior noise, vibrations and other factors which may tend to make the environment less desirable.
 - d. The exterior design and appearance of all new construction on site will not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value in that the proposed design of the facilities, are consistent with the surrounding industrial development.
 - e. The project conforms to the applicable criteria set forth in the City's adopted Design Review Guidelines (Planning Commission Resolution No. 8927).

Development Agreement:

- 7. The proposed Development Agreement is consistent with the General Plan

and will promote the public health, safety, and general welfare of the community, in that it will support and ensure the timely development of a facility that will serve the City in meeting its state-mandated solid waste diversion goals.

Section 3. Recommendation

Based on the findings set forth above, the Planning Commission hereby:

- A. Recommends the City Council adopt an ordinance approving a Development Agreement, as substantially proposed in Exhibit A of this Resolution; and
- B. Recommends the City Council approve Use Permit and Design Review Application No. 21-1553, subject to the conditions listed below. The conditions listed shall take the place of all prior conditions adopted through Planning Commission Resolutions No. 10109.
 - 1. References to Project Plan. The approved improvements to the existing use shall be constructed and installed in accordance with the Conditional Use Permit Package dated February 2, 2021, and as presented to the Planning Commission in the staff report, except as may be modified by the conditions below. Construction and installation of the approved use in a manner inconsistent with this use permit shall be grounds for revocation of the use permit.
 - 2. Permitted Capacity. The Mt Diablo Resource Recovery Park shall not receive more than five thousand, five hundred (5,500) tons per day of municipal solid waste, recyclables, organic material, and construction and demolition material for processing. In case of a state emergency or local emergency the MDRRP may receive a higher amount of tonnage if requested by the applicant and granted by the LEA under section 17210 of the California Code of Regulations.
 - 3. LEA Solid Waste Permit. The operator of Mt Diablo Resource Recovery Park shall obtain from the City of Pittsburg Local Enforcement Agency (LEA) a Solid Waste Permit to allow the proposed operational expansion and enhancements.
 - 4. Applicable City and LEA Regulations. All regulations of the PMC and the LEA are adhered to throughout the life of the facility.
 - 5. Waste Diversion Mandates & Indemnification. The MDRRP shall be operated in a manner reasonably calculated to ensure that the City achieves the waste diversion mandates of the California Integrated Waste Management Act (the Waste Act) or other applicable law, so long as the City's waste is processed at the MDRRP. For all matters within the City's jurisdiction, the City may

request that MDRRP modify its operation in a manner reasonably calculated to ensure that the City achieves the waste diversion mandates of the Act, or other applicable law, and the applicant shall work cooperatively with the City to implement such modifications or a reasonable alternative, taking into consideration practical, financial, and legal limitations, including potential conflicts with requirements from other governing agencies having jurisdiction. If the applicant fails to work with the City on implementing reasonable modifications described in this section and fines or other penalties are assessed for the City's failure to meet waste diversion goals, then such fines or penalties shall be borne by the applicant, and the applicant shall defend, indemnify and hold the City harmless for any loss, claim or action arising from or in any way connected with such failure to comply with City directives to the extent that the imposition of same is determined to be the fault of the applicant. In compliance with Public Resources Code Section 50001(a)(2), the proposed expansion is designed to recover for reuse or recycling at least five percent (5%) of the total volume of material received by the facility and is identified in the applicable integrated waste management plan. Nothing in this condition shall prevent the City from establishing additional requirements regarding waste diversion in an authorization issued under Chapter 8.05 of the Municipal Code.

6. Monitoring & Reporting for City. The applicant shall monitor and provide the City Manager or their designee with regular accounting of the origin and quantity of all solid waste and recyclables received by, processed through, and transferred by the MDRRP for disposal or recycling. This accounting shall be in a form satisfactory to the City Manager, and at such times and intervals as he or she specifies and shall be on a jurisdiction-by-jurisdiction basis. The accounting shall be in addition to any applicable requirements of the state for monitoring and demonstrating compliance with state mandates related to solid waste and recycling. Copies of any reports supplied by MDRRP to other agencies shall be contemporaneously provided to the City Manager.
7. Compliance with PMC. The MDRRP shall comply with all applicable requirements of the Pittsburgh Municipal Code. The City and applicant recognize and agree that the City's ability to exercise its police power as described in this condition is an integral basis for the City's approval of this project, and that the reservation of the City's right to consider and adopt legislation concerning a recycling facility and transfer station is necessary in order for the City to make the determination that approval of this use permit is consistent with the findings required by PMC section 18.16.040, as fully set forth in this resolution. Further, all site development shall comply with Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers) and Chapter 15.88 (Grading, Erosion and Sediment Control) of the PMC as determined by the City Engineer or designee. Issuance of a site development permit will be required whereby specific engineering requirements will be made as

conditions of approval.

8. Compliance with Conditions & Grounds for Revocation. The applicant shall allow City staff and the LEA to conduct reasonable inspections of the property and applicant's operation of the MDRRP to ensure compliance with the conditions of approval. Operation of the use in a manner inconsistent with that described in the report, violation of a zoning regulation or condition of this resolution, existence of a public nuisance, or conviction of a federal or state law or city ordinance in connection with the operation of the use shall be grounds for revocation of the use permit in accordance with the process outlined in PMC section 18.28.100.
9. Other Agency Requirements. Permits shall be obtained from each agency having jurisdiction over the project to the extent required by law, including but not limited to the City of Pittsburg LEA, the Bay Area Air Quality Management District, the Contra Costa County Fire Protection District, California Regional Water Quality Control Board, and the Department of Resources Recycling and Recovery (CalRecycle).
10. Site Maintenance. The site shall be maintained in a neat and clean manner and all landscaping on site shall be kept weed free and maintained in a healthy condition. The applicant shall be responsible for picking up all litter and waste material daily within any public right-of-way within two thousand (2,000) feet of the property boundaries; to the City limits to the east of the project; and to Columbia Street to the west of the project. If the City Manager determines in their sole discretion that the operator's litter control efforts are not adequate to meet City requirements, then the City Manager may require the applicant or operator to submit a litter control plan and direct what changes are necessary in order to improve its effectiveness. The applicant and/or operator shall ensure that any items dumped along the Loveridge Road street frontage are removed at the beginning and end of each business day.
11. Signage. No signage is approved under this resolution other than wayfinding safety, or signage exempt from review under PMC Title 19. The applicant shall submit all signs for the MDRRP to the Planning Division for review and approval in accordance with PMC Title 19. Additionally, the applicant shall submit signs to the LEA to ensure compliance with state minimum standards for solid waste facilities. The applicant shall determine, in consultation with LEA staff, which signs require LEA approval.
12. Bicycle Parking. The applicant shall provide permanent, fixed bicycle parking for at least nine (9) bicycles on-site in a location providing convenient access and natural surveillance. The design, color, and proposed location of the racks shall be reviewed and approved by Planning Division staff prior to issuance of a building permit.

13. Material Transfers. Transfer of solid waste and recyclables shall be to permitted landfills and recycling receivers.
14. Covered Loads. All self-haulers (general public) and garbage collection trucks entering, and all transfer/packer trucks exiting the MDRRP site shall be covered or enclosed to prevent or minimize litter and waste material from escaping during transport.
15. Covered Loads Notification. Self-haulers (general public) that enter the MDRRP without trash or waste material adequately covered shall be informed by the applicant of the requirement that trucks be covered (see Condition No. 12). The applicant shall be responsible for cleaning up litter from self-haulers. The applicant shall provide notice to the public of the cover requirements in a manner satisfactory to the City Manager.
16. Noise. The MDRRP shall not generate noise in excess of 70 dBA at the property line as required by Pittsburg Municipal Code Chapter 18.84.
17. Hazardous Wastes. The applicant is prohibited from receiving hazardous wastes or engaging in activities which would generate hazardous wastes at the MDRRP. "Receiving Hazardous Waste" does not mean hazardous material that inadvertently is unloaded at the facility (e.g. household material in mixed residential solid waste). The applicant is prohibited from handling hazardous waste substances in sufficient quantities at any one time as to require a permit under the Uniform Fire Code.
18. Peak Hour Travel. The applicant shall apply peak hour travel restrictions to all transfer trucks and to other vehicles that are under the direct control of or under contract with the MDRRP or any subsidiary (e.g. collection trucks) so that trucks will avoid the most congested freeway locations. Currently these congested freeway locations include some sections of SR-4, segments of I-680, the SR 24/680 interchange, and the I-580/I-680 interchange.
19. Traffic Plan. The applicant shall develop, or update an existing, Traffic Management Plan (the "Traffic Plan") to control the time of day that project trucks will use SR-4 and other freeways. The Traffic Plan shall be developed to respond to the freeway traffic conditions that exist at the time the SEG Trucking maintenance facility opens and shall be reevaluated at periodic intervals in response to changing patterns of traffic congestion. The new Traffic Plan shall be prepared, submitted and approved before issuance of a certificate of occupancy for the SEG Trucking maintenance facility and shall be updated at six-month intervals. The Traffic Plan shall document the time periods, roadway segments and direction of travel where transfer trucks will be restricted. The restrictions shall apply to both entering and exiting traffic. The Traffic Plan shall be reviewed and approved by the City Engineer with the

advice and recommendation of the LEA, as may be appropriate, prior to beginning operation of the SEG Trucking maintenance facility. Traffic Plan updates shall be submitted to the City Engineer and LEA, and shall be reviewed as described in this condition.

20. Traffic Plan Adjustments. As part of the ongoing Traffic Plan required by Condition No. 21, operating conditions at the Loveridge Road/SR-4 interchange merge areas shall be monitored by the applicant during a.m. peak hour (westbound on-ramp) and during p.m. peak hour (east bound on-ramp). If operating conditions at either of the merge areas are at LOS F and the addition of MDRRP traffic increases the v/c ratio by more than 0.01, then as part of the ongoing Traffic Plan, traffic patterns at the MDRRP shall be adjusted satisfactory to the City Engineer and LEA to reduce the project's traffic impact below a v/c ratio increase of 0.01 as necessary. Adjustments may include, for example, changes in the hours during which collection and recycling trucks may leave the facility during the a.m. and p.m. peak periods.
21. Location of Transfer Operation. The transfer operation shall be operated in a closed building to reduce exposure of waste to the atmosphere and potential odor impacts.
22. Site Fencing. The MDRRP shall be surrounded by a security fence to capture any litter carried by the wind.
23. Cool Roofs. All building rooftops shall be painted white (behind parapets) to ensure a cool roof effect.
24. Tipping Floor Maintenance. The tipping floor and processing areas shall be cleaned every twenty-four (24) hours.
25. Refuse Exposure/Storage. No refuse shall remain exposed to the atmosphere for longer than twenty-four (24) hours. Any materials stored at the MDRRP for longer than twenty-four (24) hours shall be stored inside transfer trucks under a tarp or cover. In no event shall disposable, non-recoverable solid waste be stored on site for over forty-eight (48) hours.
26. Organic Food Refuse Exposure/Storage. No organic food refuse shall remain exposed to the atmosphere for longer than twenty-four (24) hours. Any organic food materials stored at the MDRRP for longer than twenty-four (24) hours shall be stored inside transfer trucks under a tarp or cover. In no event shall disposable, non-recoverable organic food waste be stored on site for over twenty-four (24) hours.
27. Refuse Contact Areas. Refuse shall not become retained or trapped in corners, cracks or other irregularities within the transfer processing facility building. All surfaces that come into contact with refuse shall be designed to

be easily cleaned.

28. Building Interior Drainage. The drainage and waste handling systems shall be designed so that no standing water can collect in the refuse handling areas.
29. Construction Safety Plan. In accordance with the regulations provided in Title 29 of the Code of Federal Regulations (the CFR), Part 1910.120 and Title 18 of the California Code of Regulations (the "CCR"), Section 5192, the Applicant shall develop, prepare and implement the Construction Worker Site Health and Safety Plan (the "Construction Safety Plan") for construction workers prior to project construction. The Construction Safety Plan shall include but not be limited to identification of areas of known contaminant releases, types of contaminants, and safety procedures for work in those areas; procedures to be undertaken in the event that unknown contamination is discovered; procedures and personnel responsible for managing contaminated soils and/or groundwater, and emergency procedures and responsible personnel. The Construction Safety Plan shall be prepared and signed by a certified industrial hygienist and shall be included with the applicant's building permit application. Individuals who are to perform work in areas where exposure to contaminated materials may occur must have received hazardous materials training in accordance with federal and state regulations. The applicant shall ensure that all contractors on the project comply with the Construction Safety Plan and develop hazardous waste management techniques, protocols and/or methodologies for handling potentially hazardous materials that may be used during project construction. The plan shall specify types, quantities, containment, temporary storage areas, and emergency spill response procedures and shall be approved by the County Fire District prior to project construction, as part of the standard building inspection, review and permit process.
30. Soil Sampling Investigations. In areas of the project site where no soil quality data is available, or data is insufficient to describe the potential health risks associated with excavation and handling of soil, a soil sampling investigation shall be developed and implemented for the excavation and grading areas. The investigation shall be conducted by a qualified environmental professional to assess whether areas proposed to be excavated or graded contain concentrations that may pose a health risk to construction workers or require special handling during construction activities. Existing soil quality data shall be used, where available, to delineate the extent of contamination levels and the expected contaminant levels. The work shall be completed prior to construction and the results shall be included in the Construction Safety Plan. Development and implementation of the soil quality sampling program shall be integrated with the soil quality management required by with the Construction Safety Plan. The City Engineer shall verify that the soil quality sampling program has been completed prior to the issuance of a grading permit.

31. **Asbestos-Containing Floors.** The applicant shall post signs, as specified by the Safe Water Drinking and Toxic Enforcement Act of 1986 (California Health and Safety Code Sections 25249.5, et seq., and Title 22 of the CCR, Sections 12000, et seq.) warning workers of the hazards of disturbing, handling, drilling, and/or breaking the asbestos-containing floor tiles in the conference room of the transfer facility. In addition, the tiles shall be inspected annually by personnel trained in asbestos inspection. In the alternative, the applicant may have the tiles encapsulated, or removed by a licensed asbestos abatement contractor.
32. **Ongoing Soil Remediation.** Construction and operation of the proposed MDRRP shall not interfere with any investigation, monitoring, and remediation of soils and/or groundwater at the project site. All building plans for proposed improvements shall identify the location of existing and known proposed areas of environmental investigation, monitoring, and/or remediation, including the location of existing and known proposed monitoring and extractions wells, subsurface and above ground piping, and associated treatment and storage tasks. All building plans shall be reviewed by the City to ensure that Applicant's proposed improvements will continue to allow access to these areas and not impede remediation of the Project Site.
33. **Exclusion Program.** Only non-hazardous waste shall be accepted at the MDRRP. The MDRRP may receive hazardous waste managed under the Alternative Management Standard, a variance, or a certification (i.e. Certified Appliance Recycler) granted by the Department of Toxic Substances Control (DTSC) as well as Universal Waste materials as allowed with approval by the LEA. To ensure compliance with this condition, the applicant shall prepare, or update an existing, Hazardous Waste Exclusion Program (the "Exclusion Program") in accordance with Title 23 of the CCR, Section 2523(b) and maintain a policy of excluding hazardous waste from the MDRRP. The Exclusion Program previously submitted by the applicant shall be revised to state that no waste classified as "designated" or "hazardous" under applicable law will be accepted at the MDRRP and shall include a schedule for implementing the proposed training load checking programs. The LEA shall review and approve the updated Exclusion Program as part of the Solid Waste Facilities Permit review process and shall specify what waste shall be excluded.
34. **Hazardous Materials Plan.** Management of hazardous materials used or inadvertently received at the MDRRP shall be documented consistent with Division 20, Chapter 6.95 of the Health and Safety Code (commencing with Section 25500) and subdivision (b) and (c) of section 80.103 of the Uniform Fire Code. Chapter 6.95 of the Health and Safety Code, titled "Hazardous Materials Release Response Plans and Inventory," requires the preparation of area plans and business plans. Section 80.103 of the Uniform Fire Code

- requires the preparation of hazardous Material Management Plans and Hazardous Materials Inventory Statements to ensure compliance with state operating regulations. These plans shall contain among other things; a complete description of personal protective equipment; procedures for handling, packing and disposing of hazardous waste found in mixed wastes inadvertently brought to the MDRRP; the maximum volume to be stored at any one time; and shall specify procedures for the proper segregation of incompatible wastes. Hazardous waste shall be stored in appropriate containers in compliance with all local, state and federal regulations and kept in an area separate from any hazardous materials used by the MDRRP in its operation or construction. These plans shall be submitted to the City, the Contra Costa County Health Services Department, and the County Fire District prior to the issuance of an expansion permit. The LEA shall ensure that these plans have been approved by the appropriate agency. The applicant shall fund the cost of outside technical support, if any.
35. Fire Suppression Systems. The applicant shall install and maintain an automatic fire sensing, suppression and alarm system at the MDRRP in accordance with recommendations from the County Fire District and the State Fire Marshal prior to the occupancy of any new building.
36. Emergency Response Plan. The applicant shall prepare and maintain an Emergency Response Plan (the "ER Plan") as part of the Business Plan as required by the state Hazardous Material Release Response and Inventory Program (Health & Safety Code Section 25500, et seq.); The ER Plan shall include a detailed description of methods used to identify and control materials susceptible to explosion or combustion; the location, maintenance, and procedures for use of all fire control equipment; identification of responsible and trained fire-fighting personnel; location of fire extinguisher and other fire-fighting equipment and evacuation plans and procedures. The ER Plan shall also specifically address the potential for a power failure during an emergency. Response procedures for the site shall be submitted to and approved by the Contra Costa County Fire Protection District prior to the occupancy of any of the new structures permitted by this use permit. The approved ER Plan shall be submitted to the LEA with the application packet for the updated Solid Waste Facility Permit. The LEA shall ensure the ER Plan has been approved by the appropriate agency. The applicant shall fund the cost of outside technical support, if any. The ER Plan shall include emergency response procedures in the event of an earthquake and shall take into account the probability that untrained visitors are likely to be present at the MDRRP.
37. Wastewater Storage. All wastewater generated from buildings at the facility that require secondary treatment or discharge to sanitary sewer shall be collected and contained in storage tanks and/or discharged to sewer. The wastewater collected at the facility (holding tanks and sump) shall be

removed using vacuum tank trucks on an as-needed basis. During the expansion, the volume and consistency of the wastewater shall be measured at a regular frequency to determine appropriate measures of future on-site treatment. As part of the Solid Waste Facility Permit update application, the appropriateness and feasibility of recycling or on-site treatment will be evaluated at that time. Any discharge of wastewater to the sewer shall be in compliance with the requirements and restriction specified by Delta Diablo. Procedures for wastewater management at the facility shall be included in the Hazardous Materials Management Plan (Uniform Fire Code, Article 80, Section 80.101). The Plan shall be updated to address any changes in operational and safety procedures related to future changes in wastewater management.

38. OSHA. The applicant shall comply with all state and federal occupational safety and health acts ("OSHA") including but not limited to developing a procedure for protecting workers who handle and/or sort sharp materials; requiring workers to wear protective gloves; training workers to identify and safely remove sharp objects and dispose of used hypodermic needles or other inadvertently deposited medical wastes. These procedures shall be included in the Transfer/Processing Report that applicant will submit to the LEA.
39. Relationship to Other Emergency Response Plans. Neighboring industrial facilities which treat, store, or dispose of hazardous materials are required to develop emergency response plans (the "ER" Plan) for release incidents. The Project's ER Plan shall acknowledge and include a description of the ER Plan's consistency, to the extent possible, with risk management and prevention programs and evacuation plans of nearby industries. The approved ER Plan shall be submitted to the LEA as part of the Solid Waste Facility Permit update application packet. The LEA shall ensure the ER Plan has been approved by the appropriate agency. The applicant shall fund the cost of outside technical support, if any.
40. Vector Control. The applicant shall implement a program to monitor the development of any vector problems, including the eradication of pests if needed. The applicant shall, at minimum, institute the following measures to control vectors at the MDRRP:
 - a) Regular cleaning and maintenance procedures including sweeping of the yard and tipping areas;
 - b) Handle solid waste materials inside the building, rather than outdoors;
 - c) Transport all waste for disposal no more than forty-eight (48) hours after it is brought to the MDRRP;
 - d) Transport yard waste and organics to composting operations or organics processing facilities within forty-eight (48) hours, or up to 7 days if granted by the LEA under section 7852(a)(10)(A)(2) of the California Code of Regulations, or sent to a on-site energy production facility including but

- not limited to an on-site gasification unit or anaerobic digester;
 - e) Implement a load covering policy and program for hauling vehicles leaving the MDRRP; and
 - f) Regular cleaning of MDRRP organic handling equipment and trucks by applicant.
41. Contaminated Soils. Any excavated contaminated soil shall be removed from the project site and transported to a qualified disposal site; however, contaminated material shall not be transported to the Keller Canyon Landfill or to any facility that will use it as a daily cover.
42. Grading. If possible and as directed by the City Engineer, all grading shall be conducted between April 15 and October 15 to minimize silt runoff to the nearby channels located on the boundaries of the project site. If grading is to be conducted during the rainy season, silt control measures described in the SWPPP's shall include, but not be limited to, creation of silt barriers (e.g. hay bales, silt fences) on the southern and/or western property boundary.
43. Frequency of Plan Updates. The City Manager, or their designee, may require the applicant to update a plan or study required under any condition of approval in this resolution more frequently than otherwise called for herein, as conditions may warrant in such official's judgement.
44. Study Costs. Any and all studies described herein or are otherwise necessary due to construction or operation of the MDRRP shall be at the applicant's sole expense.
45. Recycling Programs. Upon the City's request, the MDRRP shall provide recycling programs, such as (without limitation) mixed paper and yard waste diversion programs (as used hereafter in this condition "Programs") that are consistent with and assist in the implementation of the City of Pittsburg's Source Reduction and Recycling Element ("SRRE"). If the applicant demonstrates to the City's satisfaction that implementation of requested Programs is infeasible at the MDRRP, due to such factors as cost or suitability of the facility, the applicant shall work cooperatively with the City to develop other Programs that are feasible and will ensure that the City mandates its compliance with the Act. Any costs associated with amending the City's SRRE to reflect necessary Program changes shall be paid by the applicant and the cost shall not be passed on the City garbage subscribers or individuals or agencies using the MDRRP.
46. Hours of Operation. The hours of operation for receipt of refuse/waste from the public shall be daily from 7:00am to 6:00pm, unless otherwise granted by the LEA or Solid Waste Facility Permit. Public visitation shall be limited to Monday through Saturday from 8:00 a.m. to 5:00 p.m.

47. **Deferred Improvements.** The owner shall enter into a deferred improvement agreement with the City to construct frontage improvements for the Developer's pro-rata share of the ultimate roadway design for Loveridge Road. As part of the agreement, the owner shall post a bond, a letter of credit, a certificate of deposit or some other form of financial responsibility agreed upon by the City for the cost of the improvements. Frontage improvements shall include construction of storm drain facilities, curb, gutter, and sidewalk, and undergrounding of utilities.
48. **Loveridge Road Maintenance.** The applicant shall enter into a Memorandum of Understanding or other agreement instrument to pay a pro-rata share fee for reconstruction and ongoing maintenance for Loveridge Road. The costs of reconstruction of the roadway and ongoing maintenance costs shall be determined through a City-sponsored study and shall be based on truck trips attributed to the business, or other measurement deemed mutually acceptable by the applicant and the City.
49. **Sanitary Sewer Capacity.** The applicant shall provide proper sanitary sewer capacity to accommodate the project's wastewater demand.
50. **Standard Conditions of Development.** The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is a conflict between the Standard Conditions of Development, and this Resolution, this Resolution shall prevail.

General Engineering Conditions

51. **Grading.** All grading work shall be done in accordance with provisions of Chapter 15.88 of the Pittsburg Municipal Code.
52. **Traffic Control Plans.** The applicant shall comply with City and State guidelines and requirements for traffic control during construction and prior to final project acceptance.
53. **Business License Requirements.** The applicant shall be responsible for informing all subcontractors, consultants, engineers, or other business entities providing services related to the project of their responsibilities to comply with all pertinent requirements of the City of Pittsburg Municipal Code, including the requirement that a business license be obtained by all entities doing business in the City.
54. **Portable Restrooms.** Adequate sanitary disposal facilities shall be required on site during all phases of construction.
55. **Construction Debris.** The applicant shall provide solid waste disposal

containers on-site during all phases of construction. The accumulation of refuse and debris which may constitute an unsightly/unsafe public nuisance to surrounding properties is not permitted.

56. Dust Control. The applicant shall control dust during construction by water application. At minimum, active construction areas shall have to be watered at least twice daily pursuant to requirements of a site-specific Soil Management Plan (SMP) required by the restrictive land use covenant (LUC) that applies to the project site. Non-potable water shall be used from a source approved by the City Engineer (PMC, Title 15), or a nontoxic dust palliative may also be used. To prevent an increase in the potential to emit dust following grading, the project design includes stabilizing disturbed areas as soon as practical as described in Section 2.3.5. Crushed rock shall be used on perimeter and intermediate access roads and the area surrounding the substation. Areas that are not graveled or occupied by foundations shall be stabilized by re-vegetation, application of a non-toxic soil binder, or other means of stabilization.
57. Diesel Equipment. The applicant shall comply with the following requirements of Title 13 of the California Code of Regulations (CCR) for diesel-fueled construction equipment to ensure that emission levels during project construction do not conflict with or obstruct implementation of BAAQMD's air quality plans:
- a) Individual diesel truck idling in excess of five consecutive minutes shall be prohibited consistent with Title 13 CCR.
 - b) Diesel-power construction equipment shall use renewable fuel or low-sulfur diesel fuel pursuant to requirements of Title 13 of the CCR.
58. Grading. Any earth moving activity at the site shall be performed in accordance with the Soil Management Plan (SMP) and Health and Safety Plan (HSP) (USS-Posco and DTSC, 2010).
59. CCCFPD Precautions. In accordance with the Contra Costa County Fire Protection District (CCCFPD) requirements, the following precautions shall be instituted by the operator of the facility, unless otherwise determined by the CCCFPD:
- a) CCCFPD approved means of monitoring and measuring the temperatures within static piles shall be used to monitor and record internal pile temperatures and be made available for inspection by the CCCFPD;
 - b) Portable fire extinguishers shall be provided on all vehicles and processing equipment;
 - c) The operator shall provide for the availability of material handling equipment during any firefighting operations at the project site;

- d) No flammable or combustible liquid storage tanks shall be stored on the site without approval and issuance of required permits from the CCCFPD;
 - e) The operator of the C&D facility shall develop a plan for monitoring, controlling and extinguishing spot fires, subject to CCCFPD review and approval; and
 - f) Smoking shall not be permitted in spaces where flammable C&D materials are stored or handled.
60. Outdoor Storage Prohibited. The storage of material or items on any portion of the site that is located within 200 feet of a public street shall occur within a building or a fully enclosed structure upon the completion of Phases 2 and 3 of the MDRRP Master Plan, and as required by *Industrial-Service processor* use limitation L-154.
61. Landscape Coverage. Additional landscape areas shall be provided throughout the site, except where prohibited, in order to achieve the ten percent (10%) minimum site landscaping requirement of the IG zoning district development standards. Areas with the potential for additional landscaping include widening the approved landscape area along Loveridge Road; the southeastern corner of the site (adjacent to the GWF facility); and the northern pointed corner of the parcel. Prior to the issuance of a site development permit or building permit, final landscape plans, showing the amount of area to be landscaped as a percentage, shall be submitted for review and approval by the Planning Division.
62. Emergency Vehicle Access. Prior to the issuance of a site development or building permit, the site plans shall be revised to include adequate emergency apparatus access roadways with all- weather driving surfaces of not less than 20 feet of unobstructed width, and not less than 13 feet, six (6) inches of vertical clearance to within 150 feet of travel distance to all portions the structure. Access roadways shall have a minimum outside turning radius of 45 feet, and an inside turning radius of 25 feet, and must be capable of supporting the imposed loads of fire apparatus, i.e. 37 tons, as required by the CCCFPD.
63. Emergency Access Gates. Prior to the issuance of site improvement plans, the plans must identify access gates (for Fire District apparatus) with a minimum width of 20 feet. Access gates shall swing inward and be setback from the public right-of-way by a minimum of 30 feet. Electrically operated gates shall be equipped with a Knox Company key- operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved Fire District lock.
64. On-site Emergency Circulation. C&D materials and green waste piles shall be separated from adjacent piles by fire apparatus access roadways with a

minimum width of 20 feet. Piles shall not exceed 25 feet in height, 150 feet in width, and 250 feet in length, or as otherwise determined by the CCCFPD.

- 65. Hydrants. The applicant shall provide two fire hydrants for the project, and hydrant locations, as determined by the CCCFPD. Fire hydrants provided on the site must be the "East Bay" type.
- 66. Site Address Numbers. Premise address identification shall be provided prior to the issuance of a certificate of occupancy. Such numbers shall contrast with their background and be a minimum of four inches high or larger as required to be readily visible from the street.
- 67. Planting. Plants installed for project landscaping shall be low-maintenance drought-tolerant varieties, requiring minimal use of pesticides to minimize potential impacts on foraging birds, in accordance with Landscaping Requirements set forth in PMC Section 18.34.300-325.

General Engineering and Construction

Engineering fees due payable prior to the first building plan review and at the time of Grading or Site Development Permit issuance:

- 68. Grading/Improvement Plan Review Fees. The applicant shall pay one half of the Engineering Grading and/or Improvement Plan Review Fee with the initial submittal of plans, maps, or other documents for plan review. The Plan Check Fees are based upon the Engineer's Estimate, which shall also be provided at the time the plans are submitted. The Improvement Plan Check fees are 7% of the cost of the improvements based upon the approved Engineer's Estimate. The Grading Plan Check Fee is 2.5% of the Engineer's Estimate, or may be based upon cubic yards of grading. The deposit(s) shall be credited toward the final fee(s) as determined at engineering permit issuance based upon the final, approved Engineer's Estimate. The deposit shall be paid to the Engineering Division.
- 69. Inspection Fees. The applicant shall pay the Improvement and/or Grading Inspection Fee(s) to the Engineering Division at the time of the Grading or Single Parcel Development Permit is issued. The current Improvement Inspection Fee is 6.75% of the cost of grading, and the Grading Inspection Fee is 3% of the cost of Grading. The Grading Inspection Fee may also be based upon an approved Engineer's Estimate of total cubic yards, according to the current schedule of Grading Fee Charges.
- 70. GIS Update. The applicant shall pay \$110 plus \$0.65 per square foot of newly constructed building to the Engineering Division at the time of Single Parcel Development Permit issuance.

71. NPDES Plan Review Fees. The applicant shall pay an NPDES Plan Review (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering Division in the amounts in effect when the applicant obtains a grading permit. The applicant understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

72. NPDES Inspection Fees. The applicant shall pay an NPDES Inspection Deposit (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering Division in the amounts in effect when the applicant obtains a grading permit. The applicant understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

Engineering Fees due payable prior to Issuance of the building permit for any building plan permitted by this use permit.

73. Facility Reserve Charge. The applicant shall pay the City of Pittsburgh Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Division, for water and sewer service in the amounts in effect when the applicant obtains a building permit. The applicant understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City. The FRC shall be paid to the Engineering Division prior to the issuance of a building permit.

74. Local Traffic Mitigation Fees. The applicant shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect when the applicant obtains a building permit. The applicant understands that the LTMF currently on file is \$1.51/sf. The applicant further understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburgh Local Transportation Mitigation Fee Program Update, copies of which are available from the City. Fees shall be paid prior to issuance of a building permit.

75. Regional Traffic Mitigation Fees. The applicant shall pay the Regional

Transportation-Development Impact Mitigation Fee (PMC Chapter 15.102) (the "RTDIM") amount in effect when the applicant obtains a building permit. The applicant understands that the RTDIM currently on file is \$1.47/sf. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area between September 1 and September 1 of the preceding two calendar years. Fees shall be paid prior to issuance of a building permit. If no building permit is required, then the fees are payable in the amount in effect when the project commences pursuant to PMC Section 15.102.040.

76. Standard Engineering Submittals. The applicant shall submit five (5) copies of the engineering plans, prepared by a registered civil engineer, to include but not be limited to the following:
- a) A Site Plan
 - b) A Grading and Drainage Plan
 - c) A Utilities Plan
 - d) A Landscaping and Irrigation Plan
 - e) A Stormwater Control Plan and Report
 - f) An Erosion and Sedimentation Control Plan
77. Geotechnical Report. The applicant shall submit a current geotechnical report that substantiates the design features incorporated into this project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Department for review prior to the approval of any civil plans and issuance of any Engineering permits.
78. Engineers Estimate. The applicant shall submit an Engineer's Estimate with the first plans submittal. This estimate shall include all costs associated with the site development improvements, excluding those costs associated with the construction of the building structure itself.
79. Accessibility. All public and pedestrian facilities shall be designed in accordance with Title 24, Handicap Access, and the California Department of State Architect's standards for accessibility compliance.
80. Phased Improvements. To ensure safety of customers and operations personnel, the proposed access road to the SEG Trucking facility shall not be constructed until the Organic Processing Operations Area is relocated. Developer to provide an interim access road until such time the relocation occurs.

General NPDES Conditions:

81. SWPPP/Erosion Control Plan. The applicant shall submit an Erosion and Sedimentation Control Plan, or Stormwater Pollution Prevention Plan (if the project warrants a State General Construction Permit) to the Engineering Department. The erosion control / SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site during the construction phase of the project to effectively prohibit the entry of pollutants into storm water runoff and project track out.
82. Stormwater Control Plan. Submittal of grading and/or building plans shall be consistent with the approved Stormwater Control Plan to meet C.3 obligations. The plans shall include drawings and specifications necessary to implement the permanent BMPs designed in the approved Stormwater Control Plan. Grading and/or building permits, shall not be issued until this condition is met to the satisfaction of the Engineering Division.
83. Construction Methods. Grading and/or building permit plans (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design featured, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants.
84. Stormwater BMP Operation and Maintenance Plan. Prior to final inspection approvals by the Engineering Department, the applicant shall submit a Stormwater BMP Operation and Maintenance Plan for review and approval by the Engineering, Planning, and Public Works Departments. Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans can be found on the Contra Costa Clean Water Program's website: www.cccleanwater.org.
85. Stormwater BMP Operation and Maintenance Plan (Final). Prior to the issuance of the Certificate of Occupancy, the applicant shall submit the final draft of the Stormwater BMP Operation and Maintenance Plan for review and approval by the Engineering Department. The applicant shall also execute the Operations and Maintenance Agreement, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs. The Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are found on the Contra Costa County Clean Water Program website (www.cccleanwater.org) or the Stormwater C.3 Guidebook, most current edition.

General Engineering Conditions Regarding Utilities:

86. Existing Facility Evaluation. The applicant shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide

the results to the City to identify any service or supply problems. The cost for installation of additional facilities shall be borne by the applicant.

87. Compliance with PMC. The design and construction of storm drain, water, and sewer facilities shall be in accordance with Section 17.28.020 of the Pittsburgh Municipal Code.
88. Water Demands for Fire. The applicant shall provide appropriate water service, adequately sized to meet the domestic and fire protection demands for the project.
89. Sanitary Sewer Sizing. The applicant shall provide appropriate sanitary sewer, adequately sized to accommodate the project's wastewater demand.
90. Abandon Waterlines. The applicant shall abandon the existing 6" and 10" water lines that cross Kirker Creek by capping the services at the property line.
91. Police CFD. Prior to issuance of any building permits, the applicant shall deliver written approval to the Engineering Division to annex the subject property into the Community Facilities District CFD 2005-1, which provides funding for an increase of police coverage in the area. The rate of the CFD fee is subject to the City Council Ordinance No 05-1246.
92. Fire CFD. Prior to the issuance of any building permits, the applicant shall deliver written approval to the Engineering Division to annex the subject property into Community Facilities District CFD 2017-1, which provides funding for expanded fire facilities and fire emergency services. The rate of the CFD is subject to City Council Ordinance No 17-1428.
93. Kirker Creek Watershed Drainage Fees. The applicant shall pay a fee of \$0.68 per square feet for increases in the area of impervious surfaces created for the project per Municipal Code Chapter 15.104.

Mitigation Measures (Air Quality)

94. MM-AIR-3.1.1 (a): The proposed project shall implement BAAQMD-recommended best management practices for the control of fugitive dust including, but not limited to, the following:
 - a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved areas of vehicle travel) shall be watered two times per day.
 - b) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- c) All vehicle speeds on on-site unpaved areas shall be limited to a maximum of 15 miles per hour.
- d) All parking areas, equipment pads, and driveways shall be paved as soon as possible. Equipment pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- e) Where applicable, vegetative ground cover (fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible.
- f) A publicly visible sign shall be posted at the site entrance identifying the telephone number and name of the person to contact at the construction site regarding dust complaints. The phone number of the City contact person and/or department shall also be posted to ensure compliance. All complaints, including any necessary corrective actions implemented to address the complaint, shall be documented and responded to within 48 hours. The designated City compliance monitoring staff and/or department shall be notified of all complaints received.

95.MM-AIR-3.1.1 (b): The following measures shall be implemented to reduce construction-generated mobile-source emissions:

- a) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by Title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
- b) All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- c) Heavy-duty (i.e., 25 horsepower or greater) off-road construction equipment shall, at a minimum, meet Tier 3 emission standards.

96.MM-AIR-3.1.2 (a): The project applicant shall demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.

97.MM-AIR-3.1.2 (b): The operator shall provide a report on the throughput tonnage processed at the facility that would result in operational emissions of NO_x at 90 percent of the allowable threshold of 54 pounds per day and 10 tons per year (i.e., 48.6 pounds of NO_x per day or 9 tons of NO_x per year). The report shall be included as a condition of approval of the use permit and shall be completed by a qualified air quality professional within one year of approval of the use permit for the expansion. Project-generated tonnages and estimated emissions based on the report shall be evaluated commencing at the five-year state permit review and each year thereafter as tonnage reports are submitted to the City Department of Environmental Affairs and Development Services Department. Once the throughput tonnages reach the amount determined in the report to result in 48.6 pounds

of NO_x daily or 9 or more tons of NO_x annually, the operator shall prepare and submit project-generated emissions reports, as described in mitigation measure MM 3.1.2c.

98. MM-AIR-3.1.2 (c): Once the project receives a tonnage throughput resulting in 90 percent of assumed NO_x emissions (48.6 pounds of NO_x per day or 9 tons of NO_x per year) as indicated by annual tonnage reports submitted to the City's Department of Environmental Affairs and Development Services Department, the operator shall obtain the services of a qualified specialist, approved by the City Development Services Department in conjunction with the Department of Environmental Affairs, to prepare and submit an annual air quality report showing project-generated NO_x emissions. The annual emissions evaluation shall identify project-generated increases in emissions over those existing at the time of the approval of the use permit, any emission reduction strategies that have been implemented (i.e., use of cleaner equipment, etc.), and any emissions offsets or additional mitigation measures, as described in mitigation measure MM 3.1.2d, that will be implemented sufficient to achieve the threshold of 54 pounds of NO_x per day or 10 tons of NO_x per year. Emissions analyses shall be submitted to the City by April 1 of the following year. Upon the City's approval of the annual air quality report, documentation of any emissions offsets or additional mitigation strategies that have been implemented shall be provided to the City within 30 calendar days.
99. MM-AIR-3.1.2 (d): Based on the information provided in the annual report described in mitigation measure MM 3.1.2c, the proposed project shall implement on-site control measures and/or purchase emissions offsets sufficient to limit net increases (as defined) in operational NO_x emissions to no more than 54 pounds per day or 10 tons of NO_x per year. Measures shall be implemented on an ongoing basis corresponding to increases in operational activities. Measures to be implemented to reduce operational NO_x emissions may include, but are not limited to, the following:
- a) Use of alternatively fueled vehicles and off-road equipment.
 - b) Electrification of on-site equipment.
 - c) Reduction in the number of pieces of motorized equipment and/or hours of use.
 - d) Replacement/conversion of existing off-road equipment sufficient to meet, at a minimum, CARB's Tier 4i emission standards, or equivalent.
 - e) Secure emission reduction credits (ERCs) to offset NO_x emissions per BAAQMD Regulations 2-2-215, 302, and 303.

Mitigation Measures (Hazards)

100. MM-HAZARDS AND HAZARDOUS MATERIALS-3.3.2 (a): The project applicant shall either update the existing facility's Construction Worker Site

Health and Safety Plan or prepare a new plan to include the entire current project site and proposed site preparation and construction activities. The completed plan shall be implemented during all project construction activities. The plan shall address the potential for workers to be exposed to contaminated soils and shall provide specific measures to be implemented to ensure worker health and safety. These measures may include site controls, use of protective clothing, soil watering, hazard awareness training for workers, and/or emergency medical response procedures.

101. MM-HAZARDS AND HAZARDOUS MATERIALS-3.3.2 (b): The project applicant shall comply with all relevant requirements of the *Covenant to Restrict Use of Property, Environmental Restriction (Re: A limited portion of County of Contra Costa APN 073-200-021 UPI Pittsburg Facility Site L-A Property, DTSC site code number 520024), DOC-2010-0132574-00 recorded by the Contra Costa County Clerk-Recorder's office on July 1, 2010.*

Mitigation Measures (Traffic)

102. MM-TRAFFIC-3.7.1 (b): The proposed project shall contribute their fair share to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection:
- a) Install a second westbound left-turn lane on Pittsburg-Antioch Highway.
 - b) Upgrade existing traffic signal equipment to accommodate the changed intersection lane configurations.
103. MM-TRAFFIC-3.7.2: The project applicant shall pay the project's fair share of the cost to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection:
- a) Install an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach.
 - b) Install a dedicated left-turn lane on the northbound Loveridge Road approach.
 - c) Convert the existing shared left-turn/through lane on the northbound Loveridge Road approach to be a through-only lane.
 - d) Modify signal phasing in the north/south direction from split phase to having protected left-turns.
 - e) Upgrade existing traffic signal equipment to accommodate the recommended intersection lane configurations.

Mitigation Measures (Biological Resources)

104. MM-BIOLOGICAL RESOURCES-3.8.1 (a): **Burrowing Owl.** Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction

survey for burrowing owls on and adjacent to the project site. Surveys shall be conducted in accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report), published March 7, 2012. Surveys shall take place no more than 30 days prior to construction and will establish the presence or absence of burrowing owl and/or habitat features and evaluate habitat use by owls. During the surveys, all burrows and burrowing owls will be identified and mapped.

If burrowing owls are found during the breeding season (February 1–August 31), the project applicant shall avoid all nest sites for the remainder of the breeding season or while the nest site is occupied by adults or young. Avoidance measures will include establishment of a 250-foot no disturbance buffer zone surrounding the nest burrow. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1–January 31), the project applicant shall avoid the owls and the burrows they are using through establishment of a 160-foot protective buffer zone surrounding the active burrow.

If avoidance is not possible, passive relocation of occupied burrows shall be implemented outside the breeding season. Owls should be excluded from burrows by installing one-way doors in burrow entrances. These doors should be in place for no less than 48 hours prior to excavation, and the project area shall be monitored daily by a qualified biologist for one week to confirm that the owl has abandoned the burrow.

105. MM-BIOLOGICAL RESOURCES-3.8.1(b): **Swainson's Hawk**. Prior to any ground disturbance that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than one month prior to construction to determine if occupied Swainson's hawk nests are present within 1,000 feet of the project site.

If occupied nests are documented, project-related activities within 1,000 feet of an occupied nest site shall be prohibited to prevent nest abandonment. Project-related activities can proceed normally if a qualified biologist determines that young have fledged prior to September 15. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Furthermore, if the active nest site is shielded from view and noise from the project site by other development, topography, or other features (including off-site features), the project applicant can apply to the HCP/NCCP

Implementing Entity for a waiver of this avoidance measure. Waivers must also be approved by the USFWS and the CDFW. While the nest is occupied, project-related activities outside the 1,000-foot buffer can take place.

106. MM-BIOLOGICAL RESOURCES-3.8.1(c): **Golden Eagle.** Prior to any ground disturbance that occurs during the nesting season (January 1–August 31), a qualified biologist shall conduct a preconstruction survey not more than one month prior to construction to determine whether active golden eagle nests are present within 0.5 mile of the project site. If active nests are present within 0.5 mile of the project site, project-related activities within 0.5 mile of the nest are prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Project-related disturbance may proceed once a qualified biological monitor determines that the nest has failed or that the young birds have fledged.
107. MM-BIOLOGICAL RESOURCES-3.8.1(e): **Nesting Bird Surveys.** If clearing and/or construction activities will occur during the migratory bird nesting season (February 15–August 15), preconstruction surveys to identify active migratory bird nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, including a 200-foot buffer.

If active nest sites are identified within 200 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to migratory bird nesting activities. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 100 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 100 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.

Standard Conditions and Indemnification

108. Indemnification. The applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of the project approval, subsequent project approval, or other action arising out of, or in connection with, or the project approvals. The parties shall cooperate in

defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at Applicant's sole cost and expense. The applicant may select its own legal counsel to represent applicant's interests at the applicant's sole cost and expense. The applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

109. This approval will expire on August 24, 2024, unless the Solid Waste Facility Permit update is completed and issued by the City of Pittsburg LEA for the project contemplated herein, a development agreement is adopted which sets forth a timeline for development, or a written request for extension is filed with the Planning Division prior to the expiration date and is subsequently approved by the Planning Commission.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner __, seconded by Commissioner __, the foregoing resolution was passed and adopted the 24th day of August, 2021, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. 10173 was adopted by the Planning Commission of the City of Pittsburg on August 24, 2021.

JORDAN DAVIS, SECRETARY
PITTSBURG PLANNING COMMISSION

CITY OF PITTSBURG
Mt. Diablo Resource Recovery
Park 2021 Enhancements Project
INITIAL STUDY AND 2ND EIR ADDENDUM

SCH No. 2011052053

Prepared For:
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Prepared By:
JML Planning
45 Calle Del Ribera
Stinson Beach, CA 94970

June 2021

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Mt. Diablo Resource Recovery
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1.0 EXECUTIVE SUMMARY

1.0 EXECUTIVE SUMMARY

1.1 INTRODUCTION

This section provides an overview of the proposed Mt. Diablo Resource Recovery Park (MDRRP) 2021 Enhancements Project and the environmental analysis for same.

1.2 PURPOSE OF ENVIRONMENTAL ANALYSIS

The City of Pittsburg is the lead agency for the proposed MDRRP 2021 Enhancements Project. In accordance with Section 15082 of the California Environmental Quality Act (CEQA) Guidelines, an Environmental Impact Report (EIR) was prepared for the MDRRP Project in December 2014 and was certified by the City of Pittsburg on May 26, 2015. Section 15162 of the CEQA Guidelines outlines the appropriate environmental review for a subsequent project when an EIR has previously been certified. It notes that no subsequent EIR shall be prepared for that project unless the Lead Agency determines, on the basis of substantial evidence in the whole record there have been substantial changes in the project that would require major revisions to the previous EIR, there have been substantial changes with respect to the circumstances under which the project is undertaken, or there is new information indicating that the project could have significant effects not discussed in the EIR.

This Initial Study and 2nd EIR Addendum was prepared as an addition to the 2015 Final EIR, and as such evaluates the proposed MDRRP 2021 Enhancements Project in the context of the certified 2015 EIR to determine if the existing EIR adequately addresses potential environmental impacts or whether subsequent environmental review would be required. It has been prepared in conformance with the provisions of CEQA, California Public Resources Code, Division 13, Environmental Quality and Title 14, California Code of Regulations, Chapter 3, Guidelines for Implementation of CEQA (State CEQA Guidelines).

For purposes of this analysis, the 2011 Initial Study prepared by PMC for the MDRRP Project (which was the basis for the 2015 EIR document) has been utilized herein to help review and compare the current proposal against the 2015 approved project (see Section 3.0 of this document). For additional detail regarding specific environmental impacts, please consult the Section 3.0 of the 2015 Certified EIR. The Initial Study analysis contained in this addendum focuses on the changes in potential impacts that could result from development of the currently proposed MDRRP 2021 Enhancements Project.

1.3 PREVIOUS APPROVALS & BASIS FOR ADDENDUM

The City of Pittsburg certified an EIR for the original facility—which consisted of only the Recycling Center and Transfer Station (RCTS)—on February 21, 1995 (SCH No. 94063017), and then issued the Conditional Use Permit (CUP) on March 6, 1995. The RCTS received a Solid Waste Facility Permit from the City of Pittsburg Solid Waste Management Division to operate a 1,500-tons-per-day (TPD) RCTS. On December 13, 1995, the California Integrated Waste Management Board (the state oversight agency at the time) concurred with the Solid Waste Facility Permit, which has been reviewed every 5 years and has been modified as appropriate to address additional recycling programs. On March 27, 2007, the City of Pittsburg adopted a Negative Declaration and approved a CUP to physically expand the facility and add the Mt. Diablo Recycling Facility (MDRF). On January 12, 2010, the City adopted another Negative Declaration (SCH No. 2009112035) and approved operational changes to the MDRF's CUP to expand its individual facility's capacity to 500 TPD.

On May 26, 2015, the City certified a new EIR (SCH No. 2011052053) for the MDRRP and approved a new CUP to permit operational changes and expand the overall facility's capacity to 5,500 TPD. This 2015 CUP also brought together all components of the facility—the RCTS, the MDRF, and the Organics Processing Facility (a wood chipping and grinding operation)—under just one facility name: "Mt. Diablo Resource Recovery Park." In 2018, the City approved the Initial Study and 1st EIR Addendum and a CUP, which incorporated amendments to the organization of the facility. This included the addition of two bioenergy

gasification units (for a total of three) and additional buildings for 67,405 square feet in addition to the 208,804 square feet originally approved in 2015 for a total of 295,659 square feet.

The applicant has now proposed a revision to its most recently approved project that would include several enhancements to the processing of the waste stream. CEQA Guidelines Section 15162 specifies that, when an EIR has been certified for a project, no subsequent EIR shall be prepared for the project unless the Lead Agency determines, on the basis of substantial evidence in the light of the whole record, that there have been substantial changes in the project or the existing setting or new information of substantial importance becomes available. The purpose of the Initial Study is to determine the appropriate level of environmental review for the current project. Based on the analysis in the attached Initial Study and the Summary of Environmental Impacts, it has been concluded that the 2015 EIR adequately addressed the potential environmental impacts of the proposed MDRRP 2021 Enhancements Project and that an EIR Addendum is the appropriate level of environmental review.

1.4 MDRRP 2021 ENHANCEMENTS PROJECT OVERVIEW

The proposed project consists of an amendment to the existing Use permit (UP) for operational 2021 Enhancements and a reorganization of the previously approved MDRRP on the 36-acre site. The current submittal consists of a Master Plan that sets forth the proposed buildout of the MDRRP over a 20-year period to comply with the above-mentioned increasing regulatory requirements and diversion goals. The total amount of material to be processed at the facility (5,500 TPD) would not change. The most significant change is that these processes would now be carried out within buildings with required air filtering systems to reduce air quality impacts. The 2015 approval permits the development of 295,659 square feet of building. The current request is for a total of 570,580 square feet of development.

The purpose of the Master Plan is to construct the improvements that are necessary to comply with state and federal legislation regarding the handling of waste material. Assembly Bill (AB) 1826 requires that the handling of organic and food waste be carried out within a building by January 2021. Currently, the processing of organic material is carried out of doors and is not combined with food waste. It is expected that increasing regulation will require activities now carried out in open air to be carried out within structures, and therefore the applicant is being proactive in planning for the long-term improvements necessary to meet these requirements.

2.0 PROJECT DESCRIPTION

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2.1 PROJECT LOCATION AND SETTING

PROJECT LOCATION

The project site is located at 1300 Loveridge Road in the city of Pittsburg in north-central Contra Costa County. As shown on **Figure 1**, the site is on the western side of Loveridge Road just north of the Pittsburg-Antioch Highway and State Route 4, and just south of the BNSF Railway and the shoreline of New York Slough. The site encompasses 36 acres and includes assessor's parcel numbers 073-200-013, 073-200-014, 073-200-015, 073-200-027, 073-200-026, 073-200-028, and 073-200-029. The site is located in the Antioch North Quadrangle and within the Los Medanos Land Grant.

EXISTING SETTING

The site for the project is within the MDRRP facility site reviewed and analyzed in the 2015 Certified EIR. The MDRRP facility site consists of approximately 36 acres located in the city of Pittsburg in eastern Contra Costa County. The site of MDRRP encompasses the existing facility improvements (approximately 17.5 acres) designated in the General Plan as Industrial Use (**Figure 2**). The current zoning shown in **Figure 3** includes General Industrial on the eastern portion of the project site and Limited Industrial on the western portion of the project site.

Land uses surrounding the MDRRP are industrial in character (**Figure 4**). Northwest of the MDRRP, across the BNSF Railway, is an industrial facility operated by USS POSCO Industries, which manufactures flat rolled steel sheets. Northeast of the site, also across the BNSF Railway, is an industrial facility operated by Dow Chemical, which manufactures primarily agricultural and pest-control chemicals. East of the site, across Loveridge Road, are the Christenson Recycling Center, a vacant parcel, and two other large industrial facilities. Immediately south of the project site is the Pittsburg-Antioch Highway and a Union Pacific Railroad line beyond. West of the site is a solar energy facility.

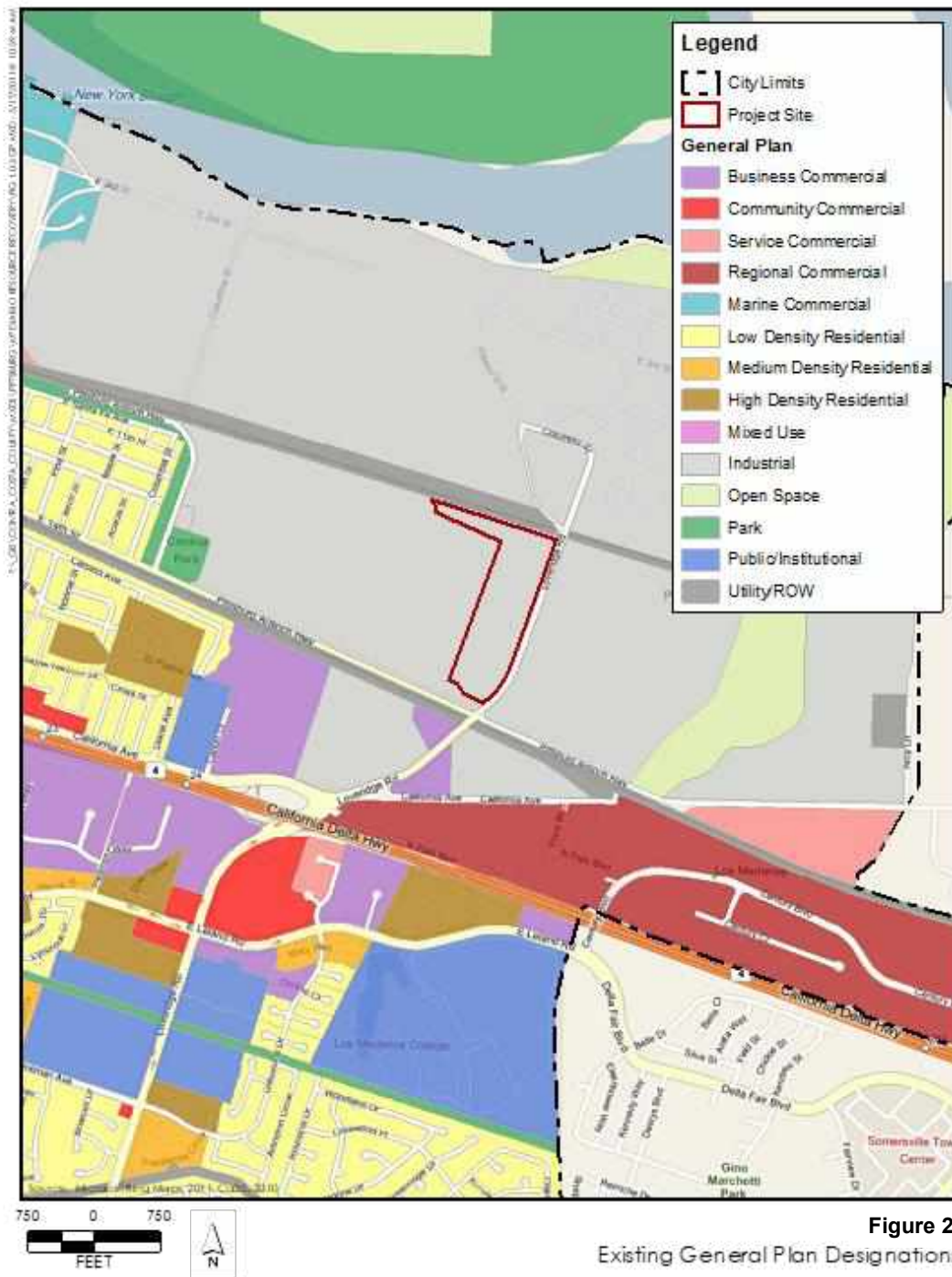
2.2 CURRENT OPERATIONS

The portion of the MDRRP site (approximately 17.5 acres) that is currently developed contains the MDRF, the RCTS, the Green Material Processing Operations Area, and the Mixed Construction & Demolition (C&D) Processing Area (collectively referred to as the “existing facility”). The MDRF and RCTS consist of two large interconnected industrial buildings (commonly referred to as the “transfer processing facility”) adjacent to Loveridge Road that currently have a total floor area of 190,804 square feet.

Current operations on site include receiving, sorting, processing, recycling, and transporting of municipal solid waste and recyclables, green waste, and C&D waste. The MDRF is operated approximately 20 hours a day, while the RCTS is operated 24 hours a day, seven days a week. Both the Green Material Processing Operations Area and the Mixed C&D Processing Area are operated from 7:00 a.m. to 5:00 p.m. The facility currently has a total of 143 full-time employees and is permitted to receive 31 three-axle semi-trucks with trailers and 26 collection vehicles per day. A detailed summary of the existing on-site facilities and their individual operations is provided below. None of the improvements approved in the 2015 CUP have been constructed to date. The only improvement from the 2018 CUP currently under construction is the Vehicle Maintenance Facility, which has been reduced from 18,000 square feet to 11,750 square feet.

Mt. Diablo Recycling Facility. The MDRF is a recycling facility that sorts and processes a variety of mixed recyclable materials, including newspaper, cardboard, junk mail, and magazines, as well as California Redemption Value (CRV) and non-CRV glass, plastic, and aluminum. Material is dumped onto the tipping floor of the enclosed facility and then pushed onto a conveyor hopper, where it follows along a series of sorting belts and screens. This processing equipment separates the material, after which it is stored in enclosed containers (also known as bunkers) and baled daily for storage and transport. This facility operates approximately 20 hours a day, seven days per week, and has a permitted capacity of 500 TPD.





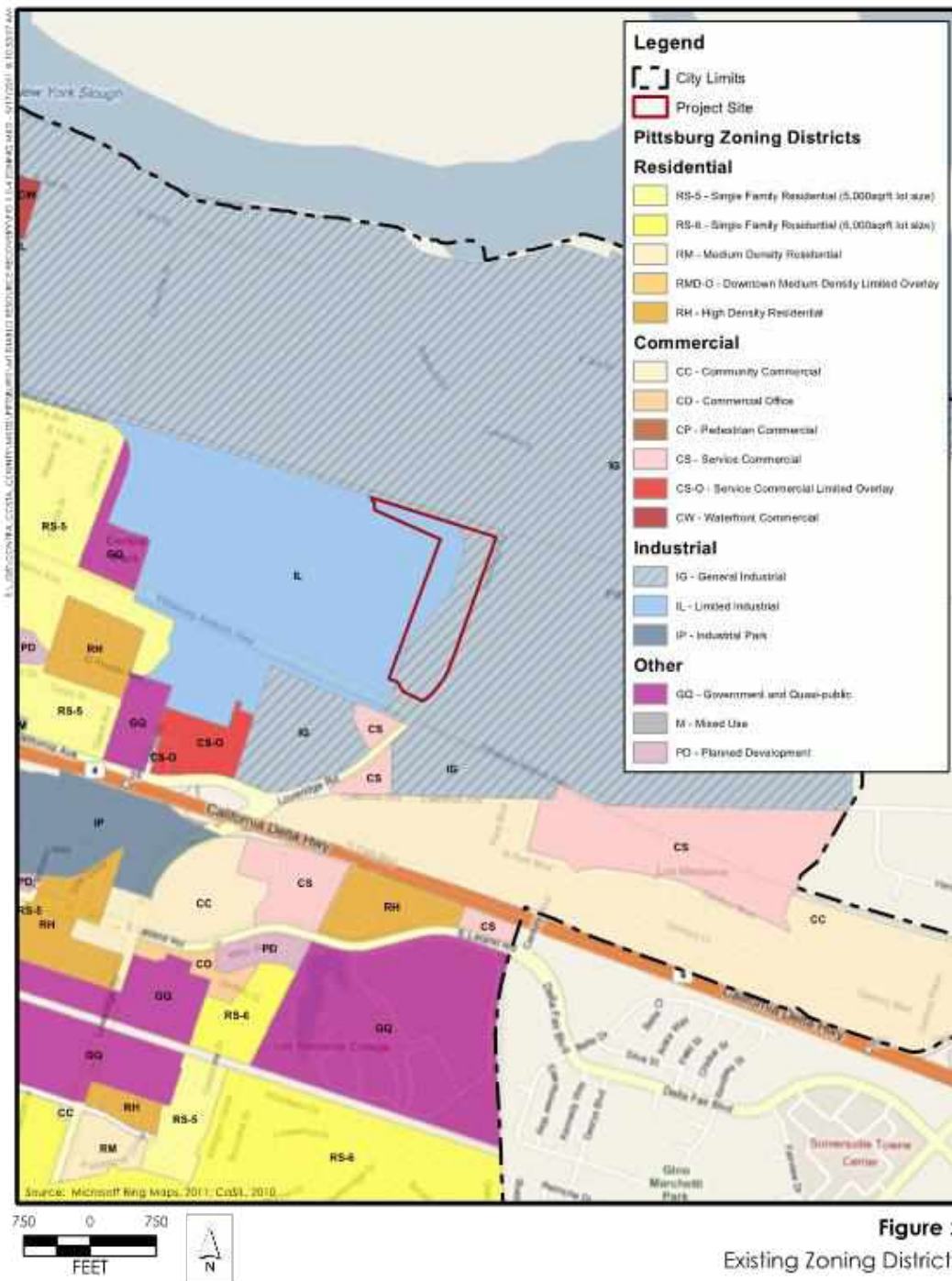


Figure 3
Existing Zoning Districts

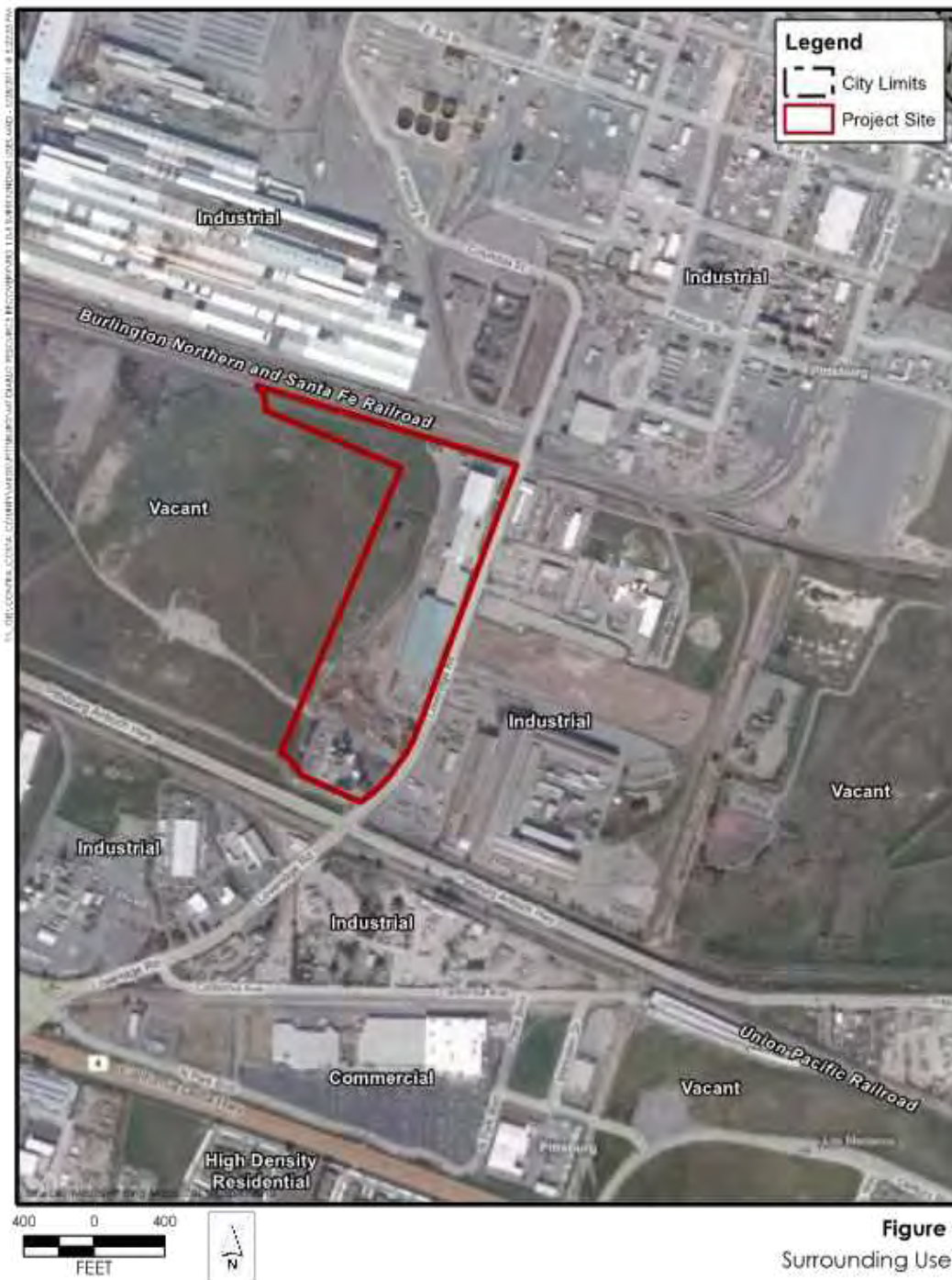


Figure 4
Surrounding Uses

Recycling Center and Transfer Station. The RCTS sorts and transfers municipal solid waste, including bulk materials from the public, green waste, wood waste, and mixed C&D debris. The RCTS is the only facility on site that accepts waste directly from the public. Waste materials are weighed at a drive-up scale and are then sorted on the tipping area floor and transferred to the appropriate on-site facility for further sorting, processing, and transport off site for recycling or reuse. Materials that cannot be recycled are stored and then transported to a permitted landfill. This facility receives waste from the general public from 7:00 a.m. to 6:00 p.m., seven days a week, and has a permitted capacity of 1,500 TPD.

Mixed C&D Processing Area. The existing Mixed C&D Processing Area consists of a 9,831-square-foot concrete pad that serves as a base for the C&D processing equipment and provides a stable platform for the loading of materials onto the sorting equipment. The equipment includes a loading hopper, elevated pick-line and walkways, storage bins beneath the pick-line, and shade canopies over the pick-line and workstations. Processing material is delivered to the facility in debris box trucks and commercial vehicles. After being sorted, the residual, non-recyclable wastes are stockpiled and then loaded into transfer vehicles for transport to a permitted landfill for disposal within 48 hours. Recyclable materials are stored, processed, and marketed as recycled productions. Fine materials separated during sorting are used as alternative daily cover at a landfill. This facility currently operates from 7:00 a.m. to 5:00 p.m., seven days a week, and has a permitted capacity of 450 TPD. The material received in this area is included within the 1,500 TPD permitted under the Solid Waste Facility Permit for the RCTS.

Green Material Processing Operations Area. Green materials and wood waste are delivered to the existing Green Material Processing Operations Area from collection vehicles and are stockpiled on storage pads prior to chipping and grinding. The storage pads are constructed with compacted gravel. Processed green materials are loaded onto transfer trailers and transported to a permitted facility for composting, or may be used as alternative daily cover at a landfill. Wood chips are loaded onto transfer trailers and transported to biomass energy facilities. This facility operates from 7:00 a.m. to 5:00 p.m., seven days a week, and has a permitted capacity of 200 TPD.

Remainder of the Project Site. Approximately 18.5 acres of land to the west and south of the existing facility are also included as part of the MDRRP site. Approximately 5 acres of the 18.5-acre area are currently used for parking and storage by the applicant. A portion of this area has been surfaced with compacted gravel. Approximately 13.5 acres of the 18.5-acre area are vacant.

Access & Circulation. The primary access for the site is located off Loveridge Road just south of the transfer processing facility, at roughly the center of the site. This main access roadway continues north along the west side of the existing buildings, providing access to the public scales and scale house and self-haul drop-off area. The BNSF Railway is located on the northwestern border of the project site, and a railroad spur runs into the site west of the RCTS. A second access point from Loveridge Road is located at the northern end of the MDRRP site. This access point is limited to authorized commercial vehicles exiting the site and provides a space for additional parking. A third access point from Loveridge Road, located at the southern end of the site, provides access to the 3.5-acre area to the south and a fire lane that stretches to the western boundary. An approximately 3-acre parcel located on the east side of Loveridge Road at the northern tip of the project site is currently used for truck storage and maintenance purposes. A total of 79 parking spaces are currently provided on the project site.

Landscaping and/or slatted chain-link fencing provide screening along the southern and eastern boundaries of the processing areas, as well as along a portion of the western boundary.

A monument sign is located at the main entrance to the facility, with numerous informational, directional, and cautionary signs throughout the MDRRP site. Pole-mounted lighting is provided along the access road and in the parking area, processing areas, and other outdoor portions of the MDRRP site.

2.3 2015 APPROVED USE PERMIT

On May 26, 2015, the City of Pittsburg approved a UP, which brought the current solid waste and recycling operations at the RCTS, the MDRF, and the Mixed C&D facilities under a single entity referred to as the MDRRP. The 2015 approval increased the total amount of materials to be processed per day at all three facilities from 2,200 TPD to a total of 5,500 TPD. The CUP also designated 18.5 acres to the existing site plan for parking, commodity storage, new commercial recycling, and organics processing programs for residential and commercial food wastes, and relocation of the truck maintenance facility and yard (for “SEG Trucking”), which include an 18,000-square-foot structure in the southeastern portion of the project site (former GWF Power Systems Facility).

The UP also anticipated potential future phases that could include a rail haul option for waste transportation purposes and construction of a single biomass gasification unit (BGU) to process clean wood waste into energy for on-site use. Upon establishment of the BGU, the Organics Processing Facility would be relocated to the site immediately south of the unit and what is now the current organics processing area would be converted to space for commodity, vehicle, and equipment storage space. In addition, after this future relocation, the area immediately west of the new SEG truck maintenance facility driveway would be converted to a materials processing area.

For a more complete project description, please see the 2015 Draft EIR (pages 2.0-1 through 2.0-40).

2.4 2018 APPROVED USE PERMIT

The 2018 approval incorporated all of the improvements in the 2015 UP as well as the following additional items:

- A new high diversion mixed waste/wet organics processing system to refine the previously approved commercial recycling and organics processing programs for residential and commercial food wastes
- An increase in BGUs from one to three
- Construction of a Pole Barn
- SEG Truck Maintenance Facility Reconfiguration
- Additional site modifications necessary to organize the facility’s operations

The improvements included an increase in building square footage of 67,405 square feet in four buildings:

- Transfer Processing Facility Building – 43,038 square feet
- Pole Barn – 13,256 square feet
- SEG Truck Maintenance Facility – 25,361 square feet (an increase of 7,361 square feet)
- BGU Control Building – 3,750 square feet

The current application contains several modifications to the UP that was approved in 2018; these uses are no longer considered part of the development program:

- A new high diversion mixed waste/wet organics processing system to refine the previously approved commercial recycling and organics processing programs for residential and commercial food wastes
- Construction of a Pole Barn, which would be replaced by the organics processing building

2.5 CURRENT 2021 ENHANCEMENTS PROJECT

On February 11, 2021, the project proponent submitted an application package to the City of Pittsburg Planning Division for an amendment to its 2018 UP to permit modifications in facility operations—consistent with project components already reviewed and certified in the 2015 EIR—to further aid local jurisdictions in meeting increasing regulatory requirements and diversion goals established pursuant to AB 1826, Senate Bill (SB) 1383, etc. The following discussion summarizes the proposed actions for which that application was submitted. Table 1 summarizes the proposed MDRRP 2021 Master Plan improvements for buildout of the project site. Appendix B contains the Master Plans submitted by the applicant.

The current submittal consists of a Master Plan that sets forth the proposed buildout of the MDRRP over a 20-year period to comply with the above-mentioned increasing regulatory requirements and diversion goals. The total amount of material to be processed at the facility (5,500 TPD) would not change. The most significant change is that these processes would now be carried out within buildings with required air filtering systems to reduce air quality impacts. The 2015 approval permits the development of 295,659 square feet of building. The current request is for a total of 570,580 square feet of development.

The purpose of the Master Plan is to construct the improvements necessary to comply with state and federal legislation regarding the handling of waste material. AB 1826 requires that the handling of organic and food waste be carried out within a building by January 2021. Currently, the processing of organic material is carried out of doors and is not combined with food waste. It is expected that increasing regulation will require activities now carried out in the open air to be carried out within structures, and therefore the applicant is being proactive in planning for the long-term improvements necessary to meet these requirements.

The project will be constructed in eight phases, expected to be completed in 20 years. The applicant has submitted a series of drawings (A-1-A through A-8-A) that show the improvements to be constructed in each of the eight phases of development. Figure 2 (A-8-A) shows the complete buildout of the project site. It should be noted that the currently permitted capacity of 5,500 TPD to be processed on the project site would not change. Appendix A contains a detailed description of the phasing of the proposed improvements, which are expected to be completed in a 20-year period.

The plan submittal also shows the design of the individual buildings. The overall design intent is to create a corporate campus identity through the use of uniform architecture, colors, and materials.

The project also proposes entering into a Development Agreement with the City which would define the long-term responsibilities of the applicant as well as those of the City in implementing the project. This includes the responsibilities of the applicant to fund traffic improvements which are required as mitigation measures upon development of the project.

Table 1: Proposed Building Area

Phase	Proposed Improvements	Sq Ft	Total Sq Ft
Phases 1 & 1a	Vehicle Maintenance Facility	11,750	11,750
	Northwest Truck Parking		
Phase 2	North Building (Organics Processing)	81,220	95,500
	North Building Offices	6,400	
	North Building Tunnel	1,280	
	Air Filtration Equipment	6,500	
	Kiosk	100	
Phase 3	South Building (C&D Processing)	73,520	89,100
	South Building Employee Facilities	6,400	
	South Building Equipment Pad Area	7,750	
	South Building Tunnel	1,280	
	Scalehouse(s)	150	
Phase 4 & 4a	South Building (C&D) Expansion	46,800	46,800
	Southeast Employee Parking		
Phase 5	Gasification Operation	97,500	97,500
Phase 6	Expansion Tipping & Receiving	23,200	23,200
Phase 6a	Mixed Waste Expansion For Processing	19,850	19,850
Phase 7	Existing Bale Storage (<i>removed</i>)	-34,214	-69,700
	Existing Self HAU (<i>removed</i>)	-35,480	
Phase 7	Self Haul / Bale Storage Expansion	83,900	83,900
Phase 8	AD Expansion	40,000	40,000
Phase 8a	AD Dewatering	11,000	11,000
Total Square Footage All New Buildings			448,900
Existing Buildings (To Remain)			Total Sq Ft
Material Recovery Facility			88,380
Tipping Building			33,300
Total Existing			121,680
Future Improvements			Total Sq Ft
Total Future			448,900
Total Building Area			570,580

3.0 INITIAL STUDY

3.0 INITIAL STUDY

Pursuant to Public Resources Code, Section 21166, and CEQA Guidelines Sections 15162 and 15164, subdivision (a), the attached Initial Study/Environmental Checklist has been prepared as a supplement to the 2015 Certified Final EIR; it has been determined to be the appropriate CEQA document to prepare and remains sufficient for purposes of the current MDRRP 2021 Enhancements Project, and no supplemental environmental review is required under CEQA.

The attached Initial Study/Environmental Checklist uses the standard environmental checklist that was developed in 2011 for the MDRRP Project and that provided the basis for the 2015 certified EIR, but provides answer columns for evaluation consistent with the considerations listed under CEQA Guidelines Section 15162, subdivision (a), and Section 15164. The purpose of the Initial Study/Environmental Checklist is to evaluate the categories in terms of any “changed condition” (e.g., changed circumstances, project changes, or new information of substantial importance) that would require major revisions to the 2015 certified EIR due to the involvement of new significant effects or a substantial increase in the severity of a previously identified significant effect, and as compared to the findings of the 2015 certified EIR.

A “No” answer to the questions posed in the attached Initial Study/Environmental Checklist does not necessarily mean that there are no potential impacts relative to the environmental category, but rather that there is no change in the condition or status of the impact since it was analyzed and addressed with mitigation measures in the 2015 certified EIR.

3.1 ENVIRONMENTAL CHECKLIST

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
1. AESTHETICS. Would the project:					
a) Have a substantial adverse effect on a scenic vista?	2015 EIR Appendix A Page 3.0-1	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcrops, and historic buildings within a state scenic highway?	2015 EIR Appendix A Page 3.0-1	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	2015 EIR Appendix A Page 3.0-1	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	2015 EIR Appendix A Pages 3.0-1 and 3.0-2	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) Scenic vistas in the city include rolling, grassy hills to the south and the Suisun Bay/Sacramento River Delta to the north. These views are considered important visual resources providing identifiable entryways to the city (City of Pittsburg 2001). However, the project site is flat and located out of range of these views. Further, the site is located in an industrial area, and existing views are limited by existing industrial buildings and equipment and vacant parcels containing few natural features. Therefore, implementation of the current project would continue to have no impact on scenic vistas.
- b) There are no officially designated or eligible state, county, or city scenic highways or roadways in the vicinity of the project site (Caltrans 2010). Implementation of the current project would continue to have no impact on scenic resources within a scenic highway.
- c) The primary change in the current project is that several of the processing units would be contained within buildings as compared to previous plans that called for activities to be conducted outdoors. These activities would include the processing of organic material and C&D debris as now required by state law. In addition, the existing self-haul building (69,700 square feet) would be replaced and expanded. Implementation of the current project would result in the construction and installation of 17 new or modified structures (as summarized in Table 1) comprising 448,900 square feet of new development in addition to 121,680 square feet of existing development (that will remain) on the project site. When the project is completely built out, there will be a total of 570,580 square feet of development. These proposed changes to the project site would be consistent with the existing facilities and operations on the project site as well as with the surrounding uses, which are entirely industrial in nature. The change in operations to enclose the processing units in buildings would improve the visual quality of the project site and unify the operation through an architectural style that defines the identity of the overall project and the use of a consistent range of colors and materials. Furthermore, the project would be subject to design review by the Planning Commission per Pittsburg Municipal Code (PMC) Section 18.36.200. Therefore, implementation of the current project would improve the visual character or quality of the project site beyond what was anticipated in the 2015 EIR, and this impact would remain less than significant.
- d) As described in Response 1c above, the current project includes the construction of 17 new structures. Because the site is located in an industrial area of the city and is not adjacent to any residential uses or other sensitive receptors, potential lighting and glare would not adversely affect nighttime or daytime views in the area. Furthermore, the project would be subject to PMC Section 18.82.030, which limits the use of highly reflective glass on building surfaces visible from a street. The current project would also be subject to design review by the Planning Commission per PMC Section 18.36.200. Therefore, there would be no increase in the severity of previously identified impacts and this impact would remain less than significant.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
2. AGRICULTURE AND FOREST RESOURCES. Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	2015 EIR Appendix A Page 3.0-3	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?	2015 EIR Appendix A Page 3.0-3	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	2015 EIR Appendix A Page 3.0-4	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Result in the loss of forest land or conversion of forest land to non-forest use?	2015 EIR Appendix A Page 3.0-4	No	No	No	No prior mitigation was required, and no new mitigation is required
e) Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	2015 EIR Appendix A Pages 3.0-3 and 3.0-4	No	No	No	No prior mitigation was required, and no new mitigation is required

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project, and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

DISCUSSION OF IMPACTS

a–b,e) The project site is located in a developed industrial area. The project site is not currently used for any agricultural purposes, nor has it been used for such purposes in the recent past. In addition, the project site has been classified by the Farmland Mapping and Monitoring Program as Urban and Built-Up Land and is zoned for industrial use (NRCS 2008). Furthermore, no adjacent parcels are zoned for agricultural use or subject to a Williamson Act contract. Therefore, implementation of the current project would have no impact on agricultural resources.

c–d,e) The project site and surrounding area are not considered forestland, and there are no active forestry operations in the area. Furthermore, the project site is zoned for industrial use. Therefore, implementation of the current project would have no impact on forestry resources.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
3. AIR QUALITY. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	2015 EIR Pages 3.1-23 to 3.1-30	No	No	No	MM 3.1.1, MM 3.1.2a–d
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	2015 EIR Pages 3.1-23 to 3.1-30	No	No	No	MM 3.1.1, MM 3.1.2a–d
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	2015 EIR Pages 3.1-34 to 3.1-36	No	No	No	MM 3.1.1, MM 3.1.2a–d
d) Expose sensitive receptors to substantial pollutant concentrations?	2015 EIR Pages 3.1-23 to 3.1-33	No	No	No	MM 3.1.1, MM 3.1.2a–d
e) Create objectionable odors affecting a substantial number of people?	2015 EIR Pages 3.1-33 to 3.1-34	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) Implementation of the current project would not conflict with the applicable air quality plan. In meeting state mandated diversion goals under SB 1383 and AB 1826, it would result in a reduction in greenhouse gas (GHG) emissions and increased reductions in fossil fuel usage through the diversion of waste from landfills as well as recycling other materials, and inclusion of solar panels on all buildings.

- b) **Impact 3.1.1. Construction-related emissions of criteria air pollutants.** The 2015 EIR determined that the construction-related emissions could violate or contribute substantially to an existing or projected air quality violation, expose sensitive receptors to substantial pollutant concentrations, and/or conflict with air quality planning efforts. Mitigation Measure 3.1.1 was required as part of the Mitigation Monitoring and Reporting Program; however, this impact was defined as Significant and Unavoidable. Illingworth & Rodkin, Inc. evaluated the potential GHG emissions from the current proposal and determined that the current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR. That analysis is included as Appendix H of this report.

Impact 3.1.2. Long-term operational emissions. The 2015 EIR determined that implementation of the project proposed at that time could result in significant impacts to air quality through the construction and operation of a BGU on site, an increase in truck traffic entering and leaving the site, and an increase in the processing and storage of loose materials on site. An air quality study and a health risk assessment were prepared as part of the EIR, and these impacts were identified as potentially significant and unavoidable.

The 2015 EIR identified the potential Long-Term Annual Unmitigated Emissions of Criteria Air Pollutants and Precursors in Table 3.1-10 (page 3.1-27 of the Draft EIR). Table 3.1-10 shows that the potential project would not exceed the Bay Area Air Quality Management District (BAAQMD) significance thresholds for reactive organic gases, inhalable particulate matter (PM₁₀), or fine particulate matter (PM_{2.5}). However, nitrogen oxides (NOx) would exceed the threshold for Maximum Annual emissions. The analysis predicted emissions of 49.8 tons per year of NOx, which would exceed the significance threshold (10 tons per year) by 38.5 tons. Of that amount, the one BGU was predicted to contribute 1.1 tons per year.

Aires Clean Energy evaluated the potential emissions for the 2015 project, which included a total of three BGUs, using the feedstock that would be processed as part of the current project. With the current project amendment adding two additional BGUs, for a total of three, the emissions of NOx would increase to 5.61 tons per year, for a potential increase in total NOx emissions of 11 percent above what was predicted in the Draft EIR. This is not considered to be a substantial increase in the severity beyond what was considered in the 2015 EIR.

Mitigation Measures 3.1.2 a, b, c, and d are required as part of the approved 2015 CUP and they include the potential purchase of emission offsets sufficient to limit net increases in operational NOx emissions to no more than 54 pounds per day or 10 tons per year. These mitigations would continue to be applicable; therefore, this impact is considered to have been sufficiently addressed in the 2015 EIR and no new mitigation is required.

Impact 3.1.6. Cumulatively considerable net increase of criteria air pollutants and precursors.

The 2015 EIR determined that this impact would be “Less Than Cumulatively Considerable.” The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

Impact 3.1.7. An increase in predicted risks or hazards that would exceed applicable significance thresholds. The 2015 EIR determined that this impact would be “Less Than Cumulatively Considerable.” The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

Impact 3.1.8. Cumulatively considerable increase in odorous emissions that would adversely affect sensitive receptors. The 2015 EIR identified that these impacts would be “Less Than Cumulatively Considerable.” The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

- c) **Impact 3.1.4. Incremental Increases in risk or hazards for sensitive receptors.** The current project, in combination with emission sources in the San Francisco Bay Area Air Basin, would result in a cumulatively considerable net increase of criteria air pollutants and precursors. Implementation of the current project amendments would reduce truck traffic, and therefore would reduce this impact from the level identified in the 2015 EIR. With implementation of the proposed mitigation measures, this impact would remain less than significant.
- d) **Impact 3.1.3 BAAQMD screening criteria.** The 2015 EIR determined that implementation of the original project would not contribute to traffic volumes at primarily affected intersections that would exceed the BAAQMD’s screening criteria. As a result, localized concentrations of mobile-source carbon monoxide were not projected to exceed applicable ambient air quality standards, and this is considered a less-than-significant impact. The current project is expected to generally result in decreased traffic volumes at primarily affected intersections as compared to what was envisioned as part of the original project. Therefore, there would be no increase in the severity of previously identified impacts and this impact would remain less than significant.
- e) **Impact 3.1.5 Objectionable odors.** The current project does not propose any different land use activities beyond what was envisioned as part of the original project. The current project would comply with the existing site-specific Odor Impact Minimization Plan, which was previously prepared to minimize odor emissions and prevent nuisances in the surrounding area. Furthermore, the proposed project would continue to be subject to BAAQMD Regulation 7, Odorous Substances, which limits the discharge of odorous substances that may result in nuisance impacts to nearby receptors. Therefore, there would be no increase in the severity of previously identified impacts and this impact would remain less than significant.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
4. BIOLOGICAL RESOURCES. Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	2015 EIR Pages 3.8-1 to 3.8-38	No	No	No	MM3.8.1a MM3.8.1b MM3.8.1c MM3.8.1d MM3.8.1e
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	2015 EIR Pages 3.8-1 to 3.8-38	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	2015 EIR Pages 3.8-1 to 3.8-38	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	2015 EIR Pages 3.8-1 to 3.8-38	No	No	No	No prior mitigation was required, and no new mitigation is required
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	2015 EIR Page 3.8-1 to 38	No	No	No	No prior mitigation was required, and no new mitigation is required
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	2015 EIR Pages 3.8-1 to 3.8-38	No	No	No	MM3.8.1a MM3.8.1b MM3.8.1c MM3.8.1d MM3.8.1e

DISCUSSION OF IMPACTS

- a–d) Impact 3.8.1. Substantial adverse effects to special-status species.** The 2015 EIR determined that construction of the project could have the potential to impact special-status species, including: burrowing owls, Swainson’s hawks, golden eagles, non-covered raptors during the nesting season, and nesting birds. Mitigation Measures are included in the Mitigation Monitoring and Reporting Program to avoid any potential impacts to these species during construction and operation of the project. The current project has the potential for similar impacts; however, there would be no increase in the severity of previously identified impacts. Mitigation Measures 3.8.1a–e would remain applicable and would require avoidance of any potential impacts on any species identified as a candidate, sensitive, or special-status species. Monk and Associates prepared an updated Biological Resource Analysis document in the report dated July 30, 2020 (Appendix E). This report covers the southern portion of the project site (4 acres – the location of the proposed Truck Maintenance Facility that is currently under construction). The report identified potential impacts to nesting birds and to bats during the breeding season. These impacts were identified in the 2015 Draft EIR, and mitigation measures were included in the Mitigation Monitoring Program to reduce these potential impacts to a less-than-significant level. In addition, a wetlands delineation map was submitted to the U.S. Army Corps of Engineers (USACE) for determination of jurisdiction (Appendix F). Correspondence dated October 5, 2020 documents USACE concurrence with the delineation, documenting the following wetlands: Jurisdictional Wetlands (0.247 acre), Non-Jurisdictional Wetlands (0.018 acre), and Non-jurisdictional Other Waters of the United States (0.017 acre), for a total of 0.282 acre (Appendix G). This delineation is consistent with the 2015 EIR, which identified the wetlands NW1 and OW1 as non-jurisdictional. The 0.247 acre adjacent to and south of the project site consists of the Kirker Creek drainage, which would not be impacted by the proposed project. Therefore, the current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- e)** As described above, the project site is developed and does not contain any significant biological resources. Implementation of the current project would not conflict with any local policies or ordinances protecting biological resources.
- f)** The project site is located within the boundaries of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). However, the land coverage for the site is mapped in the HCP/NCCP as urban and is exempt from the City’s adopted implementing ordinance per PMC Section 15.108.030 (ECCCHCPA 2006; City of Pittsburg 2010). The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
5. CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	2015 EIR Appendix A Pages 3.0-8 to 3.0-9	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	2015 EIR Appendix A Pages 3.0-8 to 3.0-9	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	2015 EIR Appendix A Pages 3.0-8 to 3.0-9	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Disturb any human remains, including those interred outside of formal cemeteries?	2015 EIR Appendix A Pages 3.0-8 to 3.0-9	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) The project site does not contain any historical buildings or other known historical resources. The original portion of the RCTS building was built in 1955, over 50 years ago. However, this building is a simple metal warehouse structure that does not exhibit any historical architectural features and is not associated with any significant historical events or activities. Furthermore, the building has been significantly modified and expanded and is substantially different from its original appearance. The MDRF and other structures on the site were built after 1995 and are not historically significant. In addition, the site has been graded and heavily disturbed through the construction of the MDRF and RCTS, paving of roadways and parking areas, landscaping, and the use of heavy equipment; therefore, the site is not likely to contain unknown historical resources. As such, implementation of the current project would have no impact on historical resources.
- b) The project site has been heavily disturbed through construction activities and routine facility operations and is not likely to contain unknown archaeological resources. In addition, implementation of the current project would require very limited grading, further limiting the potential for any such resources to be discovered. Furthermore, per Pittsburg General Plan Policy 9-P-41, should any archaeological resources be found during ground-disturbing activities on site, all construction would be halted immediately and an archaeological investigation to collect all valuable remnants would be conducted. Therefore, implementation of the current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

- c) The project site has been heavily disturbed through construction activities and routine facility operations and is not likely to contain any undiscovered paleontological resources. In addition, implementation of the current project would require very limited grading, further limiting the potential for any such resources to be discovered. Therefore, implementation of the current project would have no impact on paleontological resources and unique geologic features.
- d) The project site does not contain a cemetery. In addition, the project site has been heavily disturbed through construction activities and routine facility operations and is not likely to contain any unknown human remains. Furthermore, pursuant to Section 5097.97 of the State Public Resources Code and Section 70570.5 of the State Health and Safety Code, all work must stop, and the County Coroner must be notified should human remains be discovered during project implementation. Therefore, implementation of the current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
6. GEOLOGY AND SOILS. Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning map, issued by the State Geologist for the area or based on other substantial evidence of a known fault?	2015 EIR Appendix A Pages 3.0-10 to 10-3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required
ii) Strong seismic ground shaking?	2015 EIR Appendix A Pages 3.0-10 to 3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required
iii) Seismic-related ground failure, including liquefaction?	2015 EIR Appendix A Pages 3.0-10 to 3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required
iv) Landslides?	2015 EIR Appendix A Pages 3.0-10 to 3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
b) Result in substantial soil erosion or the loss of topsoil?	2015 EIR Appendix A Pages 3.0-10 to 3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	2015 EIR Appendix A Pages 3.0-10 to 3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	2015 EIR Appendix A Pages 3.0-10 to 3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	2015 EIR Appendix A Pages 3.0-10 to 3.0-11	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) (i) The project site is not located within an Alquist-Priolo Earthquake Fault Zone (CGS 2011). No known active or potentially active faults cross the project site. Therefore, fault rupture is not likely to occur at the site. The current project would continue to have no impact.

(ii) The project site is located in the San Francisco Bay Area, one of the most seismically active regions in the United States. There are numerous active faults (i.e., a fault with evidence of surface displacement within the past 10,000 years) and potentially active faults (i.e., a fault with evidence of surface displacement within the past 2 million years) in the region including the San Andreas Fault. The closest active fault to the project site is the Clayton-Greenville fault located 3 miles away. The site is included in Seismic Zone 4, the highest seismic risk category presented in the California Building Code. As such, the current project would be required to comply with the most stringent California Building Code standards to minimize property damage and maximize public safety on the site in the event of seismic activity. This impact is less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

(iii) Liquefaction is the transformation of loose saturated silts and sands with less than 15 percent clay-sized particles from a solid state to semi-liquid state. This occurs under vibratory conditions such as those induced by a seismic event.

According to the City's General Plan (2001), the site is within an area of high liquefaction potential (see Figure 10-1, Geologic Hazards, of the Health and Safety Element). However, according to the site-specific geotechnical investigation prepared for the MDRF in 2006 (Hultgren-Tillis Engineers 2006), the potential for liquefaction at the site is low, as site soils are primarily of stiff clay with inter-bedded sand layers. As such, the risk of seismic-related ground failure, settlement, subsidence, lurching, lateral spreading, and liquefaction at the site is low. Furthermore, compliance with the engineering specifications contained in the geotechnical investigation (Hultgren-Tillis Engineers 2006) would ensure that the project site is properly prepared and that the proposed BGU and other site improvements are designed and constructed or installed properly given the site's geologic and soil conditions. These include specifications for site preparation, slabs on grade, surface drainage, and inspection reporting. As such, potential risk to people and structures from seismic-related ground failure such as liquefaction would be minimized. This impact is less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

(iv) The project site and surrounding properties are flat and there is no risk of landslide. Therefore, the current project would continue to have no impact.

- b) No soil would be imported or exported to/from the project site, and very limited to no grading would occur as the site is flat and has been compacted from previous use. As such, the potential for soil erosion during project construction would be minimal. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- c-d) See Response 6a-iii above. According to previous environmental documentation for the project site, the site is underlain by weak soils that possess a high shrink/swell potential (City of Pittsburgh 1995). Such soils can cause structural damage if the structures are not properly designed and constructed. Compliance with the engineering specifications contained in the geotechnical investigation previously prepared for the project site (Hultgren-Tillis Engineers 2006) would ensure that the project site is properly prepared and that the proposed BGU and other site improvements are designed and constructed or installed properly given the site's geologic and soil conditions. These include specifications for site preparation, slabs on grade, surface drainage, and inspection reporting. As such, potential risk to people and structures related to unstable and expansive soils would be minimized. This impact is less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- e) Wastewater generated at the project site would enter into the functioning private wastewater system maintained by the property owners. Drainage would be conveyed via a 36-inch pipe to the existing drainage ditch located adjacent to the northwest corner of the project site. This system would meet the applicable standards and would be adequately supported by the underlying soils. Therefore, this impact would be less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
7. GREENHOUSE GAS EMISSIONS. Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	2015 EIR Pages 3.2-1 to 3.2-22	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	2015 EIR Pages 3.2-1 to 3.2-22	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

a–b) Impact 3.2.1. A net increase in GHG emissions that could potentially conflict with the goals of AB 32 or result in a significant impact on the environment. Implementation of the current project would contribute to increases of GHG emissions that are associated with global climate change. The 2015 EIR concluded that implementation of the 2015 proposed project would result in less-than-cumulatively-considerable impacts related to GHG emissions. Illingworth & Rodkin, Inc. modeled the potential GHG emissions of the current proposal (Appendix H). The current proposal would reduce GHG emissions slightly due to a reduction in long haul truck trips and the processing of food waste that would otherwise be sent to a landfill. The current project would also have beneficial impacts related to GHG emissions as a result of its renewable energy and recycling components. The current project would result in similar impacts but would result in a slight decrease in the severity of the impacts identified in the 2015 EIR.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
8. HAZARDS AND HAZARDOUS MATERIALS. Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	MM 3.3.2a, MM 3.3.2b
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ mile of an existing or proposed school?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	No prior mitigation was required, and no new mitigation is required
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	No prior mitigation was required, and no new mitigation is required
f) For a project within the vicinity of a private airstrip, result in a safety hazard for people residing or working in the project area?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	No prior mitigation was required, and no new mitigation is required
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	No prior mitigation was required, and no new mitigation is required
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	2015 EIR Pages 3.3-1 to 3.3-18	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

a–b) Impact 3.3.1 Routine transport, use, and disposal of hazardous materials. The 2015 EIR determined that impacts related to hazardous materials would be less than significant. The current project includes the expansion of existing operations on the project site as well as the construction and operation of three BGUs. These operations would not include the routine transport, use, and storage of hazardous materials. No hazardous, infectious, or liquid wastes are accepted at the facility. A load check program is implemented to screen for such materials in incoming waste loads. Recovered household hazardous wastes are temporarily stored in a designated area and transferred off site for proper disposal in accordance with state regulations. The proposed changes to the project that are part of the current application would not result in new significant impacts because, as noted above, the project would be in compliance with state regulations related to proper storage and disposal of hazardous materials.

Impact 3.3.2. Exposure of construction workers to hazardous materials during site preparation. The 2015 EIR determined that these impacts would be less than significant with the implementation of Mitigation Measure 3.3.2.a. The current project would result in similar impacts but would not increase the severity of the impact beyond what was considered in the 2015 EIR.

Impact 3.3.4. Cumulatively considerable impacts related to hazards and hazardous materials. The 2015 EIR determined that this impact would be less than cumulatively considerable. The current project would result in similar impacts but would not increase the severity of the impact beyond what was considered in the 2015 EIR.

- c)** There are no schools within ¼ mile of the project site, and as such, there would be no impact to schools related to hazardous materials.
- d)** *Refer to Impact 3.3.1 above.* The project site was occupied by a steel can and metal shearing manufacturing operation from approximately 1954 to 1992 (City of Pittsburg 1995). As a result, soil and groundwater underlying the project site were contaminated. Remediation was completed, and wells are now monitored by the San Francisco Bay Regional Water Quality Control Board (SWRCB 2011). The 2015 EIR determined that, with the implementation of Mitigation Measures 3.3.2a and 3.3.2b and compliance with the land use restrictions for the western portion of the project site, this impact is less than significant. Construction of the improvements as part of the current application would remain subject to Mitigation Measures 3.3.2a and 3.3.2b and would result in similar impacts but would not increase in severity beyond what was considered in the 2015 EIR.
- e–f)** There are no airports or airstrips, public or private, in the vicinity of the project site (AirNav 2011). Implementation of the current project would have no impact on public safety related to airports.
- g)** **Impact 3.3.3. Potential to interfere with implementation of the City's Emergency Operations Plan.** The City of Pittsburg Emergency Operations Plan outlines procedures for educating the public about emergency preparedness and also establishes procedures for responding to emergency situations, including management of communication systems, provision of medical assistance, and maintenance of local financing structures and government leadership roles in the aftermath of a significant emergency event. The 2015 EIR concluded that there would be a less-than-significant impact from the project. Implementation of the current project would result in a slight reduction in the number of vehicle trips on local roadways and regional highways evaluated in the EIR; therefore, this potential impact as it relates to the current project would be reduced.
- h)** The project site is located in a largely developed industrial area that is not in the vicinity of any wildlands. The project site contains no trees or vegetation aside from some ornamental landscaping along its boundaries. There would be no impact as a result of the current project related to public safety and wildland fires.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
9. HYDROLOGY AND WATER QUALITY. Would the project:					
a) Violate any water quality standards or waste discharge requirements?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on or off site?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff, in a manner that would result in flooding on or off site?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required
e) Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required
f) Otherwise substantially degrade water quality?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
h) Place within 100-year flood hazard area structures that would impede or redirect flood flows?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	2015 EIR Page 3.4-1	No	No	No	No prior mitigation was required, and no new mitigation is required
j) Cause inundation by seiche, tsunami, or mudflow?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) Impact 3.4.1. Violate any water quality standards and waste discharge requirements.** Construction of the proposed BGUs and other improvements would involve soil-disturbing activities, additional impervious surfaces, and increases in stormwater runoff that could result in water quality impacts as well as localized flooding. These impacts were addressed, as they relate to the original project, in the 2015 EIR and were found to be less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR.
- b) Impact 3.4.2. Depletion of groundwater supplies or interference with groundwater recharge.** The 2015 EIR concluded that the City and its wholesale provider would have sufficient water supplies to meet the project's demand, and therefore the potential impact would be less than significant. Domestic water service would be provided to the current project by the City of Pittsburg, which obtains a portion of its water supply from groundwater. The 2015 EIR considered an increase in the MDRRP's total operational water demand from approximately 20,000 gallons per day (gpd) to approximately 40,000 gpd. An increase in operational water demand, beyond that described in the 2015 EIR, is not proposed as part of this project. The project site is not located in an area that significantly contributes to the recharge of the underlying groundwater aquifer (City of Pittsburg 2007). In addition, the current project does not propose to add a significant amount of new impervious surface area. Therefore, potential interference with groundwater recharge is not considered to be a significant impact. The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR.
- d) Impact 3.4.3. Increase in stormwater runoff.** On-site drainage is controlled through the use of drainage ditches and underground pipelines surrounding the perimeter of the existing facility that direct surface water flows toward an outfall along the western edge of the existing facility. The ditches include a landscaped stormwater treatment planter located along the eastern side of the MDRF building and a landscaped stormwater pre-treatment bioswale located along the western edge of the existing facility. These facilities discharge stormwater via the outfall to an existing drainage ditch on the vacant lot to the west. This existing ditch traverses the 15-acre parcel to the west and the vacant lot, flowing east to west away from the existing facility. The existing ditch

conveys the stormwater generated from the existing facility, the 15-acre parcel to the west, and the eastern portions of the vacant lot to an existing 36-inch culvert that then discharges to an existing evaporation basin located near the northern portion of the vacant lot.

The proposed development within the 15-acre western parcel will include placement of impervious surfaces throughout the parcel, as documented in the 2015 EIR. This increase in impervious surface will increase the stormwater peak flows from 9.2 to 15.8 cubic feet per second. The 35-inch pipeline proposed to replace the ditch within this parcel and the downstream ditch and 36-inch culvert to the west have adequate capacity to convey the increased peak flows from the existing site and the fully developed 15 acres.

For the drainage from the 3.5-acre area to the south (the site where the Truck Maintenance Facility is currently under construction), the detention volume required is approximately 0.2 acre-foot. Therefore, on-site stormwater runoff would not exceed the available capacity of the existing drainage system. As a result, this impact was deemed less than significant.

Impact 3.4.4. Construction impacts to downstream surface drainages and groundwater. The 2015 EIR determined that this would be a less-than-significant impact. The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR.

- f) **Impact 3.4.5 Degradation of downstream surface water and underlying groundwater quality.** The 2015 EIR identified this as a less-than-significant impact. The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR.

Impact 3.4.7. Cumulative degradation of water quality in area surface drainages and groundwater supplies. The 2015 EIR identified this impact as less than cumulatively considerable. The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR.

- g) Although the southern portion of the project site is within a 100-year flood zone, the current project does not include any housing. Therefore, no housing would be placed in an area of potential flooding and there would be no impact.
- h) **Impact 3.4.6. Development within a flood zone.** The southern portion of the project site is located within a 100-year flood zone. This portion of the project site would contain the proposed BGUs as well as a second C&D processing line. The 2015 EIR concluded that compliance with existing City standards would minimize potential hazards, and therefore this impact would be less than significant. The current project would comply as well with City standards. The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR
- i-j) **Impact 3.4.8. Cumulative flooding impacts.** The project site is located near the Suisun Bay/Sacramento River Delta and may be subject to flooding as a result of seiche/tsunami or dam or levee failure. In addition, the project site may be affected by sea level rise as a result of climate change. However, the 2015 EIR determined that these potential impacts were less than cumulatively considerable. The project site is flat, as are the surrounding properties, and is not at risk of inundation as a result of mudflow. This impact would be less than cumulatively considerable. The current project would result in similar impacts but would not substantially increase the severity of the impacts beyond what was considered in the 2015 EIR

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
10. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?	2015 EIR Pages 3.5-1 to 3.5-5	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	2015 EIR Pages 3.5-1 to 3.5-5	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	2015 EIR Pages 3.5-1 to 3.5-5	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) Division of an established community commonly occurs as a result of development of physical features that constitute a barrier to easy and frequent travel between two or more constituent parts of a community. For example, a large freeway structure with few crossings could effectively split a community. The current project consists of the expansion of existing operations at, and improvements to, an existing solid waste transferring and recycling facility. The current project does not include any features that by design or their nature would divide the existing community. Therefore, implementation of the current project would not physically divide an established community, and there would be no impact.

- b) **Impact 3.5.1. Consistency with existing land use designation and zoning.** As described previously, the project site is designated by the City's 2020 General Plan as Industrial, which allows commercial services, industrial processing, and storage uses. Both the existing facility and the current project are uses that are consistent with this designation. The project site is zoned IG (General Industrial), which provides for intense industrial uses. However, large recycling facilities, such as the current project, require a use permit within this zoning district. A use permit was approved for the 2015 application. With consideration and approval of an amendment to the use permit, the current project would be in compliance with the zoning district.

Impact 3.5.2. Cumulative impacts related to the City's Zoning Ordinance. The 2015 EIR determined that the project would have a less-than-cumulatively-considerable impact related to the City's Zoning Ordinance. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

- c) The project site is located within the boundaries of the East Contra Costa County HCP/NCCP. However, the land coverage for the site is mapped in the HCP/NCCP as urban and is exempt from the City's adopted implementing ordinance per PMC Section 15.108.030 (ECCCHCPA 2006; City of Pittsburg 2010). This impact was identified as less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
11. MINERAL RESOURCES. Would the project:					
a) Result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state?	2015 EIR Appendix A Page 3.0-20	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	2015 EIR Appendix A Page 3.0-20	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a–b) According to the City's General Plan (2001), there are no known significant mineral deposits or active mining operations in the City. Furthermore, previous environmental documentation for the project (City of Pittsburg 1995) described the geology of the site and did not identify any potential mineral resources in the area. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
12. NOISE. Would the project:					
a) Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	2015 EIR Appendix A Pages 3.0-21 to 3.0-24	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	2015 EIR Appendix A Pages 3.0-21 to 3.0-24	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	2015 EIR Appendix A Pages 3.0-21 to 3.0-24	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	2015 EIR Appendix A Pages 3.0-21 to 3.0-24	No	No	No	No prior mitigation was required, and no new mitigation is required
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels?	2015 EIR Appendix A Pages 3.0-21 to 3.0-24	No	No	No	No prior mitigation was required, and no new mitigation is required
f) For a project within the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels?	2015 EIR Appendix A Pages 3.0-21 to 3.0-24	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a,c)** The proposed expansions to the existing recycling facility would be located in an industrial area of the city, surrounded by other existing industrial uses and road and railroad transportation corridors. A previous noise study prepared for the RCTS (in support of the 1995 EIR – SCH No. 94063017) determined that the worst-case scenario noise level of 70 A-weighted decibels (dBA) at 100 feet

from the open doors of the RCTS would not exceed City standards at the nearest residences (approximately ½ mile west of the site) and would be essentially inaudible over existing typical background noise levels (City of Pittsburgh 1995). Since 1995, the MDRF and other operations have been added and the facility's capacity has increased. However, the facility is still in compliance with all applicable noise standards.

The current project would not result in significant increases in traffic-related noise. With the current project amendments, truck traffic would be reduced and would be less than predicted in the 2015 Draft EIR; therefore, there should be a decrease in traffic-related noise and a less-than-significant impact.

The 2015 Draft EIR identified that the addition of facilities, equipment, and truck traffic, described in that document, would result in a permanent increase in ambient noise levels in the project vicinity. In addition, the expansion of hours of operation on the project site would result in the generation of noise during evening and nighttime hours. The current project proposes to construct 17 new buildings so that activities (summarized in Table 1) currently carried out in the open would be contained by building envelopes. This would result in a reduction in the potential noise impacts of the project operation.

Noise generated on the site would not be audible at the nearest residential uses (approximately ½ mile west of the site) and would be consistent with the ambient noise levels at the adjacent properties, which contain similar industrial operations. The current project would result in less noise impacts and would substantially reduce the severity of the impact beyond what was considered in the 2015 EIR.

- b) Excessive groundborne vibration and noise are typically caused by activities such as blasting used in mining operations or the use of pile drivers during construction. The current project would not require either blasting or pile driving and is not expected to result in excessive groundborne vibration or noise. This impact is considered less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- d) Project construction would result in a temporary increase in ambient noise levels in the vicinity of the project site. Construction noise typically occurs intermittently and varies depending upon the nature or phase (e.g., land clearing, grading and excavation, erection) of construction. Noise generated by construction equipment—including earthmovers, material handlers, and portable generators—can reach high levels. Typical noise levels for individual pieces of construction equipment are summarized in **Table 2**. As depicted, individual equipment noise levels typically range from approximately 75 to 91 dBA at 50 feet, without noise control. With noise control, individual equipment noise levels typically range from approximately 75 to 80 dBA at 50 feet. Typical operating cycles may involve 2 minutes of full power, followed by 3 to 4 minutes at lower settings. Depending on the activities performed and equipment usage requirements, combined average-hourly noise levels at construction sites typically range from approximately 65 to 89 dBA L_{eq}^1 at 50 feet (EPA 1971).

¹ L_{eq} = energy equivalent noise level, which is the energy mean (average) noise level. The instantaneous noise levels during a specific period of time in dBA are converted to relative energy values. From the sum of the relative energy values, an average energy value (in dBA) is calculated.

Table 2: Typical Construction Equipment Noise Levels

Type of Equipment	Noise Level in dBA at 50 feet	
	Without Feasible Noise Control	With Feasible Noise Control ^a
Dozer or Tractor	80	75
Excavator	88	80
Compactor	82	75
Front-end Loader	79	75
Backhoe	85	75
Grader	85	75
Crane	83	75
Generator	78	75
Truck	91	75

Notes:

^a Feasible noise control includes the use of intake mufflers, exhaust mufflers, and engine shrouds.

Sources: EPA 1971; FHWA 2006.

The project site is located in an industrial area adjacent to a railroad. The nearest sensitive receptors, a residential neighborhood and a hotel, are located approximately 2,450 feet and 2,600 feet southwest of the site, respectively. The buildout of the Master Plan is anticipated to take place over a 20-year period. Per PMC Chapter 9.44, the use of pile drivers, hammers, and similar equipment is prohibited between the hours of 10:00 p.m. and 7:00 a.m., seven days per week. Furthermore, per the City's General Plan Policy 12-P-9, the generation of loud noises on the site during construction would be limited to between 8:00 a.m. and 5:00 p.m.

Given the distance to the nearest sensitive receptors, the length of the proposed construction period, and the City's existing noise regulations, temporary construction-related noise levels associated with the proposed project are not expected to be significant. Therefore, this impact is less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

- e-f)** There are no airports or airstrips, public or private, in the vicinity of the project site. Implementation of the current project would have no impact on noise levels related to airports.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
13. POPULATION AND HOUSING. Would the project:					
a) Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	2015 EIR Appendix A Page 3.0-25	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	2015 EIR Appendix A Page 3.0-25	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	2015 EIR Appendix A Page 3.0-25	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) The current project does not include the construction of any housing or new businesses and would not extend infrastructure to other surrounding properties. The original project was expected to increase the number of employees at the facility from 143 to 185, an increase of 42. With an unemployment rate of 11.2 percent or approximately 58,200 people (January 2011), the county's existing workforce was expected to be sufficient to fill these positions (EDD 2011) without requiring additional employees moving into the city. Accordingly, it was determined that the original project would not directly induce substantial population growth in the city. The current project would increase the number of employees during the peak shift from 46 to 90 which is not a significant increase the number of employees at the site beyond what was analyzed in the 2015 EIR.

However, the current project would increase the capacity of solid waste handling for the cities and unincorporated communities it serves, thereby potentially removing a barrier to future development. (Note: This facility operates under a Solid Waste Facility Permit administered by the City of Pittsburg Local Enforcement Agency. The facility is currently operating at a capacity of 1,500 tpd under the permit agreement approved by the City. It never proceeded to update the permit to permit 5,500 tpd and the intent is to do so when this approval is obtained.) This increase in the facility's capacities, however, would be in response to anticipated growth in the region as projected by the Association of Bay Area Governments. Therefore, the current project would not allow for additional growth beyond current projections; instead, it would accommodate the anticipated growth as it occurs in the future. Under the current project, this impact would continue to be less than significant.

- b–c) The project site is developed with industrial uses and does not contain any residences. No housing or people would be displaced through implementation of the current project. Therefore, there would be no impact.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
14. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
a) Fire protection?	2015 EIR Appendix A Pages 3.0-26 to 3.0-27	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Police protection?	2015 EIR Appendix A Pages 3.0-26 to 3.0-27	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Schools?	2015 EIR Appendix A Pages 3.0-26 to 3.0-27	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Parks?	2015 EIR Appendix A Pages 3.0-26 to 3.0-27	No	No	No	No prior mitigation was required, and no new mitigation is required
e) Other public facilities?	2015 EIR Appendix A Pages 3.0-26 to 3.0-27	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) **Impact 3.6.1. Increased demand for fire protection services; Impact 3.6.1.2. Emergency Access; and Impact 3.6.1.3 Cumulative demand for fire protection services.** The current project includes the processing of the same amount of waste material (5,500 TPD) as the original project evaluated in the 2015 EIR. The 2015 EIR determined that there could be an increased demand for fire protection services, but concluded that this impact would be less than significant. The current project would result in a similar demand for fire protection services but would not increase the severity of the impact beyond what was considered in the 2015 EIR.
- b) The current project includes construction of a new facility, installation of new equipment, and expansion of services and programs at an existing industrial facility. The project in its entirety would increase the number of employees during a peak shift at the facility from approximately 46 to 90. However, the facility would function in a manner similar to current operations and is not anticipated to be subject to greater security risks. Therefore, a significant increase in demand for law

enforcement services is not expected. The current project would result in similar impacts but would not increase the severity of the impact beyond what was considered in the 2015 EIR.

- c) The current project does not include the construction of any housing and would not result in population growth or associated new school enrollments. Regardless, in accordance with SB 50, the project applicant would be required to pay school impact fees to help fund the construction of new public school facilities, fully mitigating any potential impact on schools. This impact is less than significant. The current project would result in similar impacts but would not increase the severity of the impact beyond what was considered in the 2015 EIR.
- d) See Section 15, Recreation, below. The current project would not directly induce substantial population growth in the city. The project in its entirety would increase the facilities' total number of employees by approximately 42. These additional employees may utilize local parks during work breaks or after work. However, this minor increase in demand for parks and other recreational facilities is not considered significant and would not result in substantial adverse physical impacts. Further, the project does not include or require the construction or expansion of any park facilities. The project would have a less-than-significant impact on parks and recreation. The current project would result in similar impacts but would not increase the severity of the impact beyond what was considered in the 2015 EIR.
- e) The current project consists of improvements to an existing private recycling facility as well as expansion of its capacities. It is not anticipated that the project would adversely impact any existing public facilities or require the construction of new public facilities. There would be no impact.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
15. RECREATION. Would the project:					
a) Increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?	2015 EIR Appendix A Pages 3.0-26 to 3.0-27	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	2015 EIR Appendix A Pages 3.0-26 to 3.0-27	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) The current project consists of the expansion of operations at an existing industrial facility. As described in Response 13a above, the current project would not directly or indirectly induce substantial population growth. The project in its entirety would increase total employment at the facility by approximately 42 employees. While these additional employees may utilize local parks

during work breaks or after work, this minor increase in use is not considered significant and would not result in substantial physical deterioration of any such facilities. Therefore, the project would have a less-than-significant impact on the use of existing neighborhood and regional parks and recreational facilities. The current project would result in similar impacts but would not substantially increase the severity of the impact that was evaluated in the 2015 EIR.

- b) The current project does not include any parks or recreational facilities and would not require the construction or expansion of any parks or recreational facilities, pursuant to the requirements of the PMC. There would be no impact.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
16. TRANSPORTATION AND TRAFFIC. Would the project:					
a) Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	MM 3.7.1a,b,c
b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	MM 3.7.1 a,
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No
e) Result in inadequate emergency access?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	2015 EIR Pages 3.4-1 to 3.4-18	No	No	No	No

DISCUSSION OF IMPACTS

- a–b) Impact 3.7.1. Degradation of operations at two study intersections.** The 2015 Draft EIR identified two potential significant impacts resulting from increased truck traffic entering and leaving the project site and utilizing regional highways. With the implementation of Mitigation Measures 3.7.1a–c, these impacts would still be significant and unavoidable.

For the current project, an analysis of the vehicle miles traveled was prepared by Edgar & Associates (Appendix I). According to that report, the current project amendment would reduce long haul trips related to municipal solid waste from 52,156 miles to 41,496 miles, a reduction of approximately 20 percent, which would therefore reduce the potential impact on local roads and regional highways. However, for the current project, this impact would remain significant and unavoidable.

Impact 3.7.2. Operations of the Pittsburg-Antioch Highway/Loveridge Road intersection are projected to degrade with project traffic. The 2015 EIR identified this impact as significant. The current project would have similar impacts. Mitigation Measures 3.7.1a–c are intended to reduce this impact somewhat, but it still would remain significant and unavoidable.

The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

- c)** There are no airports or airstrips, public or private, in the vicinity of the project site. Implementation of the current project would have no impact on air traffic patterns.
- d–e)** The current site plan would be reviewed by the Contra Costa County Fire Protection District to ensure adequate emergency access. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- f)** The current project does not include any off-site improvements that could decrease the performance or safety of existing public transit, bicycle, or pedestrian facilities. A sidewalk is provided along a portion of the site's frontage, and an access point is provided from this sidewalk to the site's parking area and building entrance. However, members of the public would not likely utilize public transit or pedestrian/bicycle facilities to access the project site, as a personal vehicle would be necessary to haul solid waste to the facility. Therefore, the current project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. There would be no impact.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
17. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	2015 EIR Pages 3.6-1 to 3.6-19	No	No	No	No prior mitigation was required, and no new mitigation is required
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	2015 EIR Pages 3.6-1 to 3.6-19	No	No	No	No prior mitigation was required, and no new mitigation is required
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	2015 EIR Pages 3.6-1 to 3.6-19	No	No	No	No prior mitigation was required, and no new mitigation is required
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	2015 EIR Pages 3.6-1 to 3.6-19	No	No	No	No prior mitigation was required, and no new mitigation is required
e) Result in a determination by the wastewater treatment provider that serves, or may serve, the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	2015 EIR Pages 3.6-1 to 3.6-19	No	No	No	No prior mitigation was required, and no new mitigation is required
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	2015 EIR Pages 3.6-1 to 3.6-19	No	No	No	No prior mitigation was required, and no new mitigation is required
g) Comply with federal, state, and local statutes and regulations related to solid waste?	2015 EIR Pages 3.6-1 to 3.6-19	No	No	No	No prior mitigation was required, and no new mitigation is required

DISCUSSION OF IMPACTS

- a) In the past, the existing facility used water for dust control purposes and to support employees, thus only generating “domestic sewage” as defined by the PMC, which is not subject to an industrial waste discharge permit. Under the current project, some water would also be used for operation of the proposed BGU and organics processing system. However, the current project would not result in increased generation of wastewater that could exceed the capacity of the existing wastewater system. MDRRP has submitted plans for improvements to the lift station upgrade which is the initial phase of the upgrades required for the project and has received approval from Delta Diablo. These improvements have been completed. The next phase will be to upgrade the north lift station during a future phase of the project. Therefore, the current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- b) See Responses 9b and 17a. The City of Pittsburg would treat and supply domestic water to the current project while water for fire suppression purposes would be provided via a private water supply. The 2015 EIR concluded that the City and its wholesale provider would have sufficient water supplies to meet the original project's demand; therefore, the potential impact would be less than significant. As described above, the current project would not result in increased generation of wastewater that could exceed the capacity of the existing wastewater system. Therefore, the current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- c) The original project included improvements expected to result in increased stormwater runoff that could require the expansion of existing or the construction of new drainage facilities on and/or off site. On-site drainage is controlled through the use of drainage ditches and underground pipelines surrounding the perimeter of the existing facility that direct surface water flows toward an outfall along the western edge of the existing facility. The ditches include a landscaped stormwater treatment planter located along the eastern side of the MDRF building and a landscaped stormwater pre-treatment bioswale located along the western edge of the existing facility. These facilities discharge stormwater via the outfall into an existing drainage ditch on a vacant lot to the west. The original project included the replacement of the existing open ditch along the 15-acre parcel with a 36-inch-diameter pipeline. The existing ditch conveys the stormwater generated from the existing facility, the 15-acre parcel to the west, and the eastern portions of the vacant lot to an existing 36-inch culvert that then discharges to an existing evaporation basin located near the northern portion of the vacant lot. The 2015 EIR determined that the 36-inch pipeline, the downstream existing ditch, and 36-inch culvert have adequate capacity to convey the increased peak flows from the existing site and the fully developed 15-acre area.

The 3.5-acre former GWF site is almost entirely located in a separate watershed from the remainder of the MDRRP site and drains to Kirker Creek located along the southern boundary of this area. An existing on-site drainage system consists of concrete swales, inlets, and pipelines. This system conveys the on-site drainage from most of the 3.5-acre area into Kirker Creek via two separate outfalls, one located on the western side and the other located on the eastern side of the property. A small portion of this area in the northwest corner drains overland to the remainder of the MDRRP site.

The applicant has submitted a Preliminary Stormwater Control Plan (Appendix C). This plan would maximize the use of surface drainage to drain stormwater into bio retention basins throughout the site. The proposed site drains to an existing retention basis located at the northwest corner of the project site, where stormwater would be detained until it is able to evaporate. No connections to the public storm drain system are proposed. This was considered a less-than-significant impact. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

- d) **Impact 3.6.2.21. Increase in water demand; Impact 3.6.2.2. Cumulative increase in demand for potable water.** See Response 9b above. The City of Pittsburg would supply domestic water to the current project, while water for fire suppression purposes would be provided via a private water supply. Implementation of the original project was anticipated to increase the facility's total water demand from approximately 20,000 gpd to 40,000 gpd. The 2015 EIR concluded that the City and its wholesale provider would have sufficient water supplies to meet the project's demand; therefore, the potential impact of the original project was deemed to be less than significant. The current project does not increase the facility's potential water demand. Accordingly, this project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- e) **Impact 3.6.3.1. Potential to exceed wastewater treatment requirements; Impact 3.6.3.2. Require the construction of new wastewater treatment facilities.** As described above, the approved project would result in increased generation of wastewater that could exceed the capacity of the existing on-site wastewater system. The 2015 EIR determined that this impact would be less than significant. The current application would be evaluated by the local wastewater treatment provider to ensure that there is adequate capacity to handle the project's wastewater generation and the adequacy of the on-site wastewater system. This impact would remain less than significant. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- f) The project is part of a solid waste transferring and recycling facility that contracts with multiple landfills and recyclers based, in part, on their available capacities. The current project would not contract with a landfill unless it has adequate capacity. Therefore, the current project would be served by a landfill with sufficient permitted capacity to accommodate its disposal needs. This impact is less than significant. Therefore, the current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.
- g) The existing facility is a solid waste transferring and recycling facility that is permitted by Cal Recycle under a Solid Waste Facility Permit. The current project includes revisions to this permit in order to include additional facilities and to ensure compliance with all applicable statutes and regulations. This impact would remain less than significant.

	Where Impact was Previously Analyzed	Does Proposal Involve New Significant Impacts or Substantially More Severe Impacts?	New Circumstances Involving New Significant Impacts or Substantially More Severe Impacts?	New Information Available Requiring New Analysis or Verification?	Applicable Prior Mitigation to Address Impacts
18. MANDATORY FINDINGS OF SIGNIFICANCE. Would the project:					
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	2015 EIR Chapter 3 and Appendix A	No	No	No	Refer to Individual Topic Areas
b) Have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	2015 EIR Chapter 3 and Appendix A	No	No	No	Refer to Individual Topic Area
c) Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	2015 EIR Chapter 3 and Appendix A	No	No	No	Refer to individual topic areas

DISCUSSION OF IMPACTS

The following are Mandatory Findings of Significance in accordance with Section 15065 of the CEQA Guidelines.

- a) As described in the preceding sections, it was determined that the current project would have a less-than-significant impact or no impact on the following areas: Aesthetics, Agriculture and Forestry Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use/Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, and Utilities/Service Systems. Significant impacts could be reduced to a less-than-significant impact through the implementation of mitigation measures for the following areas: Construction-related Air Quality impacts, Hazardous Materials (construction phase), and Biological Resources. The project was evaluated to determine if there would be a substantial change that would result in a significant impact. As described, the project would not result in any impacts that exceed the thresholds of significance for the above listed resource areas. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

- b–c)** The 2015 EIR identified significant unavoidable impacts on Air Quality and on Transportation and Circulation. Mitigation measures were adopted as part of the Mitigation Monitoring and Reporting Program to reduce these impacts to the extent possible; however, they would still remain significant and unavoidable. The current project would result in similar impacts but would not substantially increase the severity of the impact beyond what was considered in the 2015 EIR.

As described in the preceding responses, the current project was evaluated to determine if a subsequent EIR would need to be prepared. Section 15162 of the CEQA Guidelines outlines the appropriate environmental review for a project when an EIR has been certified. It notes that no subsequent EIR shall be prepared for a project unless the Lead Agency determines, on the basis of substantial evidence in the whole record, that there have been substantial changes in the project that would require major revisions to the previous EIR, there have been substantial changes with respect to the circumstances under which the project is undertaken, or there is new information indicating that the project could have significant effects not discussed in the EIR. Based on this Initial Study, it has been determined that no subsequent EIR needs to be prepared and that an Addendum to the 2105 EIR is the appropriate level of environmental review for this project.

The Mitigation Monitoring and Reporting Program is attached as Appendix D and would apply to this project as a Condition of Approval.

4.0 REFERENCES

4.0 REFERENCES

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APPENDIX A.
MOUNT DIABLO RESOURCE RECOVERY PARK
2021 ENHANCEMENTS PROJECT,
PROJECT PHASING DESCRIPTION

<u>Phase</u>	<u>Description</u>
Phase 1:	<u>1600 Loveridge Road improvements including vehicle/equipment maintenance building and graveled lot to west (future gasification area)</u> Perimeter road - graveled road (along entire west boundary of 1300 Loveridge and south side of 1600 Loveridge) with access via northeast gate of 1300 Loveridge Rd., up along north side of Parcel 3 of 1300 Loveridge to west boundary Install fire hydrant locations on perimeter road as needed; final confirmations needed from MDRR engineering consultant. Gravel future parking area for tractors and transfer trailer parking in northwest corner of Parcel 3. Gravel area between transfer trailer gravel parking area and existing sloped drive aisle west of existing Tipping Building. This area can be used for staging/laydown activities and for parking for drivers and staging for tractor trailers.
Phase 2:	<u>1300 Loveridge Rd. improvements (existing Transfer Station (TS) and MRF complex) – North Building</u> • Rough grade of entire site, apart from existing C&D operations. • Construct North Building (permanent organics processing operation), in one phase, inclusive of a two-story employee break room and staff offices (upstairs). Upstairs area will have an education center/viewing room that can double as meeting space. When Phase 3 is constructed, there will be a connecting bridge from the 2nd floor of the office building in the North Building to the second story of office building in the South Building for use by tour groups to view operations. An approximate 7,200 SF covered equipment area on the west will also be included. Total building footprint of 93,600 SF. This building will have a partially below grade, drive-through loadout area (top-load) on the south side of the building. Actual tenant improvements within the office building may be completed in a subsequent phase. Transfer trailers for organics would enter via northeast gate of 1300 Loveridge Rd and proceed along the perimeter access road and make a left turn (eastbound) to enter the drive through loadout area. Trailers will be parked on a scale in the loadout area and thus won't require scaling out when leaving the loadout area. • Pave perimeter access road from end of pavement near existing transfer trailer parking to point in which transfer trailers need to access loadout port for new North Building and also further along west side of Parcel 2 boundary connecting to the access road on west side of Parcel A (Phase 5). Complete related traffic improvements such as striping, stop signs, curbs, etc. • Pave portion of east side of North Building to allow commercial organics vehicles to maneuver (exit) out of building • Once the North Building is operable, public green/wood waste vehicles will utilize the existing scale complex (for the outdoor C&D and green/wood waste operations) and proceed



Phase	Description
	northwest towards the west perimeter road and turn right and proceed to the North Building entrance. Public vehicles will exit the North Building and reverse course along the west perimeter road and back to the scales to weigh out. The actual traffic flow pattern will change at the existing scale as inbound public vehicles will use the current outbound scales to weigh in and the current inbound scales will be used for weighing out. Vehicles will also ingress and egress through the main entrance intersection. The traffic pattern for the residential and commercial organics route trucks is described below. Construct scale complex shown near west side of Phase 6A of Transfer Station expansion footprint for mixed waste processing. The inbound scale will be used by residential and commercial organics route trucks and rolloff trucks once the North Building is operable. Commercial vehicles will enter and exit on the east side of the North Building. The northeast gate of the facility will be the site entry and exit point for the commercial vehicles. This inbound scale will eventually be used by the commercial C&D trucks once the C&D operations are moved into the South Building during Phase 3. The outbound scale can be used, if necessary, for weighing out (confirming weights) transfer trailers loaded out from the North and South Buildings. During the construction phase of the North Building, the existing traffic flow patterns for the public and commercial C&D and green/wood waste and transfer trailers will remain the same. All vehicles will use the current scales. Once construction is completed, the vehicle traffic patterns for the green/wood waste customers will change to what is noted in the previous two bullets. The public and commercial C&D customers will continue to utilize the existing scales as is during the construction of the North Building as no changes will be made to the outdoor C&D operations. The same is true for transfer trailers. Once the North Building is operable, though, the public C&D vehicles will utilize a similar traffic pattern as the public green/wood waste customers as described above. The only difference is once the public C&D customers proceed northwest to the west perimeter road they will turn left and proceed south to the outdoor C&D operations. These vehicles will reverse course along the west perimeter road and then make a right turn and rejoin with the public green/wood waste customers and proceed to the outbound scales to weigh out. Clean wood customers will tip at the existing C&D operation until a South Building is constructed. Pave future parking area for tractors and transfer trailer parking in northwest corner of Parcel 3. Install parking spaces on east side of building for accessing office entry. Install water storage tank near loadout for water capture and reuse. Install fire hydrant locations on perimeter of building as needed; final confirmations needed from MDRR engineering consultant.



<u>Phase</u>	<u>Description</u>
	<i>Operational Assumptions:</i> Use the footprint for future South Building expansion (Phase 3 and part of Phase 4 C&D operation) and area north of proposed north building (Phase 8 Digestion operation) as lay down areas for construction of the North Building. Move existing employee parking and rolloff storage, displaced by construction of the North Building, to the graveled lot on the 1600 Loveridge property (Phase 5 area). Modular building(s) for employee breakrooms to support staff at green waste and C&D ops. will be needed. Green/wood waste and C&D operations continue as is, but with changes to the traffic patterns as previously described. Once the North Building is complete, then shut down of the outdoor green/wood waste operation will occur and move into the building. Grinding will continue to occur outdoors either at the C&D operation and/or in an area to the south of the North Building. If applicable, eliminate any modular employee break room for green waste employees as they will use break room on 1st floor of new office area in North Building. Relocate staff from existing Recycling and Self-Haul buildings to new offices on 2nd floor of office building in new North Building. Once North Building is complete, start using northwest gravel lot for tractor and transfer trailer parking.
<i>Phase 2A:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Installation of Pre-Processing Equipment into North Building</u> • Install organics pre-processing equipment for residential and/or commercially collected materials to meet compost market specs. • Install air infiltration equipment area. • Install potential water storage tank west of the future Phase 8A to allow for location of water truck filling. <i>Operational Assumptions:</i> Keep temporary employee parking on the 1600 Loveridge property. Keep rolloff storage in graveled lot on 1600 Loveridge property. Use future Phase 8A (AD operation) area for staging/laydown for construction. Use of future Phase 6A can also be used for parking for drivers and staging for tractor trailers.
<i>Phase 3:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) - South Building</u> • Construct South Building (C&D), inclusive of a two-story employee break room and education center viewing room (2nd floor); total building footprint of 130,400 SF. This



<u>Phase</u>	<u>Description</u>
	building will have a partially below grade, drive-through loadout area (top-load) on the north side of the building. Transfer trailers for C&D would enter via northeast gate of 1300 Loveridge Rd. and proceed along the perimeter access road and make a left turn (eastbound) to enter the drive through loadout area. Trailers will be parked on a scale in the loadout area and thus won't require scaling out when leaving the loadout area. • Pave portions of access roads between building and west perimeter access road allow for two-way traffic for public C&D customers and for transfer trailer access to loadout port for C&D building. Complete related traffic improvements such as striping, stop signs, curbs, etc. along west perimeter road. • Construct new public scale complex for organics and C&D self haul customers with two inbound and two outbound lanes. This will further constrain the footprint for the existing, outdoor C&D operation, however, if needed this operation can be relocated to the previous location of the outdoor green waste operation. This may also need to be the case if self haul customers delivering brushy or woody materials are tipped near the C&D operation so the material can be ground; this would be an alternative to bringing such customers inside the North Building. To the extent feasible, existing onsite 70' scales (at existing scale complex and outbound transfer trailer scale) will be repurposed and used in this permanent scale complex. • Make improvements (add new inbound and outbound scale) to main scale complex for solid waste customers. • Gravel lot for future new employee parking lot near main entrance. • Construct small information kiosk in traffic island between inbound and outbound lanes at main entrance. A traffic director will be assigned here to address customer directional questions. • Install air infiltration equipment area. • Install water storage tank for water capture and reuse. • Install parking spaces on east side of building for accessing office entry and providing a bus parking area for visiting educational tours. • Install fire hydrant locations on perimeter of building as needed; final confirmations needed from MDRR engineering consultant.

Operational Assumptions:

Use footprint for future Phase 5 (1600 Loveridge Road) or Phase 8A of North Building as lay down area for construction of the South Building. These areas can also be used for parking for drivers and staging for tractor trailers.

Keep temporary employee parking on the 1600 Loveridge property. Keep rolloff storage in graveled lot on 1600 Loveridge property.

Continue C&D operations as is, including customers (self haul, and commercial) using temporary scale complex scales, during construction of the South Building.

Move the C&D operations into the South Building once complete.

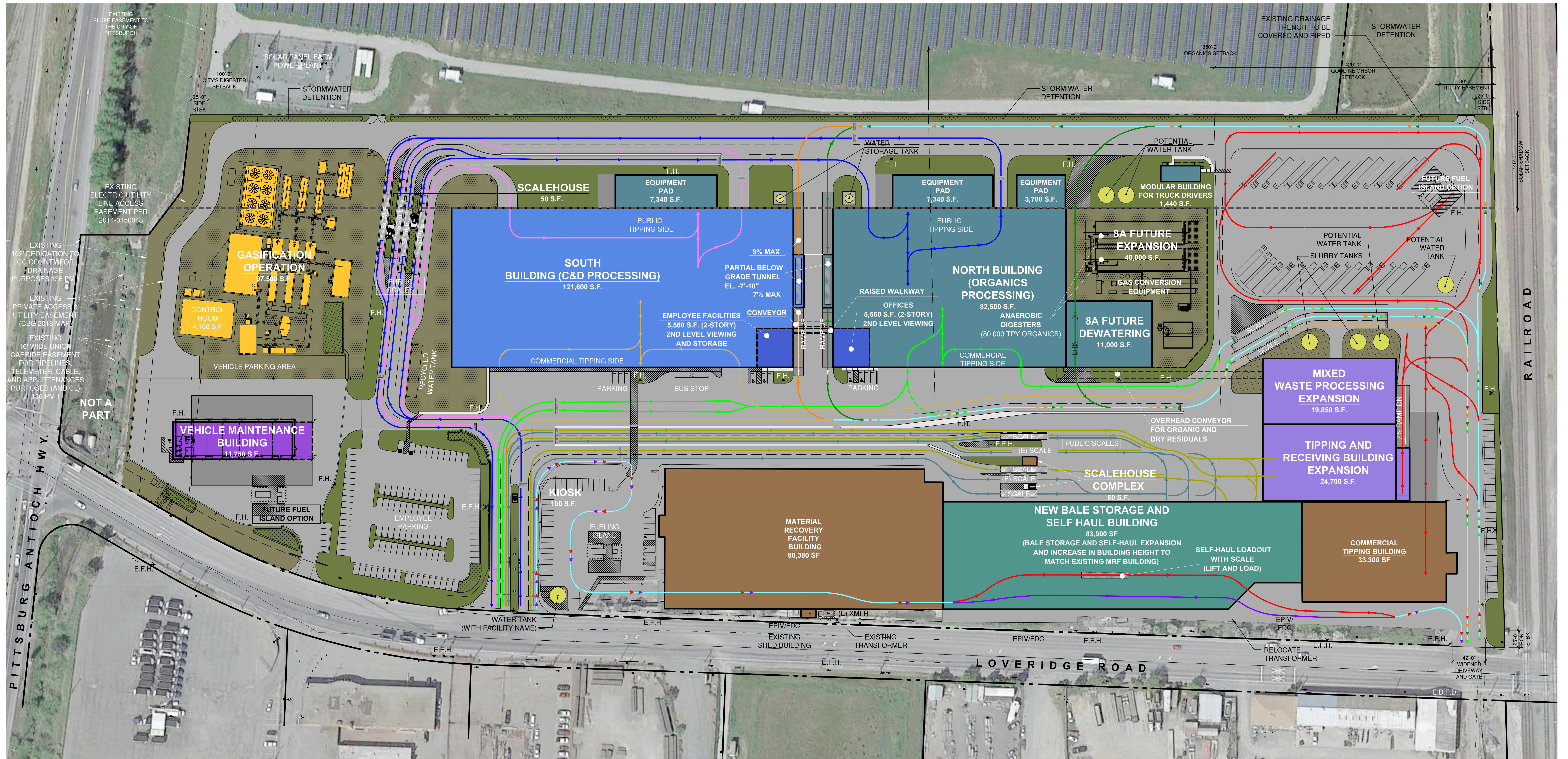


<u>Phase</u>	<u>Description</u>
	Remove modular building for employee breakroom to support C&D ops. once the C&D operation is relocated into the South Building. At this point will need an electric powered processing system for grinding and screening wood waste materials in the South Building. Use existing temp. scale house complex in drive aisle along west side of South Building for public C&D customers until the new public scale complex for organics and C&D is completed.
<i>Phase 3A:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Install New C&D Processing Equipment</u> • Install new C&D processing equipment into the South building. • Install water tanks in transfer trailer parking area and at main facility entrance. Water tank (stainless steel) at main entrance would also be wrapped with facility name/logo. • Consider installing a fuel island in the northwest corner of paved truck parking lot. • Construct new employee parking lot near main entrance. <u>Ideally access for this parking lot would be thru 1600 Loveridge and not the main entrance.</u> <i>Operational Assumptions:</i> Keep temporary employee parking and rolloff storage on the 1600 Loveridge property graveled lot until the new employee parking lot is completed. Remove existing C&D processing equipment to make way for new equipment. Wood waste could be processed in the North Building if an electric grinder is available. Use future Phase 4A (South Building expansion) area for staging/laydown for construction. This area can also be used for parking for drivers and staging for tractor trailers if needed.
<i>Phase 4:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – South Building Equipment expansion (for C&D processing operations)</u> • Retrofit new C&D processing equipment if needed for expanded volumes. <i>Operational Assumptions:</i> Use future Phase 8A (AD operation) area, or future Phase 5 (Gasification operation) area for staging/laydown for construction. Move rolloff storage to future Phase 8A area. Modify C&D processing operations if conducting a retrofit.
<i>Phase 5:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Install Gasification Operation</u> • Install gasification equipment and test operation. • Consider installing new fuel island and/or potential charging stations if transfer fleet is electrified.



<u>Phase</u>	<u>Description</u>
	<i>Operational Assumptions:</i> May have to temporarily relocate some tractor trailers to other parking places onsite while paving of lot occurs. Staging and laydown for the installation of the gasification system will have to occur in close proximity to the operation.
<i>Phase 6:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Transfer Station Tipping Area Initial Expansion</u> • Construct initial phase of Transfer Station Building expansion for tipping only. This includes construction of the back-in tunnel and loadout port on the north side of the expansion. • Install pavement on south side of expansion. <i>Operational Assumptions:</i> Use future Phase 6A and gravel area between transfer trailer parking area and existing sloped drive aisle west of existing Tipping Building for staging/laydown activities. Future Phase 8A area may also be used for staging/laydown. These areas can also be used for parking for drivers and staging for tractor trailers. Some solid waste route trucks may be temporarily redirected to the self-haul tipping area. Once gasification operation is fully operation then processed wood waste materials will be hauled/transferred from the South Building to this new operation.
<i>Phase 6A:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Transfer Station Tipping Area Final Expansion</u> • Construct second phase of Transfer Station Building expansion for future installation of mixed waste processing equipment. <i>Operational Assumptions:</i> Use gravel area for Phase 8A for staging/laydown. This area can also be used for parking for drivers and staging for tractor trailers.
<i>Phase 7:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Bale Storage and Self Haul Building</u> Construct new building, or phased construction of a building, to house bale storage area and expanded self haul tipping area. New building will be same clear height as MRF processing building. Construction will also include adding a new self-haul loadout area (lift and load) off the back side (east) of the building. For example, the bale storage portion of the building may be constructed first and possibly included as part of an earlier phase such as Phase 2.

APPENDIX B. PROJECT PLANS



LEGEND

	EXISTING BUILDING		LANDSCAPING
	MAINTENANCE BUILDING		WATER RETENTION
	ORGANICS PROCESSING BUILDING		DECOMPOSED GRANITE
	C & D PROCESSING BUILDING		GRAVEL
	PROPOSED GASIFICATION OPERATION		STRIPING
	PROPOSED TIPPING AND RECEIVING BUILDING		VEHICULAR PAVING & DRIVE AISLE
	PROPOSED BALE STORAGE AND SELF HAUL EXPANSION		PROPOSED CONCRETE LOADOUT RAMP
	SCALEHOUSE		

SYMBOLS

	EXISTING PROPERTY LINE		EXISTING ACCESSIBLE PARKING STALL SYMBOL
	EXISTING RETAINING WALL		PROPOSED FIRE HYDRANT
	EXISTING CHAINLINK FENCE		EXISTING FIRE HYDRANT
	EXISTING WROUGHT IRON FENCE		EXISTING LIGHT
	STRIPING PER CITY STANDARDS		EXISTING BOLLARDS
			EXISTING POWER POLE
			EXISTING TRANSFORMER

CIRCULATION LEGEND

	PUBLIC SOLID WASTE
	COMMERCIAL SOLID WASTE
	PUBLIC ORGANICS
	COMMERCIAL ORGANICS
	PUBLIC CONSTRUCTION & DEMOLITION (C & D)
	COMMERCIAL C & D
	TRANSFER TRAILER - SOLID WASTE
	TRANSFER TRAILER - ORGANICS
	TRANSFER TRAILER - C & D
	COMMERCIAL RECYCLABLES
	COMMON ROUTE

SITE INFORMATION

ADDRESS:
1300 LOVERIDGE ROAD
PITTSBURG, CA 94565

APN(S):
073-200-013, 014, 015, 027, 028, 029

GEN. PLAN / ZONING: IG - INDUSTRIAL BUSINESS PARK

SITE AREA:
36.11 ACRES

NEW IMPERVIOUS SURFACES: 16.8 ACRES

BUILDING AREA

PROPOSED IMPROVEMENTS	
PHASE 1	VEHICLE MAINTENANCE FACILITY.....11,750 S.F.
PHASE 2	NORTH BUILDING (ORGANICS PROCESSING).....95,400 S.F. (INCLUDING 2-STORY OFFICE AND EQUIPMENT PAD)
PHASE 3 & 4	SOUTH BUILDING (C&D PROCESSING).....134,500 S.F. (INCLUDING 2-STORY OFFICE AND EQUIPMENT PAD)
PHASE 5	GASIFICATION OPERATION.....97,500 S.F.
PHASE 6	EXPANSION TIPPING & RECEIVING (INCLUDING LOADOUT).....24,700 S.F.
PHASE 6A	MIXED WASTE EXPANSION FOR PROCESSING.....19,850 S.F.
PHASE 7	EXISTING BALE STORAGE EXPANSION (REMOVED).....34,214 S.F.
PHASE 7	EXISTING SELF HAUL (REMOVED).....35,480 S.F.
PHASE 8	SELF HAUL / BALE STORAGE EXPANSION.....83,900 S.F.
PHASE 8	AD EXPANSION.....51,000 S.F.
I-SHAPED	
TOTAL SQUARE FOOTAGE ALL NEW BUILDINGS: 440,900 S.F.	
EXISTING BUILDINGS (TO REMAIN)	
	MATERIAL RECOVERY FACILITY.....88,380 S.F.
	TIPPING BUILDING.....33,300 S.F.
	TOTAL EXISTING.....121,680 S.F.
FUTURE IMPROVEMENTS	
	TOTAL FUTURE.....448,900 S.F.
	TOTAL BUILDING AREA.....570,580 S.F.

VICINITY MAP



<u>Phase</u>	<u>Description</u>
	<i>Operational Assumptions:</i> New building construction will have to be phased to limit impact to existing bale storage and self-haul tipping operations. For example, one half of the building can be constructed (e.g., the bale storage area) at a time. When the first half of the building is completed, operations can be flipped from the old area into the new area. Likely will require some outdoor storage of bales and/or placement of trailers for temp. storage of bales. Bales can also be tarped. Some self haul loads may require tipping in the commercial tipping area of the expanded Transfer Station. Future Phase 8A area will be the primary area used for staging/laydown for construction.
Phase 8:	<u>1300 Loveridge improvements (existing TS and MRF complex) - Install Mixed Waste Processing Equipment</u> • Installation of mixed waste processing equipment in the designated area of the expanded transfer station. <i>Operational Assumptions:</i> There may be limited staging and laydown area in the immediate vicinity of the operation.
Phase 8A:	<u>1300 Loveridge improvements (existing TS and MRF complex) – Install Anaerobic Digestion (AD) System and Pre-Processing Equipment</u> • Installation of anaerobic digesters, up to two, and necessary pre-processing equipment to produce slurry. The existing organics pre-processing system will likely be modified (e.g., add shredders, slurry tanks, etc.) as necessary to handle source separated organic materials and organics recovered from the mixed waste processing system. An overhead conveyor system will also be added to move the recovered organics materials (from the mixed waste processing system) to the North Building pre-processing system area. An eco- wall, 30-ft' high will also be constructed around the operation to shield the operations; the operation will not be covered per code requirements. <i>Operational Assumptions:</i> Construction staging and laydown will have to occur in the immediate vicinity of the operation.
Phase 8A – Alternate:	<u>1300 Loveridge improvements (existing TS and MRF complex) – Additional Expansion of the North Building</u> • This alternative assumes the AD system is not installed. The North Building would simply be expanded with some potential for modifications to the existing pre-processing system if needed for compost processors. <i>Operational Assumptions:</i> Construction staging and laydown will have to occur in the immediate vicinity of the operation.

APPENDIX C.
MT. DIABLO RESOURCE RECOVERY PARK
DRAFT EIR – EXECUTIVE SUMMARY OF IMPACTS
AND MITIGATION MEASURES, 2015

This section provides an overview of the proposed Mt. Diablo Resource Recovery Park project (project; proposed project) and the environmental analysis. For additional detail regarding specific issues, please consult the appropriate section (3.1 through 3.8) in Chapter 3, Environmental Analysis, of this Draft Environmental Impact Report (Draft EIR; DEIR).

The City of Pittsburg was identified as the lead agency for the proposed project. In accordance with Section 15082 of the California Environmental Quality Act (CEQA) Guidelines, the City prepared and distributed a Notice of Preparation (NOP) of an EIR on May 18, 2011 (SCH# 2011052053). This notice was circulated to the public, local, state, and federal agencies, and other interested parties to solicit comments on the proposed project. The NOP is presented in **Appendix A**. In addition, an Initial Study was prepared for the project and released for public review at the same time as the NOP. The Initial Study is also included in **Appendix A**. The City filed a Notice of Completion with the State Clearinghouse for the Draft EIR on December 16, 2014, concurrently kicking off a 45-day public review period for the Draft EIR document and associated technical appendices. The public review period on the Draft EIR ends on January 30, 2015, after which the City will respond in writing to all environmental comments received and incorporate those into a Final Environmental Impact Report (FEIR) for consideration by the City of Pittsburg City Council.

ES1 PURPOSE AND SCOPE OF THE ENVIRONMENTAL IMPACT REPORT

This Draft EIR provides an analysis of the potential environmental effects associated with the approval of the proposed project, pursuant to CEQA (California Public Resources Code Section 21000, et seq.) and the State CEQA Guidelines (14 California Code of Regulations, Section 15000, et seq.). For a complete description of the project, see Section 2.0, Project Description, of this DEIR.

The DEIR analysis focuses on potential impacts that could result from development of the proposed project. Where appropriate, some impacts are analyzed under future conditions, which assume buildout of reasonably foreseeable projects in the area as appropriate under cumulative analysis conditions. All project-specific impacts are measured against the conditions that existed at the time of release of the Notice of Preparation (May 2011).

ES2 PROJECT CHARACTERISTICS

The proposed project consists of a Conditional Use Permit (CUP) to expand the capacity, operations, and land area of the existing Mt. Diablo Recycling Facility (MDRF) and the Recycling Center and Transfer Station (RCTS). The expanded facility will be called the Mt. Diablo Resource Recovery Park (MDRRP). The MDRRP will consist of the Mt. Diablo Recycling Facility, Transfer/Processing Facility, Mixed Construction and Demolition (C&D) Processing Facility, and Organics Processing Facility (currently known as the Green Material Processing Operations Area), which are existing facilities proposed for operational expansion. The project also includes a proposal for a new Biomass Gasification Unit, the addition of a 15-acre parcel adjacent to and west of the existing site for vehicle and equipment storage, and the addition of the 3.5-acre parcel located south of the existing site for a new truck maintenance facility and yard that would be relocated from a site east of the MDRRP across Loveridge Road. Concurrently, the solid waste permit is being revised to reflect the proposed project components. A summary of the proposed operational and physical changes to the facility is provided below.

MT. DIABLO RECYCLING FACILITY

The proposed project would result in the following changes to the existing Mt. Diablo Recycling Facility:

- Increase the permitted tonnage from 500 tons per day (TPD) to 1,000 TPD.
- Add a second processing line for commercial material consistent with AB 341, which requires a commercial recycling program.
- Include additional commingled recyclable materials for processing.
- Add solar panels to the rooftop to generate 800 kilowatts of energy.
- Expand area to provide additional parking and commodity and equipment storage.

TRANSFER/PROCESSING FACILITY

The proposed project would result in the following changes to the existing RCTS:

- Increase the permitted tonnage of municipal solid waste transferred and processed at the facility from 1,500 to 2,700 TPD.
- Add commercial and residential food waste processing capacity within the building to produce up to 480 TPD of compost and/or anaerobic digestion feedstock.
- Add solar panels to the rooftop to generate 800 kilowatts-hours of energy (combined output with the panels on the roof of the MDRF).
- Expand area to provide additional parking and commodity and equipment storage.

ORGANICS PROCESSING FACILITY

The project proposes the following changes to the existing Green Material Processing Area:

- Allow the processing of co-collected green material and food material from residential sources.
- Increase permitted tonnage from 200 to 800 TPD with up to 10,000 cubic yards of storage.
- Increase the permitted operating hours from 7 a.m. to 6 p.m. to 24 hours per day.
- Add a second grinder.

MIXED C&D PROCESSING FACILITY

The project proposes the following changes to the existing Mixed C&D Processing Facility:

- Add additional bays to the existing processing line.
- Add a second similar processing line.

- Increase the permitted tonnage from 450 to 1,000 TPD.
- Add additional processing for dry commercial recyclables and self-haul wastes.
- Expand areas for storage of commodities and equipment, and parking.
- Increase the operating hours from 7 a.m. to 5 p.m. to 4 a.m. to 10 p.m.

BIOMASS GASIFICATION UNIT

The project proposes to construct and operate a Biomass Gasification Unit (BGU) on a currently undeveloped site located at the northwestern corner of the project site. The proposed BGU portion of the project would include the following:

- Construct and operate a BGU.
- Allow 24-hour operation and maintenance of the unit.
- Utilize 40 TPD of clean wood chips processed at the on-site Organics Processing Facility or the Material Processing Area as the fuel source for the BGU.
- Generate 1 megawatt per hour of renewable energy primarily for use for on-site operations.
- Install transmission lines to power the Mt. Diablo Recycling Facility and the Mixed C&D Processing Facility and to sell excess electricity to Pacific Gas and Electric (PG&E).

TRUCK MAINTENANCE FACILITY AND YARD

The project proposes to construct and operate a Truck Maintenance Facility and Yard on an approximate 3.5 acre area located at the southeastern portion of the site (former GWF site). The proposed facility would replace an existing facility currently located east of the project site across Loveridge Road. The proposed Truck Maintenance Facility and Yard would include the following:

- Construct and operate an 18,000 square foot building, comprised of a 15,600 square foot shop and a 2,400 square foot office/storage area, with 2,000 square feet of open air canopies.
- Relocate the existing truck fueling island from the MDRF main parking area.

ADDITIONAL LAND

The project proposes to add land to accomplish the following:

- Add 15 acres along the westerly border for vehicle and equipment storage, and containerized commodity storage.
- Add the 3.5-acres along the southerly border for the truck maintenance facility and yard discussed above.

ES3 PROJECT ALTERNATIVES SUMMARY

The CEQA Guidelines Section 15126.6 requires that an EIR describe a range of reasonable alternatives to the project that could feasibly attain the basic objectives of the project and reduce the degree of environmental impact. Section 5.0, Alternatives to the Project, provides a qualitative analysis of alternatives as compared to the proposed project. Alternatives identified for the proposed project include the following:

Alternative 1—No Project Alternative. Alternative 1, the no project alternative, assumes the existing Mt. Diablo Recycling Center and Transfer Station would continue to operate under its current permitted capacities and that no physical improvements would be made at the project site. This alternative also assumes that no revisions would be made to the facility's current Solid Waste Facility Permit issued by the California Department of Resources Recycling and Recovery (CalRecycle). The facility is currently permitted to process a throughput of 2,650 tons per day (TPD).¹ The facility currently processes less than its permitted capacity, approximately 1,181 TPD. This alternative assumes that the facility would ultimately increase operations to the permitted levels (a 125 percent increase from existing operations), with a proportionate increase in the number of truck and vehicle trips entering and leaving the site. The current permitted capacity is less than the total capacity requested for the proposed project, which is 5,500 TPD.

Alternative 2—Biomass and Solar Alternative. Alternative 2, the biomass and solar alternative, assumes that the facility's permitted capacities would not be increased and no new programs would be added to the Mt. Diablo Recycling Facility, Transfer/Processing Facility, Mixed Construction and Demolition (C&D) Processing Facility, or Organics Processing Facility, with the exception of the 40 tons per day increase in clean wood chips to fuel the biomass plant. This alternative assumes only the construction of the Biomass Gasification Unit on approximately 3.5 acres of expansion land and installation of the solar panels would move forward. Because the facility's capacities would not be substantially increased, no revisions to the facility's Solid Waste Facility Permit would be requested and the proposed addition of sort lines, bays, and other equipment would not be required.

Alternative 3—Limited Expansion Alternative (Typical Operating Conditions). Alternative 3, the limited expansion alternative, assumes that there would be increases at the Mt. Diablo Recycling Facility, Transfer/Processing Facility, Mixed Construction and Demolition (C&D) Processing Facility, or Organics Processing Facility. The existing facility has historically operated below the facility's permitted levels. While the DEIR analysis assumes that the expanded facility under the proposed project would operate every day at the maximum permitted level currently requested, the limited expansion alternative assumes the permit would seek an expansion to only 55 percent of the requested permit level of the proposed project. Therefore, the operating condition of the facility under the limited expansion alternative (operating at 55 percent of the maximum permitted level under the proposed project) would be 3,050 tons per day (TPD), compared to 5,500 TPD for the proposed project. This alternative was analyzed as "typical operating conditions" in the traffic impact study and in Section 3.7, Transportation and Circulation of this DEIR.

ES4 AREAS OF CONTROVERSY AND ISSUES TO BE RESOLVED

Comments received on the NOP are included in **Appendix A** of this Draft EIR. Comments that are related to the scope of the environmental analysis are summarized in Section 1.0, Introduction, and include issues such as traffic operations, solid waste operations, odor and wastewater service. Additional comments were received that did not concern the adequacy or scope of the environmental analysis under CEQA.

Concerns raised in response to the NOP were considered during the preparation of the Draft EIR.

ES5 SUMMARY OF ENVIRONMENTAL IMPACTS

Table ES-1 displays a summary of project impacts and proposed mitigation measures that would avoid or minimize potential impacts. In the table, the level of significance is indicated both before and after the implementation of each mitigation measure. For detailed discussions of project impacts and mitigation measures, the reader is referred to the technical environmental analysis in Sections 3.1 through 3.8 in this Draft EIR.

Of the potential environmental impacts discussed in the Draft EIR, the following air quality and traffic impacts are considered significant and unavoidable. CEQA Guidelines Section 15126.2(b) requires an EIR to discuss unavoidable significant environmental effects, including those that can be mitigated but not reduced to a level of insignificance.

The significant and unavoidable project impacts are in the following air quality and traffic topic areas. The traffic topic areas are further identified as “typical operating conditions” at approximately 55 percent of permitted capacity and “maximum permitted operating conditions” at 100 percent permitted capacity (see Section 3.7, Transportation and Circulation, of this Draft EIR for further discussion of typical and maximum operating conditions):

- Short-Term Construction Emissions (Impact 3.1.1). Mitigation identified for the project, which include measures to reduce fugitive dust, area-source, and mobile-source emissions, would reduce maximum daily construction emissions but not below the BAAQMD’s significance threshold of 54 lbs/day for each pollutant. Therefore, short-term construction emissions remain significant and unavoidable.
- Project-Specific Traffic Impacts (Impact 3.7.1). Mitigation identified for the project, which includes payment of Capital Improvement Program (CIP) fees, would improve level of service at impacted intersections to less than significant. However, while the improvements are listed in the CIP, there is no funding plan identified. Since funding for the full improvement is not certain, this impact remains significant and unavoidable.
 - *Typical Operating Conditions*—Based on Contra Costa Transportation Authority (CCTA) methodology, the Pittsburg-Antioch Highway/Loveridge Road intersection would degrade from level of service (LOS) B to LOS high-D during the AM peak hour and would degrade from LOS E to LOS F (an increase in the volume-to-capacity ratio (V/C) of more than 0.01) during the PM peak hour.
 - *Maximum Permitted Operating Conditions*—Based on CCTA methodology, the SR 4 Eastbound Ramps/Loveridge Road intersection would degrade to LOS high-D (V/C of 0.85 to 0.90) during the PM peak hour, thus resulting in a significant impact. Additionally, the Pittsburg-Antioch Highway/Loveridge Road intersection would degrade from LOS B to LOS F during the AM peak hour and would degrade from LOS

E to LOS F (an increase in V/C of more than 0.01) during the PM peak hour. Based on the Highway Capacity Manual (HCM) methodology, both the SR 4 Eastbound Ramps/Loveridge Road and Pittsburg-Antioch Highway/Loveridge Road intersections would operate at LOS F during at least one of the peak hours.

- Cumulative Traffic Impacts (Impact 3.7.2. While most intersections studied in the DEIR would operate acceptably under cumulative conditions, the addition of project-generated traffic to projected future traffic would result in unacceptable conditions under typical operating conditions or maximum permitted operating conditions. The traffic study determined that widening along Loveridge Road to accommodate an additional northbound lane may be infeasible due to the railroad crossing and right-of-way constraints. Therefore, the operating conditions at this intersection remain significant and unavoidable.
 - *Typical Operating Conditions*—Based on the HCM methodology, the Pittsburg-Antioch Highway/Loveridge Road intersection would operate at LOS F during both AM and PM peak hours with the addition of project traffic under typical operating conditions.
 - *Maximum Permitted Operating Conditions*—Based on CCTA methodology, the Pittsburg-Antioch Highway/Loveridge Road intersection would degrade to LOS D during the AM peak hour and to LOS E during the PM peak hour. Based on the HCM methodology, the Pittsburg-Antioch Highway/Loveridge Road intersection would operate at LOS F during both AM and PM peak hours with the addition of project traffic.

TABLE ES-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
3.1 Air Quality			
Impact 3.1.1 Construction-related emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, expose sensitive receptors to substantial pollutant concentrations, and/or conflict with air quality planning efforts.	PS	MM 3.1.1 a. The proposed project shall implement BAAQMD-recommended best management practices for the control of fugitive dust including, but not limited to, the following: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved areas of vehicle travel) shall be watered two times per day. 2. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 3. All vehicle speeds on on-site unpaved areas shall be limited to a maximum of 15 miles per hour. 4. All parking areas, equipment pads, and driveways shall be paved as soon as possible. Equipment pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 5. Where applicable, plant vegetative ground cover (fast-germinating native grass seed) in disturbed areas as soon as possible.	SU

LS – Less than Significant PS – Potentially Significant

S – Significant

SU – Significant and Unavoidable

LCC – Less than Cumulatively Considerable

CC – Cumulatively Considerable

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Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		6. A publicly visible sign shall be posted at the site entrance identifying the telephone number and name of the person to contact at the construction site regarding dust complaints. The phone number of the City contact person and/or department shall also be posted to ensure compliance. All complaints, including any necessary corrective actions implemented to address the complaint, shall be documented and responded to within 48 hours. Designated City compliance monitoring staff and/or department shall be notified of all complaints received. b. The following measures shall be implemented to reduce construction-generated mobile-source emissions: 1. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. 2. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.	

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		3. Heavy-duty (i.e., 25 horsepower or greater) off-road construction equipment shall, at a minimum, meet Tier 3 emission standards. c. The above measures or any additional or modified measures listed by the Bay Area Air Quality Management District at the time of construction shall be implemented to the degree mandated by the discretion of the City at the time of issuance of any development permits. Timing/Implementation: Measures shall be added as conditions of approval for all development permits Enforcement/Monitoring: City of Pittsburg Development Services Department	
Impact 3.1.2 Long-term operational emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, expose sensitive receptors to substantial pollutant concentrations, and/or conflict with air quality planning efforts.	PS	MM 3.1.2a The project applicant shall demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards. Timing/Implementation: Prior to operation of new facilities Enforcement/Monitoring: City of Pittsburg Development Services Department and Department of Environmental Affairs MM 3.1.2b The operator shall provide a report on the throughput tonnage processed at the facility that would result in operational emissions of NO_x at 90% of the allowable threshold of 54 pounds per day and 10 tons per year (i.e., 48.6 pounds of NO_x per day or nine tons of NO_x per year).	LS

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		The report shall be included as a condition of approval of the use permit and shall be completed by a qualified air quality professional within one year of approval of the use permit for the expansion. Project-generated tonnages and estimated emissions based on the report shall be evaluated commencing at the five-year state permit review and each year thereafter as tonnage reports are submitted to the City Department of Environmental Affairs and Development Services Department. Once the throughput tonnages reach the amount determined in the report to result in 48.6 pounds of NO_x daily or nine or more tons of NO_x annually, the operator shall prepare and submit project-generated emissions reports, as described in MM 3.1.2c. Timing/Implementation: Completion of the report shall be a condition of approval of the use permit and shall be completed prior to issuance of the Solid Waste Facility Permit. Enforcement/Monitoring: City of Pittsburg Development Services Department and Department of Environmental Affairs. MM 3.1.2c Once the project receives a tonnage throughput resulting in 90% of assumed Nox emissions (48.6 pounds of NO_x per day or nine tons of NO_x per year) as indicated by annual tonnage reports submitted to the City's Department of Environmental Affairs and Development	

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		Services Department, the operator shall obtain the services of a qualified specialist, approved by the City Development Services Department in conjunction with the Department of Environmental Affairs, to prepare and submit an annual air quality report showing project-generated NOx emissions. The annual emissions evaluation shall identify project-generated increases in emissions over those existing at the time of the approval of the use permit, any emission reduction strategies that have been implemented (i.e., use of cleaner equipment, etc.), and any emissions offsets or additional mitigation measures, as described in MM 3.1.2d, that will be implemented sufficient to achieve the threshold of 54 pounds of NOx per day or 10 tons of NOx per year. Emissions analyses shall be submitted to the City by April 1 of the following year. Upon approval of the annual air quality report by the City, documentation of any emissions offsets or additional mitigation strategies that have been implemented shall be provided to the City within 30 calendar days. Timing/Implementation: Annually as described Enforcement/Monitoring: City of Pittsburg Development Services Department and Department of Environmental Affairs MM 3.1.2d Based on the information provided in the annual report described in MM 3.1.2c, the proposed project shall implement on-	

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		site control measures and/or purchase emissions offsets sufficient to limit net increases (as defined) in operational NOx emissions to no more than 54 pounds per day or 10 tons of NOx per year. Measures shall be implemented on an ongoing basis corresponding to increases in operational activities. Measures to be implemented to reduce operational NOx emissions may include, but are not limited to, the following: • Use of alternatively fueled vehicles and off-road equipment • Electrification of on-site equipment. • Reductions in the number of pieces of motorized equipment and/or hours of use. • Replacement/conversion of existing off-road equipment sufficient to meet, at a minimum, ARB's Tier 4i emission standards, or equivalent. • Secure emission reduction credits (ERCs) to offset NOx emissions per BAAQMD Regulations 2-2-215, 302, and 303. Timing/Implementation: Annually as described Enforcement/Monitoring: City of Pittsburgh Development Services Department and Department of Environmental Affairs	
Impact 3.1.3 Implementation of the proposed project would not contribute to traffic volumes at primarily affected intersections that would exceed BAAQMD's screening criteria. As a result, localized concentrations of mobile-	LS	None required.	LS

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
source CO are not projected to exceed applicable ambient air quality standards.			
Impact 3.1.4 Implementation of the proposed project would not result in incremental increases in risk or hazards at nearby sensitive receptors that would exceed applicable significance thresholds.	LS	Implement mitigation measure MM 3.1.2a	LS
Impact 3.1.5 Subsequent land use activities associated with implementation of the proposed project would not create objectionable odors affecting a substantial number of people due to compliance with an Operations and Odor Impact Minimization Plan submitted with the proposed land use application.	LS	None required.	LS
Impact 3.1.6 The proposed project, in combination with emission sources in the San Francisco Bay Area Air Basin, would result in a cumulatively considerable net increase of criteria air pollutants and precursors.	LCC	Implement mitigation measures MM 3.1.1 and MM 3.1.2a through d.	LCC
Impact 3.1.7 The proposed project, in combination with nearby emission sources, would not result in predicted risks or hazards that would exceed applicable significance thresholds at nearby sensitive receptors.	LCC	Implement mitigation measure MM 3.1.2a	LCC
Impact 3.1.8 Implementation of the proposed project would not result in a cumulatively considerable increase of odorous emissions that would adversely impact nearby sensitive receptors.	LCC	None required.	LCC

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
3.2 Climate Change and Greenhouse Gases			
Impact 3.2.1 Implementation of the proposed project would not result in a net increase in greenhouse gas emissions that could potentially conflict with the goals of AB 32 or result in a significant impact on the environment.	LCC	None required.	LCC
3.3 Hazards and Hazardous Materials			
Impact 3.3.1 Implementation of the proposed project would result in the routine transport, use, and disposal of hazardous materials during both construction and operation that could pose a potential hazard to the public and the environment. However, federal, state, and local regulations provide a comprehensive regulatory system for handling, using, and transporting hazardous materials in a manner that protects human health and the environment	LS	None required.	LS
Impact 3.3.2 Construction workers could be exposed to hazardous materials during site preparation. However, compliance with existing applicable worker health and safety laws and regulations would minimize potential for exposure.	LS	MM 3.3.2a The project applicant shall either update the existing facility's Construction Worker Site Health and Safety Plan or prepare a new plan to include the entire current project site and proposed site preparation and construction activities. The completed plan shall be implemented during all project construction activities. The plan shall address the potential for workers to be exposed to contaminated soils and shall provide specific measures to be implemented to ensure worker health and safety. These measures may include site controls, use of protective clothing, soil watering, hazard awareness training for workers, and/or emergency medical response procedures.	LS

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		Timing/Implementation: Prior to issuance of grading permits for the 18.5 acre expanded site Enforcement/Monitoring: City of Pittsburg Development Services Department/Department of Toxic Substances Control (DTSC)	
		MM 3.3.2b The project applicant shall comply with all relevant requirements of the Covenant to Restrict Use of Property, Environmental Restriction (Re: A limited portion of County of Contra Costa APN 073-200-021 UPI Pittsburg Facility Site L-A Property, DTSC site code number 520024), DOC-2010-0132574-00 recorded by the Contra Costa County Clerk-Recorder's office on July 1, 2010. Timing/Implementation: During Site Preparation and Construction Enforcement/Monitoring: City of Pittsburg Development Services Department/DTSC	
Impact 3.3.3 Construction and operation of the proposed project would not interfere with implementation of the City's Emergency Operations Plan (EOP).	LS	None required.	LS
Impact 3.3.4 Implementation of the proposed project, along with other proposed, planned, approved, and reasonably foreseeable projects in the area, would have a less than cumulatively considerable impacts related to hazards and hazardous materials.	LCC	None required.	LCC

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
3.4 Hydrology and Water Quality			
Impact 3.4.1 On-site drainage is treated by existing on-site water quality measures to minimize pollutant load. Wastewater generated on-site is treated at the Delta Diablo Sanitation District Wastewater Treatment Plant, which is in compliance with all applicable water quality standards and waste discharge requirements.	LS	None required.	LS
Impact 3.4.2 Implementation of the proposed project would not result in the depletion of groundwater supplies or interference with groundwater recharge.	LS	None required.	LS
Impact 3.4.3 Implementation of the proposed project would result in a slight increase in on-site stormwater runoff. However, the existing on-site drainage system has adequate capacity to accept, treat, and convey increased flows. In the case that the 3.5 acre area to the south is rerouted to the ditch, a 0.2 acre detention system would be constructed to not exceed the available capacity of the downstream ditch.	LS	None required.	LS
Impact 3.4.4 Construction activities could introduce pollutants and sediments into stormwater runoff on the project site, potentially degrading downstream surface drainages and groundwater.	LS	None required.	LS
Impact 3.4.5 Operation of the proposed project would introduce sediments and other contaminants typically associated with commercial development into stormwater runoff, potentially resulting in the degradation of downstream surface water and underlying groundwater quality.	LS	None required.	LS

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
Impact 3.4.6 A portion of the project site proposed for development is located within a flood zone. In addition, the project site is located in proximity to the Suisun Bay/Sacramento River Delta and may be at risk of flooding as a result of seiche/tsunami waves. However, compliance with existing City standards would minimize potential hazards.	LS	None required.	LS
Impact 3.4.7 The proposed project, in combination with approved, proposed, and other reasonably foreseeable projects in the cumulative setting area, would not contribute significantly to degradation of water quality in area surface drainages and groundwater supplies.	LCC	None required.	LCC
Impact 3.4.8 The proposed project, in combination with approved, proposed, and other reasonably foreseeable projects in the cumulative setting area, would place structures within a flood zone. However, compliance with existing City standards would minimize potential hazards.	LCC	None required.	LCC
3.5 Land Use			
Impact 3.5.1 The proposed project is consistent with the existing land use designation and zoning district for the site and requires a Use Permit.	LS	None required.	LS
Impact 3.5.2 The proposed project, in combination with other approved, proposed, and reasonably foreseeable projects in the cumulative study area, could conflict with the City's Zoning Ordinance.	LCC	None required.	LCC

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
3.6 Public Services and Utilities			
Impact 3.6.1.1 Implementation of the proposed project could result in an increased demand for fire protection services, requiring new or expanded CCCFPD facilities or equipment.	LS	None required.	LS
Impact 3.6.1.2 The project proposes modifications to the layout of the facilities and operations on the project site that may result in inadequate access for emergency vehicles and personnel in the event of a fire or other emergency situation.	LS	<i>None required.</i>	LS
Impact 3.6.1.3 The project would contribute to cumulative demand for fire protection and emergency medical services.	LCC	None required.	LCC
Impact 3.6.2.1 Implementation of the proposed project would substantially increase the facility's water demands. However, the City and its wholesale provider would have sufficient water supplies available to meet the project's demand.	LS	None required.	LS
Impact 3.6.2.2 The proposed project, in combination with other cumulative development, would increase demand for potable water.	LCC	None required.	LCC
Impact 3.6.3.1 The proposed project could exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.	LS	None required.	LS
Impact 3.6.3.2 Implementation of the proposed project could require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.	LS	None required.	LS

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
Impact 3.6.3.3 Implementation of the proposed project could result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	LS	None required.	LS
Impact 3.6.3.4 The proposed project, combined with other cumulative development, would increase demand for wastewater treatment facilities.	LCC	None required.	LCC
3.7 Transportation and Circulation			
Impact 3.7.1 Implementation of the proposed project would result in the degradation of operations at two study intersections.	S	MM 3.7.1a The proposed project shall contribute their fair share to implement the SR 4 widening project, which would result in improvements at the SR 4 Eastbound Ramps/Loveridge Road intersection that would increase capacity. These improvements include: • Convert the existing configuration from a "T" intersection to a four-leg intersection. • Modify eastbound approach from its current configuration which provides one shared left-turn/through lane and one right-turn lane to provide two left-turn lanes and one right-turn lane. • Modify southbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two left-turn lanes and two through lanes. • Modify northbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two through lanes and one right-turn lane.	SU

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		Timing/Implementation: Payment of fees shall be included as a condition of approval of a Conditional Use Permit Enforcement/Monitoring: City of Pittsburg Development Services Department MM 3.7.1b The proposed project shall contribute their fair share to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection: • Install a dedicated eastbound right-turn lane on Pittsburg-Antioch Highway. • Install a second westbound left-turn lane on Pittsburg-Antioch Highway. • Upgrade existing traffic signal equipment to accommodate the changed intersection lane configurations. Timing/Implementation: Payment of fees shall be included as a condition of approval of a Conditional Use Permit Enforcement/Monitoring: City of Pittsburg Development Services Department	
Impact 3.7.2 Operations at the Pittsburg-Antioch Highway/Loveridge Road intersection are projected to degrade with the addition of project traffic.	CC	MM 3.7.2 The project applicant shall pay the project's fair share of the cost to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection: • Install an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach. • Install a dedicated left-turn lane on the northbound Loveridge Road approach. • Convert the existing shared left-	CC SU

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		turn/through lane on the northbound Loveridge Road approach to be a through-only lane. • Modify signal phasing in the north/south direction from split phase to having protected left-turns. • Upgrade existing traffic signal equipment to accommodate the recommended intersection lane configurations. Timing/Implementation: Payment of fees shall be included as a condition of approval of a Conditional Use Permit Enforcement/Monitoring: City of Pittsburg Development Services Department	
Impact 3.8.1 Implementation of project-related activities could result in substantial adverse effects, either directly or through habitat modifications, to special-status species.	LS	MM 3.8.1a Burrowing Owl. Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction survey for burrowing owls on and adjacent to the project site. Surveys shall be conducted in accordance with the CDFS's <i>Staff Report on Burrowing Owl Mitigation (Staff Report)</i>, published March 7, 2012. Surveys shall take place no more than 30 days prior to construction and will establish the presence or absence of burrowing owl and/or habitat features and evaluate habitat use by owls. During the surveys, all burrows and burrowing owls will be identified and mapped. If burrowing owls are found during the breeding season (February 1-August 31), the project proponent shall avoid all nest sites for the remainder of the breeding season or while the nest site is occupied by adults or young. Avoidance measures will include	LS

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		establishment of a 250-foot no disturbance buffer zone surrounding the nest burrow. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1-January 31), the project proponent shall avoid the owls and the burrows they are using through establishment of a 160-foot protective buffer zone surrounding the active burrow. If avoidance is not possible, passive relocation of occupied burrows shall be implemented outside the breeding season. Owls should be excluded from burrows by installing 1-way doors in burrow entrances. These doors should be in place for no less than 48 hours prior to excavation and the project area shall be monitored daily by a qualified biologist for one week to confirm that the owl has abandoned the burrow. Timing/Implementation: Prior to and during construction activities Enforcement/Monitoring: City of Pittsburg Development Services Department MM 3.8.1b Swainson's Hawk. Prior to any ground disturbance that occurs during the nesting season (March 15-September 15), a qualified	

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		biologist will conduct a preconstruction survey no more than one month prior to construction, to determine if occupied Swainson's hawk nests are present within 1,000 feet of the project site. If occupied nests are documented, project-related activities within 1,000 feet of an occupied nest site shall be prohibited to prevent nest abandonment. Project-related activities can proceed normally if a qualified biologist determines that young have fledged prior to September 15. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Furthermore, if the active nest site is shielded from view and noise from the project site by other development, topography, or other features (including off-site features), the applicant can apply to the HCP/NCCP Implementing Entity for a waiver of this avoidance measure. Waivers must also be approved by the USFWS and CDFW. While the nest is occupied, project-related activities outside the 1,000 foot buffer can take place. Timing/Implementation: Prior to and during construction activities Enforcement/Monitoring: City of Pittsburg Development Services Department MM 3.8.1c Golden Eagle. Prior to any ground disturbance that occurs during the nesting season (January 1 – August 31), a qualified biologist shall conduct a preconstruction survey not more	

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		than one month prior to construction, to determine whether active golden eagle nests are present within 0.5 mile of the project site. If active nests are present within 0.5 mile of the project site, project-related activities within 0.5 mile of the nest is prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Project-related disturbance may proceed once a qualified biological monitor determines that the nest has failed or that the young birds have fledged. Timing/Implementation: Prior to and during construction activities Enforcement/Monitoring: City of Pittsburg Development Services Department MM 3.8.1d Non-covered Raptor Surveys. If clearing and/or construction activities will occur during the raptor nesting season (January 15–August 15), preconstruction surveys to identify active raptor nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, and a 500-foot buffer (if feasible). If active nest sites are identified within 500 feet of project activities, the applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid	

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		construction-related disturbances to nesting raptors. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 250 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 250 feet) of LOPs may be adjusted through consultation with the CDFW and/or East Contra Costa County HCP/NCCP Implementing Entity. Timing/Implementation: Prior to and during construction activities Enforcement/Monitoring: City of Pittsburg Planning Department MM 3.8.1e Nesting Bird Surveys. If clearing and/or construction activities will occur during the migratory bird nesting season (February 15–August 15), preconstruction surveys to identify active migratory bird nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, including a 200-foot buffer. If active nest sites are identified within 200 feet of project activities, the applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to migratory bird nesting activities. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and	

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
		construction) will not occur and will be imposed within 100 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 100 feet) of LOPs may be adjusted through consultation with the CDFW and/or East Contra Costa County HCP/NCCP Implementing Entity. Timing/Implementation: Prior to and during construction activities Enforcement/Monitoring: City of Pittsburg Planning Department	
Impact 3.8.2 Implementation of project-related activities may result in substantial adverse effects, either directly or through habitat modifications, to riparian habitat or sensitive natural communities.	LS	None required.	LS
Impact 3.8.3 Implementation of project-related activities would not result in substantial adverse effects to federally protected wetlands.	NI	None required.	NI
Impact 3.8.4 Implementation of project-related activities would not result in substantial adverse effects to wildlife movement.	NI	None required.	NI
Impact 3.8.5 The proposed project would not conflict with any policies, ordinances or plans, including the East Contra Costa County HCP/NCCP.	LS	Implement mitigation measures MM 3.8.1a through MM 3.8.1e .	LS
Impact 3.8.6 The proposed project, in combination with other reasonably foreseeable projects, could result in mortality and loss of habitat for special-status species and sensitive habitat. However, the ECCC HCP/NCCP addresses and mitigates regional biological resource impacts.	LCC	Implement mitigation measures MM 3.8.1a through MM 3.8.1e .	LCC

APPENDIX D.

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

The California Environmental Quality Act (CEQA) Guidelines, Section 15091(d), requires public agencies, as part of the certification of an environmental impact report, to adopt a mitigation monitoring and reporting program to ensure that changes made to the project as conditions of project approval to mitigate or avoid significant environmental effects are implemented. The Mitigation Monitoring and Reporting Program (MMRP) contained herein is intended to satisfy the requirements of CEQA as they relate to the Mt. Diablo Resource Recovery Park Project (project) in the City of Pittsburg (City). The MMRP is intended to be used by City staff and mitigation monitoring personnel during implementation of the project.

The MMRP will provide for monitoring of construction activities as necessary, in-the-field identification and resolution of environmental concerns, and reporting to City staff. The MMRP will consist of the components described below.

COMPLIANCE CHECKLIST

The table below contains a compliance-monitoring checklist that identifies the newly adopted mitigation measures, identification of agencies responsible for enforcement and monitoring, and timing of implementation.

MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION MONITORING PLAN

MM Number	Mitigation Measure	Timing/Implementation	Enforcement/Monitoring	Verification (date and signature)
MM 3.1.1	a. The proposed project shall implement BAAQMD-recommended best management practices for the control of fugitive dust including, but not limited to, the following: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved areas of vehicle travel) shall be watered two times per day. 2. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 3. All vehicle speeds on on-site unpaved areas shall be limited to a maximum of 15 miles per hour. 4. All parking areas, equipment pads, and driveways shall be paved as soon as possible. Equipment pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 5. Where applicable, vegetative ground cover (fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible. 6. A publicly visible sign shall be posted at the site entrance identifying the telephone number and name of the person to contact at the construction site regarding dust complaints. The phone number of the City contact person and/or department shall also be posted to ensure compliance. All complaints, including any necessary corrective actions implemented to address the complaint, shall be documented and responded to within	Measures shall be added as conditions of approval for all development permits	City of Pittsburg Development Services Department	

	48 hours. The designated City compliance monitoring staff and/or department shall be notified of all complaints received. b. The following measures shall be implemented to reduce construction-generated mobile-source emissions: 1. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by Title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points. 2. All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 3. Heavy-duty (i.e., 25 horsepower or greater) off-road construction equipment shall, at a minimum, meet Tier 3 emission standards. c. To the extent possible, construction of the proposed maintenance building shall utilize pre-coated building materials and low-VOC-content architectural coatings.			
MM 3.1.2a	The project applicant shall demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.	Prior to operation of new facilities	City of Pittsburg Development Services Department and Department of Environmental Affairs	
MM 3.1.2b	The operator shall provide a report on the throughput tonnage processed at the facility that would result in operational	Completion of the report shall	City of Pittsburg Development	

MITIGATION MONITORING AND REPORTING PROGRAM

	emissions of NO _x at 90 percent of the allowable threshold of 54 pounds per day and 10 tons per year (i.e., 48.6 pounds of NO _x per day or 9 tons of NO _x per year). The report shall be included as a condition of approval of the use permit and shall be completed by a qualified air quality professional within one year of approval of the use permit for the expansion. Project-generated tonnages and estimated emissions based on the report shall be evaluated commencing at the five-year state permit review and each year thereafter as tonnage reports are submitted to the City Department of Environmental Affairs and Development Services Department. Once the throughput tonnages reach the amount determined in the report to result in 48.6 pounds of NO _x daily or 9 or more tons of NO _x annually, the operator shall prepare and submit project-generated emissions reports, as described in mitigation measure MM 3.1.2c.	be a condition of approval of the use permit and shall be completed prior to issuance of the Solid Waste Facility Permit	Services Department and Department of Environmental Affairs	
MM 3.1.2c	Once the project receives a tonnage throughput resulting in 90 percent of assumed NO _x emissions (48.6 pounds of NO _x per day or 9 tons of NO _x per year) as indicated by annual tonnage reports submitted to the City's Department of Environmental Affairs and Development Services Department, the operator shall obtain the services of a qualified specialist, approved by the City Development Services Department in conjunction with the Department of Environmental Affairs, to prepare and submit an annual air quality report showing project-generated NO _x emissions. The annual emissions evaluation shall identify project-generated increases in emissions over those existing at the time of the approval of the use permit, any emission reduction strategies that have been implemented (i.e., use of cleaner equipment, etc.), and any emissions offsets or additional mitigation measures, as described in mitigation measure MM 3.1.2d, that will be implemented sufficient to achieve the threshold of 54 pounds of NO _x per day or 10 tons of NO _x per year. Emissions analyses shall be submitted to the City by April 1 of the following year. Upon the City's approval of the annual air quality report, documentation of any emissions offsets or additional mitigation strategies that have been implemented shall be provided to the City within 30	Annually as described	City of Pittsburgh Development Services Department and Department of Environmental Affairs	

	calendar days.			
MM 3.1.2d	Based on the information provided in the annual report described in mitigation measure MM 3.1.2c, the proposed project shall implement on-site control measures and/or purchase emissions offsets sufficient to limit net increases (as defined) in operational NO_x emissions to no more than 54 pounds per day or 10 tons of NO_x per year. Measures shall be implemented on an ongoing basis corresponding to increases in operational activities. Measures to be implemented to reduce operational NO_x emissions may include, but are not limited to, the following: • Use of alternatively fueled vehicles and off-road equipment. • Electrification of on-site equipment. • Reduction in the number of pieces of motorized equipment and/or hours of use. • Replacement/conversion of existing off-road equipment sufficient to meet, at a minimum, CARB's Tier 4i emission standards, or equivalent. Secure emission reduction credits (ERCs) to offset NO_x emissions per BAAQMD Regulations 2-2-215, 302, and 303.	Annually as described	City of Pittsburgh Development Services Department and Department of Environmental Affairs	
MM 3.3.2a	The project applicant shall either update the existing facility's Construction Worker Site Health and Safety Plan or prepare a new plan to include the entire current project site and proposed site preparation and construction activities. The completed plan shall be implemented during all project construction activities. The plan shall address the potential for workers to be exposed to contaminated soils and shall provide specific measures to be implemented to ensure worker health and safety. These measures may include site controls, use of protective clothing, soil watering, hazard awareness training for workers, and/or emergency medical response procedures.	Prior to issuance of grading permits for the 18.5 acre expanded site.	City of Pittsburgh Development Services Department	

MITIGATION MONITORING AND REPORTING PROGRAM

MM 3.3.2b	The project applicant shall comply with all relevant requirements of the <i>Covenant to Restrict Use of Property, Environmental Restriction (Re: A limited portion of County of Contra Costa APN 073-200-021 UPI Pittsburg Facility Site L-A Property, DTSC site code number 520024), DOC-2010-0132574-00 recorded by the Contra Costa County Clerk-Recorder's office on July 1, 2010.</i>	During Site Preparation and Construction	City of Pittsburg Development Services Department	
MM 3.7.1a	The proposed project shall contribute their fair share to implement the SR 4 widening project, which would result in improvements at the SR 4 Eastbound Ramps/Loveridge Road intersection that would increase capacity. These improvements include: • Convert the existing configuration from a "T" intersection to a four-leg intersection. • Modify eastbound approach from its current configuration which provides one shared left-turn/through lane and one right-turn lane to provide two left-turn lanes and one right-turn lane. • Modify southbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two left-turn lanes and two through lanes. • Modify northbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two through lanes and one right-turn lane.	Payment of fees shall be included as a condition of approval of a Conditional Use Permit	City of Pittsburg Development Services Department	
MM 3.7.1b	The proposed project shall contribute their fair share to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection: • Install a dedicated eastbound right-turn lane on Pittsburg-Antioch Highway.	Payment of fees shall be included as a condition of approval of a Conditional Use	City of Pittsburg Development Services Department	

	• Install a second westbound left-turn lane on Pittsburg-Antioch Highway. • Upgrade existing traffic signal equipment to accommodate the changed intersection lane configurations.	Permit		
MM 3.7.2	The project applicant shall pay the project's fair share of the cost to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection: • Install an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach. • Install a dedicated left-turn lane on the northbound Loveridge Road approach. • Convert the existing shared left-turn/through lane on the northbound Loveridge Road approach to be a through-only lane. • Modify signal phasing in the north/south direction from split phase to having protected left-turns. • Upgrade existing traffic signal equipment to accommodate the recommended intersection lane configurations.	Payment of fees shall be included as a condition of approval of a Conditional Use Permit	City of Pittsburg Development Services Department	
MM 3.8.1a	Burrowing Owl. Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction survey for burrowing owls on and adjacent to the project site. Surveys shall be conducted in accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report), published March 7, 2012. Surveys shall take place no more than 30 days prior to construction and will establish the presence or absence of burrowing owl and/or habitat features and evaluate habitat use by owls. During the surveys, all burrows and burrowing owls will be identified and mapped.	Prior to and during construction activities	City of Pittsburg Planning Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	If burrowing owls are found during the breeding season (February 1–August 31), the project applicant shall avoid all nest sites for the remainder of the breeding season or while the nest site is occupied by adults or young. Avoidance measures will include establishment of a 250-foot no disturbance buffer zone surrounding the nest burrow. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1–January 31), the project applicant shall avoid the owls and the burrows they are using through establishment of a 160-foot protective buffer zone surrounding the active burrow. If avoidance is not possible, passive relocation of occupied burrows shall be implemented outside the breeding season. Owls should be excluded from burrows by installing one-way doors in burrow entrances. These doors should be in place for no less than 48 hours prior to excavation, and the project area shall be monitored daily by a qualified biologist for one week to confirm that the owl has abandoned the burrow.			
MM 3.8.1b	Swainson's Hawk. Prior to any ground disturbance that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than one month prior to construction to determine if occupied Swainson's hawk nests are present within 1,000 feet of the project site. If occupied nests are documented, project-related activities within 1,000 feet of an occupied nest site shall be prohibited to prevent nest abandonment. Project-related activities can proceed normally if a qualified biologist determines that young	Prior to and during construction activities	City of Pittsburgh Planning Department	

	have fledged prior to September 15. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Furthermore, if the active nest site is shielded from view and noise from the project site by other development, topography, or other features (including off-site features), the project applicant can apply to the HCP/NCCP Implementing Entity for a waiver of this avoidance measure. Waivers must also be approved by the USFWS and the CDFW. While the nest is occupied, project-related activities outside the 1,000-foot buffer can take place.			
MM 3.8.1c	Golden Eagle. Prior to any ground disturbance that occurs during the nesting season (January 1–August 31), a qualified biologist shall conduct a preconstruction survey not more than one month prior to construction to determine whether active golden eagle nests are present within 0.5 mile of the project site. If active nests are present within 0.5 mile of the project site, project-related activities within 0.5 mile of the nest are prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Project-related disturbance may proceed once a qualified biological monitor determines that the nest has failed or that the young birds have fledged.	Prior to and during construction activities	City of Pittsburgh Planning Department	
MM 3.8.1d	Non-Covered Raptor Surveys. If clearing and/or construction activities will occur during the raptor nesting season (January 15–August 15), preconstruction surveys to identify active raptor nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed	Prior to and during construction activities	City of Pittsburgh Planning Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	impact area and a 500-foot buffer (if feasible). If active nest sites are identified within 500 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to nesting raptors. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 250 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 250 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.			
MM 3.8.1e	Nesting Bird Surveys. If clearing and/or construction activities will occur during the migratory bird nesting season (February 15–August 15), preconstruction surveys to identify active migratory bird nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, including a 200-foot buffer. If active nest sites are identified within 200 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to migratory bird nesting activities. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 100 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 100 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.	Prior to and during construction activities	City of Pittsburg Planning Department	

APPENDIX E.
BIOLOGICAL RESOURCES ANALYSIS
MONK & ASSOCIATES, INC.
JULY 30, 2020

**BIOLOGICAL RESOURCES
ANALYSIS
MT DIABLO RESOURCES RECOVERY PROJECT
CITY OF PITTSBURG, CALIFORNIA
APN: 073-200-013**

July 30, 2020

Prepared for

Mt. Diablo Resource Recovery
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FIGURES

(At Back of Report)

Figure 1. Regional Map of the Mt Diablo Resources Recovery Project Site.

Figure 2. Location Map of the Mt Diablo Resources Recovery Project Site.

Figure 3. Aerial Photograph of the Mt Diablo Resources Recovery Project Site.

Figure 4A. Known CNDDDB Records for Special-Status Plant Species Within 3 Miles of the Mt Diablo Resources Recovery Project Site.

Figure 4B. Known CNDDDB Records for Special-Status Wildlife Species Within 3 Miles of the Mt Diablo Resources Recovery Project Site.

TABLES

(At Back of Report)

Table 1. Plant Species Observed on the Mt Diablo Resources Recovery Project Site.

Table 2. Wildlife Species Observed on the Mt Diablo Resources Recovery Project Site.

Table 3. Special-Status Plant Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site.

Table 4. Special-Status Wildlife Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site.

ATTACHMENTS

(At Back of Report)

Attachment A. Photographs of Kirker Creek

Attachment B. Site Plan. April 30, 2020 prepared by JRMA Architects and Engineers.

SHEETS

(At Back of Report)

Sheet 1. Draft Aquatic Resources Delineation Map. Prepared by M&A on July 6, 2020.

1. INTRODUCTION AND PROJECT BACKGROUND

Monk & Associates, Inc. (M&A) has prepared a biological resources analysis report for the proposed Mt. Diablo Resource Recovery Project site located at 1600 Loveridge Road in the City of Pittsburg, Contra Costa County, California (hereinafter referred to as the project site).

The purpose of our analysis is to provide a description of existing biological resources on the project site and to identify potentially significant impacts that could occur to sensitive biological resources from the construction of a proposed vehicle maintenance building and associated entrance road.

Biological resources include common plant and animal species, and special-status plants and animals as designated by the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), National Marine Fisheries Service (NMFS), and other resource organizations including the California Native Plant Society (CNPS). Biological resources also include waters of the United States and State, as regulated by the U.S. Army Corps of Engineers (Corps), California Regional Water Quality Control Board (RWQCB), and the CDFW.

This biological resource analysis includes identification of “potentially significant” and “significant impacts” as defined by the California Environmental Quality Act (CEQA) that could occur to sensitive biological resources. Mitigation measures have been developed for all identified “potentially significant” and “significant” impacts, and upon implementation would reduce the effects of such impacts to levels regarded as less than significant pursuant to the CEQA.

2. SETTING/PROJECT SITE DESCRIPTION

The approximately 4-acre project site is located at 1600 Loveridge Road in the City of Pittsburg, Contra Costa County, California, (Figures 1 and 2). The project site is bordered to the east by Loveridge Road, to the south by the Pittsburg-Antioch Highway, to the west by a field of ruderal herbaceous vegetation, with industrial development located further west. The existing Mt. Diablo Resource Recovery Center is located directly to the north of the project site at 1300 Loveridge Road.

The northern portion of project site is entirely disturbed by gravel impregnated fill material; no natural substrate remains. A building once occupied the approximate center of the project site. A recycled-water tank used by the recycling center trucks for dust control is located in the former building location. In each corner of the parking lot there is a man-made, gravel-impregnated depression in the ground associated with past trash collection. A solar panel is located in the southeastern corner of the project site.

Running along the southern project site boundary is a channelized reach of Kirker Creek. Kirker Creek is mapped on the U.S. Geological Survey (USGS) 7.5 minute Antioch North quadrangle as an intermittent drainage; this creek receives enough urban runoff that the reach along the project site boundary is 100 percent vegetated with wetland vegetation. This creek flows west to east into Dowest Slough to New York Slough and down into Suisun Bay. The Pittsburg-Antioch Highway runs directly parallel with Kirker Creek south of the project site.

3. PROPOSED PROJECT

At this time, the proposed project is the construction of a new road extending from Loveridge Road. This entrance from Loveridge continues to a parking lot for a proposed vehicle maintenance building that will be constructed on the project site that will be approximately 10,500 square feet. From the proposed vehicle maintenance building, the road continues along the northern boundary of the top of bank of Kirker Creek to the west, turns northern on the eastern boundary of the project site, and then continues north to the 1300 Loveridge Road property. There are future intended phases of this project.

4. ANALYSIS METHODS

Prior to preparing this biological resource analysis report, M&A researched the most recent version of the CDFW Natural Diversity Database, RareFind 5 application (CNDDDB 2020) for historical and recent records of special-status plant and animal species (that is, threatened, endangered, rare) known to occur within 3 miles of the project site. All special-status species records were compiled in tables. M&A reviewed all known records and any available biological survey reports to determine if special-status species could occur on the project site or within an area of effect of the development project.

4.1 M&A Site Surveys

M&A biologists, Ms. Sarah Lynch and Ms. Monica Matthews, conducted a survey of the project site on June 23, 2020. M&A's site evaluation included a thorough examination of the site to document potential habitats on or adjacent to the project site that could support special-status species and/or waters of the U.S. and State. The survey involved searching all habitats on the site and recording all plant and wildlife species observed. M&A cross-referenced the habitats found on the project site against the habitat requirements of local or regionally known special-status species to determine if the proposed project could directly or indirectly impact such species.

4.2 Special-Status Plant Surveys

M&A biologists Ms. Lynch and Ms. Matthews conducted a special-status (that is, rare, threatened, or endangered) plant survey on June 23, 2020, on the project site for late-flowering species such as tarweeds (*Centromadia*, *Hemizonia*, and *Blepharizonia* spp.).

4.3 Wetland Delineation

On June 23, 2020, M&A biologists, Ms. Lynch and Ms. Matthews, conducted a wetland delineation of the project site using criteria prescribed in the Corps' 1987 Wetland Delineation Manual (Corps 1987) and the Corps' Regional Supplement for the Arid West Region (Corps 2008). The draft wetland delineation map is provided as Sheet 1 (attached).

5. PROJECT SITE ANALYSIS

5.1 Project Site Topography and Hydrology

The majority of the project site is level, with the exception of the man-made, gravel impregnated depressions in the project site corners.

Kirker Creek is an intermittent drainage on the USGS Antioch North quadrangle that runs along the southern project site boundary (Figure 3). This creek is channelized with steep banks that are reinforced with rock rip-rap along the project site's reach. A hard-packed gravel flood control road runs along the northern creek bank. This creek exits the project site's southeastern corner via twin 12-foot diameter corrugated metal pipes that discharge water under Loveridge Road when the creek is flowing, carrying water northeast to Dowest Slough, to New York Slough and out to the San Joaquin River and eventually to Suisun Bay.

5.2 Plant Communities and Associated Wildlife Habitats

A complete list of plant species observed on the project site is presented in Table 1. Nomenclature used for plant names follows *The Jepson Manual, 2nd edition* (Baldwin 2012) and changes made to this manual as published on the Jepson Interchange Project website. Table 2 is a list of wildlife species observed on the project site. Nomenclature for wildlife follows CDFW's *Complete list of amphibian, reptile, bird, and mammal species in California* (CDFW 2016) and any changes made to species nomenclature as published in scientific journals since the publication of CDFW's list.

The gravel-impregnated project site just north of Kirker Creek supports an extremely sparse covering of ruderal (weedy) herbaceous plants. Kirker Creek supports riparian vegetation with a broken riparian canopy (Sheet 1). A row of blue gum trees (*Eucalyptus* sp.) grow along the northern project site boundary. The three plant communities observed on the project site are discussed below.

5.2.1 RUDERAL HERBACEOUS

Most of the project site is barren due to the hard-pack graveled surface. Where it is vegetated though outside of the creek channel it is dominated by ruderal (weedy) herbaceous vegetation such as black mustard (*Brassica nigra*), Medusahead (*Elymus caput-medusae*), prickly lettuce (*Lactuca serriola*), bristly ox tongue (*Helminthotheca echioides*), willow herb (*Epilobium brachycarpum*), and horseweed (*Erigeron canadensis*). There is also one beach sheoak (*Casuarina equisetifolia*) and one Mexican fan palm (*Washingtonia robusta*) tree located in the southeastern project site corner north of Kirker Creek.

5.2.2 KIRKER CREEK/WETLAND

Kirker Creek, an intermittent drainage with wetland vegetation, runs along the project site's southern boundary. This creek receives urban runoff contributions in addition to traditional seasonal flows. As such, it supports both emergent wetland vegetation and riparian vegetation. The riparian canopy is broken and dominated by Fremont cottonwoods (*Populus fremontii*), red willows (*Salix laevigata*), and castor bean (*Ricinus communis*) trees, with an occasional black walnut (*Juglans nigra*), Oregon ash (*Fraxinus latifolia*), and blue gum (*Eucalyptus* sp.) tree. The

channel is one hundred percent (100%) vegetated with wetland vegetation including knotgrass (*Paspalum distichum*), barnyard grass (*Echinochloa crus-galli*), cocklebur (*Xanthium strumarium*), curly dock (*Rumex crispus*), and mugwort (*Artemisia douglasiana*). Additional species that were present included Harding grass (*Phalaris aquatica*), smilo grass (*Stipa miliacea*), and umbrella sedge (*Cyperus eragrostis*). The creek's banks within the project site boundaries are heavily rock rip-rapped and do not support herbaceous or woody vegetation. Kirker Creek is typical of an urban creek with its uniform, channelized design and its accumulation of urban debris.

5.3 Wildlife Corridors

Wildlife corridors are linear and/or regional habitats that provide connectivity to other natural vegetation communities within a landscape fractured by urbanization and other development. Wildlife corridors have several functions: 1) they provide avenues along which wide-ranging animals can travel, migrate, and breed, allowing genetic interchange to occur; 2) populations can move in response to environmental changes and natural disasters; and 3) individuals can recolonize habitats from which populations have been locally extirpated (Beier and Loe 1992). All three of these functions can be met if both regional and local wildlife corridors are accessible to wildlife. Regional wildlife corridors provide foraging, breeding, and retreat areas for migrating, dispersing, immigrating, and emigrating wildlife populations. Local wildlife corridors also provide access routes to food, cover, and water resources within restricted habitats.

The proposed project will not interfere with the movement of native wildlife. Kirker Creek at the southern project site boundary provides a valuable east/west wildlife corridor with suitable cover, foraging, water resources, and migration pathways that lead to other natural habitats. This broad creek channel allows medium-sized mammals such as racoons (*Procyon lotor*), Columbian black-tailed deer (*Odocoileus hemionus columbianus*), striped skunks (*Mephitis mephitis*), among others, to move through the area without getting struck by cars or going through development. The project as currently proposed would not impact wildlife movement corridors since, as mentioned, there are no impacts to Kirker Creek currently proposed with this project.

Kirker Creek provides low-quality avian habitat that is used seasonally by migrants and year-round by resident birds; it is low-quality avian habitat because it is heavily disturbed by the constant traffic on both Loveridge Road and the Pittsburg-Antioch Highway. These functions will also remain unaffected as nesting bird surveys will be conducted prior to commencement of construction.

In addition, prior to the commencement of construction, orange construction fence will be installed along the norther perimeter of Kirker Creek to prevent mammals migrating along this creek from entering the project site. Kirker Creek is the only wildlife corridor in proximity to the project site and this function will be unaffected by the proposed development project and will continue to serve its function as a wildlife corridor.

6. SPECIAL-STATUS SPECIES

Special-status species are those plants and animals that meet the definition of endangered, rare, or threatened under the CEQA (14 CCR §15380) and those species protected pursuant to the California or Federal Endangered Species Acts (CESA and FESA, respectively). Potential impacts to special-status species known from the area of the project site are assessed below.

6.1 Potential Special-Status Plant Species on the Project Site

Figure 4A provides a graphical illustration of the known records for special-status plant species within three miles of the project site and helps readers visually understand the number of sensitive species that occur near the project site. According to the CDFW's CNDDDB, a total of 12 special-status plant species are known to occur in the region of the project site (Table 3). However, all of these plants occur in specialized habitats that do not occur on the project site such as marshes and swamps, valley and foothill grassland, dune, and scrub/chaparral. The project site outside of Kirker Creek consists of hard-packed, gravel surfaces that do not support native or natural vegetation communities. Additionally, Kirker Creek in the region of the project site is an urban channel, 100% vegetated with non-native grasses and forbs (broad-leaved plants) and does not provide suitable habitat for any of the plants listed in Table 3. Therefore, M&A believes that the project site, with its absence of natural habitats, does not provide "suitable" habitat for the special-status plant species known to occur within three miles of the project site. M&A conducted two surveys of the project site: one in June and one in July 2020, and no late-blooming special-status plants were observed on the project site. Due to an absence of suitable habitats, none are expected to occur.

6.2 Special-Status Wildlife Species

Figure 4B provides a graphical illustration of the known records for special-status wildlife species within three miles of the project site and helps readers visually understand the number of sensitive species that occur in the vicinity of the project site. According to the CDFW's CNDDDB, a total of 19 special-status wildlife species are known to occur in the region of the project site (Table 4). Of these 19 species, M&A believes that only one of these wildlife species has any potential to occur on or adjacent to the project site: the western red bat (*Lasiurus blossevillii*). While the highly disturbed project site and the urban reach of Kirker Creek do not provide habitat for any other special-status species, due to the sensitivity of one federally listed species known from the county, the California red-legged frog (*Rana draytonii*), this species is discussed further below. An explanation for dismissal of the remaining 16 wildlife species is provided in Table 4.

6.2.1 CALIFORNIA RED-LEGGED FROG

The California red-legged frog is a federally listed threatened species and California species of special concern. This species occurs in lowlands and foothills in deep pools and streams, requiring 11-20 weeks of permanent water for larval development. Water typically must be present through the month of July or August for larvae to reach metamorphosis. The hard-packed, formerly developed surfaces of the project site and the seasonally dry reach of Kirker Creek that runs along the project site's southern boundary do not meet these criteria for suitable California red-legged frog habitat; however, the possibility of this creek being used as seasonal

dispersal corridor during the winter months could not be dismissed from possibility without further research.

A review of the CNDDDB RareFind records revealed that the closest CNDDDB record for this frog to the project site is located 1.9 miles southeast of the project site in Markley Canyon Creek (Occurrence No. 531). In July 2002, 4 adult California red-legged frogs were observed in this perennial creek. This record is south of Highway 4 from the project site (Figure 4B). There are no records for California red-legged frog north of Highway 4 or in the same watershed as the project site. M&A has conducted numerous California red-legged frog surveys in Kirker Creek for the City of Pittsburg as part of their creek clean-up/Streambed Alteration Agreement requirements as authorized by the CDFW pursuant to Section 1602 of California Fish and Game Code. During multiple surveys of Kirker Creek conducted in 2000, 2001, 2002, and 2003, in the vicinity of the project site (that is, on the north side of Highway 4 and within a mile or two of the current project site), no California red-legged frogs were ever observed.

On June 23, 2020, July 2, 2020, and July 27, 2020, M&A federally permitted California red-legged frog biologist, Ms. Lynch and herpetologist, Ms. Matthews, conducted surveys of Kirker Creek to assess the likelihood of California red-legged frogs using Kirker Creek as dispersal habitat, and to search for adult California red-legged frogs. On all three dates that the creek was surveyed, the portion of Kirker Creek located on the project site was entirely dry, with no pools of water, no running water and no saturated soil, and thus, no breeding or dispersal habitat. During the July 27, 2020 survey, M&A also walked well outside the project site boundaries, searching upstream approximately 900 feet and downstream of the project site approximately 300 feet looking for pooled water and frogs. Neither was found. No amphibians of any kind were observed.

The portion of Kirker Creek that is on the project site and downstream of the project site is heavily disturbed by homeless activity, including an active homeless encampment that has resulted in the accumulation of large amounts of clothing, furniture, and bedding debris in the creek (M&A pers. observations and pers. comm. with Bob Hammons of Mt. Diablo Resource Recovery) (see also Attachment A, photographs of Kirker Creek). Based on M&A's past surveys in Kirker Creek with negative findings, and given the lack of water noted in Kirker Creek within the project site boundaries and well up and downstream of the project site, and the amount of human disturbance in the creek, M&A has concluded that Kirker Creek in the vicinity does not provide suitable California red-legged frog breeding, larval development habitat or dispersal habitat. No impacts to the California red-legged frog are expected from project implementation.

6.2.2 SPECIAL-STATUS BATS

The western red bat is a California species of special concern (Pierson 2006). It has no federal status. This bat roosts primarily in trees, 2 to 40 feet above the ground, from sea level to approximately 7,000 feet in elevation. It prefers habitat edges and mosaics with trees that are protected from above and open below with open areas for foraging.

The closest CNDDDB record for this species has an unknown exact location. It is noted that on June 24, 1998, in the city of Antioch, California, western red bats were observed somewhere in

the city (CNDDDB Occurrence No. 66). This is the only occurrence of this species in all of Contra Costa County.

The only potential bat roosting habitat on the project site are the blue gum eucalyptus trees along the northern boundary and the riparian trees along Kirker Creek. A focused survey for bat roosts and maternity sites should be conducted prior to any project site tree removal or disturbance. This would prevent potential impacts to roosting bats.

7. REGULATORY FRAMEWORK FOR NATIVE WILDLIFE, FISH, AND PLANTS

This section provides a discussion of the laws and regulations that are in place to protect native wildlife and plants. Under each law we discuss their pertinence to the project site.

7.1 Federal Endangered Species Act (FESA)

The FESA forms the basis for the federal protection of threatened or endangered plants, insects, fish and wildlife. Responsible Agency FESA gives regulatory authority to the USFWS for federally-listed terrestrial species and non-anadromous fish. The National Marine Fisheries Service (NMFS) has regulatory authority over federally-listed marine mammals and anadromous fish. FESA contains four main elements, they are as follows:

Section 4 (16 USCA §1533): Species listing, Critical Habitat Designation, and Recovery Planning: outlines the procedure for listing endangered plants and wildlife.

Section 7 (§1536): Federal Consultation Requirement: imposes limits on the actions of federal agencies that might impact listed species.

Section 9 (§1538): Prohibition on Take: prohibits the "taking" of a listed species by anyone, including private individuals, and State and local agencies.

Section 10: Exceptions to the Take Prohibition: non-federal agencies can obtain an incidental take permit through approval of a HCP.

In the case of saltwater fish and other marine organisms, the requirements of FESA are administered by the NMFS. The USFWS enforces all other cases. Below, Sections 9, 7, and 10 of FESA are discussed since they are the sections most relevant to the proposed project.

Section 9 of FESA as amended, prohibits the "take" of any fish or wildlife species listed under FESA as endangered. Under federal regulation, "take" of fish or wildlife species listed as threatened is also prohibited unless otherwise specifically authorized by regulation. "Take," as defined by FESA, means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harm" includes not only the direct taking of a species itself, but the destruction or modification of the species' habitat resulting in the potential injury of the species. As such, "harm" is further defined to mean "an act which actually kills or injures wildlife; such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering" (50 CFR 17.3). A December 2001 decision by the 9th

Circuit Court of Appeals (Arizona Cattle Growers' Association, Jeff Menges, vs. the U.S. Fish and Wildlife Service and Bureau of Land Management, and the Southwest Center for Biological Diversity) ruled that the USFWS must show that a threatened or endangered species is present on a project site and that it would be taken by the project activities. According to this ruling, the USFWS can no longer require mitigation based on the probability that the species could use the site; rather, they must show that it is actually present.

Section 9 applies to any person, corporation, federal agency, or any local or State agency. If "take" of a listed species is necessary to complete an otherwise lawful activity, this triggers the need to obtain an "incidental take permit" either through a Section 7 Consultation as discussed further below (for federal actions or private actions that are permitted or funded by a federal agency such as the Corps), or through Section 10 of FESA which requires preparation of a HCP (for state and local agencies, or individuals, and projects without a federal "nexus"; for example, projects that do not need a Corps permit).

Section 7(a)(2) of the Act requires that each federal agency consult with the USFWS to ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat for listed species. Critical habitat designations mean: (1) specific areas within a geographic region currently occupied by a listed species, on which are found those physical or biological features that are essential to the conservation of a listed species and that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a listed species that are determined essential for the conservation of the species.

The Section 7 consultation process only applies to actions taken by federal agencies that are considering authorizing discretionary projects. Section 7 is by and between the NMFS and/or the USFWS and the federal agency contemplating a discretionary approval (that is, the "federal nexus agency," for example, the Corps or the Federal Highway Administration). Private parties, cities, counties, etc. (i.e., applicants) may participate in the Section 7 consultation at the discretion of the federal agencies conducting the Section 7 consultation. The Section 7 consultation process is triggered by a determination of the "action agency" – that is, the federal agency that is carrying out, funding, or approving a project - that the project "may affect" a listed species or critical habitat. If an action is likely to adversely affect a listed species or designated critical habitat, formal consultation between the nexus agency and the USFWS/NMFS is required. As part of the formal consultation, the USFWS/NMFS may resolve any issues informally with the nexus agency or may prepare a formal Biological Opinion assessing whether the proposed action would be likely to result in "jeopardy" to a listed species or if it could adversely modify designated critical habitat. If the USFWS/NMFS prepares a Biological Opinion, it will contain either a "jeopardy" or "non-jeopardy" decision. If the USFWS/NMFS concludes that a proposed project would result in adverse modification of critical habitat or would jeopardize the continued existence of a federally-listed species (that is, it will issue a jeopardy decision), the nexus federal agency would be most unlikely to authorize its discretionary permit. If the USFWS/NMFS prepares a "non-jeopardy" Biological Opinion, the nexus federal agency may authorize the discretionary permit making all conditions of the

Biological Opinion conditions of its discretionary permit. A non-jeopardy Biological Opinion constitutes an “incidental take” permit that allows applicants to “take” federally-listed species while otherwise carrying out legally sanctioned projects.

For non-federal entities, for example private parties, cities, counties that are considering a discretionary permit, Section 10 provides the mechanism for obtaining take authorization. Under Section 10 of FESA, for the applicant to obtain an "incidental take permit," the applicant is required to submit a "conservation plan" to the USFWS or NMFS that specifies the impacts that are likely to result to federally-listed species, and the measures the applicant will undertake to minimize and mitigate such impacts, and the funding that will be available to implement those steps. Conservation plans under FESA have come to be known as "habitat conservation plans" or "HCPs" for short. The terms incidental take permit, Section 10 permit, and Section 10(a)(1)(B) permit are used interchangeably by the USFWS. Section 10(a)(2)(B) of FESA provides statutory criteria that must be satisfied before an incidental take permit can be issued.

7.1.1 APPLICABILITY TO THE PROPOSED PROJECT

The project site is a highly disturbed parcel that does not support any natural or naturalized habitats that could support federally-listed plants, wildlife, or fish. Kirker Creek is located on the southern project site boundary and provides channelized wetland habitat. M&A considered the possibility that the federally listed California red-legged frog could use this creek. However, after M&A's thorough database research, a review of our past years of survey results in Kirker Creek, and our recent surveys of the Kirker Creek channel, M&A has determined that Kirker Creek does not function as suitable breeding habitat and does not currently provide dispersal habitat due to an absence of California red-legged frogs in this watershed and continual human disturbance in the creek.

7.2 Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended in 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989) makes it unlawful to “take” (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young. Migratory birds include geese, ducks, shorebirds, raptors, songbirds, wading birds, seabirds, and passerine birds (such as warblers, flycatchers, swallows, etc.).

Birds of prey such as the white-tailed kite, Coopers hawk (*Accipiter cooperii*), red-tailed hawk (*Buteo jamaicensis*), and red-shouldered hawk (*Buteo lineatus*), could nest on or immediately adjacent to the project site. Similarly, many common passerine bird species could nest on or immediately adjacent to the project site. All raptors (birds of prey) are subject to the Migratory Bird Treaty Act. Also, common songbirds and wading birds are also protected pursuant to this Act.

7.2.1 APPLICABILITY TO THE PROPOSED PROJECT

Prior to development of the project site, preconstruction surveys would have to be conducted for nesting birds if work would be conducted during the nesting season (February 1 through August 31) to ensure that there is no direct take of these birds, including their eggs or young. As long as

there is no direct mortality to species protected pursuant to this Act caused by development of the project site, there should be no constraints. While adult birds can typically fly out of harm's way, nesting birds, their eggs, and young are more prone to being impacted by construction projects.

To comply with the Migratory Bird Treaty Act, all active nest sites would have to be avoided while birds were nesting. If nesting birds are found, provided it is not a golden eagle nest (not likely possible), the protective buffer could be removed after the young have fledged and reached independence of the nest site, and development of the project site could commence as otherwise planned. M&A believes there is a moderate chance for a bird to nest in the eucalyptus trees on the project site or in the riparian vegetation along Kirker Creek. If construction was started before February 1 or after August 31, there would be no requirements for nesting birds.

7.3 California Endangered Species Act (CESA)

In 1984, California legislated the CESA (Fish and Game Code §2050). The basic policy of CESA is to conserve and enhance endangered species and their habitats. State agencies will not approve private or public projects under their jurisdiction that would impact threatened or endangered species if reasonable and prudent alternatives are available. Because CESA does not have a provision for "harm" (see discussion of FESA, above), CDFW considerations pursuant to CESA are limited to those actions that would result in the direct take (killing) of a listed species.

If proposed projects would result in take of a state-listed species, a project applicant may secure an "incidental take" permit pursuant to §2081 of the Fish and Game Code CDFW will issue an incidental take permit only if:

- 1) The authorized take is incidental to an otherwise lawful activity;
- 2) the impacts of the authorized take are minimized and fully mitigated;
- 3) measures required to minimize and fully mitigate the impacts of the authorized take:
 - a) are roughly proportional in extent to the impact of the taking on the species;
 - b) maintain the project applicant's objectives to the greatest extent possible; and,
 - c) capable of successful implementation; and,
- 4) adequate funding is provided to implement the required minimization and mitigation measures and to monitor compliance with, and the effectiveness of, the measures.

If an applicant is preparing a HCP as part of the federal 10(a) permit process, the HCP might be incorporated into the §2081 permit if it meets the substantive criteria of §2081(b). To ensure that an HCP meets the mitigation and monitoring standards in Section 2081(b), an applicant should involve CDFW staff in development of the HCP. If a final Biological Opinion (federal action) has been issued for the project pursuant to Section 7 of the FESA, it might also be incorporated into the §2081 permit if it meets the standards of §2081(b).

No §2081 permit may authorize the take of a species for which the Legislature has imposed strict prohibitions on all forms of “take.” These species are listed in several statutes that identify “fully protected” species and “specified birds.” See Fish and Game Code §§ 3505, 3511, 4700, 5050, 5515, and 5517. If a project is planned in an area where a “fully protected” species or a “specified bird” occurs, an applicant must design the project to avoid all take.

Fish and Game Code §2081 allows an applicant who has obtained a “non-jeopardy” federal Biological Opinion pursuant to Section 7 of the FESA, or who has received a federal 10(a) permit (federal incidental take permit) pursuant to the FESA, to submit the federal opinion or permit to CDFW for a determination as to whether the federal document is “consistent” with CESA. If after 30 days CDFW determines that the federal incidental take permit is consistent with state law, and that all state-listed species under consideration have been considered in the federal Biological Opinion, then no further permit or consultation is required under CESA for the project. However, if CDFW determines that the federal opinion or permit is not consistent with CESA, or that there are state-listed species that were not considered in the federal Biological Opinion, then the applicant must apply for a state CESA permit under Section 2081(b). Section 2081(b) is of no use if an affected species is state-listed, but not federally-listed.

7.3.1 APPLICABILITY TO THE PROPOSED PROJECT

Kirker Creek is an intermittent creek that is dry in the summer months. Hence, the project site does not provide fisheries habitat. There would be no impacts to state-listed from project implementation. No suitable habitat for state-listed plant species occurs on the project site; consequently, no state-listed plant species would likely be impacted by proposed development of the project site (Table 3). There is also no suitable habitat for any state-listed wildlife species; therefore, no state-listed wildlife species would likely be impacted by proposed development of the project site (Table 4).

7.4 California Fish and Game Code § 3503, 3503.5, 3511, and 3513

California Fish and Game Code §3503, 3503.5, 3511, and 3513 prohibit the “take, possession, or destruction of birds, their nests or eggs.” Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered “take.” All raptors (that is, hawks, eagles, owls), their nests, eggs, and young are protected under California Fish and Game Code (§3503.5). Additionally, “fully protected” birds, such as the white-tailed kite, are protected under California Fish and Game Code (§3511). “Fully protected” birds may not be taken or possessed (that is, kept in captivity) at any time.

7.4.1 APPLICABILITY TO THE PROPOSED PROJECT

Tree nesting raptors that are known to nest in the region of the project site include white-tailed kite (*Elanus caeruleus*), barn owl (*Tyto alba*), red-tailed hawk (*Buteo jamaicensis*), and red-shouldered hawk (*Buteo lineatus*), among others. It should be noted that although there is a riparian canopy along Kirker Creek, none of the trees appear to be large enough to physically support a raptor nest and thus, it would be unlikely that the trees in the riparian corridor along Kirker Creek would be used as raptor nesting trees. Similarly, the blue gum trees on the project

site are not large enough at this time to support nesting raptors. However, passerine birds (perching birds) such as finches, mockingbird, scrub jays, etc. would possibly nest in these trees or along Kirker Creek. To ensure that nesting birds are not impacted by construction activity, a preconstruction nesting survey would have to be conducted for nesting birds on the project site and within a zone of disturbance if work would take place between February 1 and August 31 to ensure that there is no direct take of these birds, including their eggs or young, during development of the project site. Any active nests that are found during preconstruction surveys would have to be avoided by the proposed project. Suitable non-disturbance buffers would be established around nest sites until the nesting cycle is complete. Once complete there would be no further impediments to development. The size of the non-disturbance buffer would have to be determined by a qualified biologist. See the Impacts and Mitigations section for details.

8. REGULATORY REQUIREMENTS FOR WATERS OF THE U.S./STATE

8.1 U.S. Army Corps of Engineers Jurisdiction and General Permitting

8.1.1 SECTION 404 OF THE CLEAN WATER ACT

Congress enacted the Clean Water Act “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters” (33 U.S.C. §1251(a)). Pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), the U.S. Army Corps of Engineers (Corps) regulates the disposal of dredged or fill material into “waters of the United States” (33 CFR Parts 328 through 330). This requires project applicants to obtain authorization from the Corps prior to discharging dredged or fill materials into any water of the United States.

8.1.1.1 Navigable Waters Protection Rule

On April 21, 2020, the U.S. Environmental Protection Agency (EPA) and the Corps (together, “the agencies”) published the Navigable Waters Protection Rule re-defining the scope of waters subject to federal regulation under the Clean Water Act (CWA or the Act), in light of the U.S. Supreme Court cases in *United States v. Riverside Bayview Homes (Riverside Bayview)*, *Solid Waste Agency of Northern Cook County v. United States (SWANCC)*, and *Rapanos v. United States (Rapanos)*, and consistent with Executive Order 13778, signed on February 28, 2017, entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” This Final Rule became effective on June 22, 2020 (Corps 2020).

In this final rule, the agencies interpret the term “waters of the United States” to encompass:

1. The territorial seas and traditional navigable waters;
2. perennial and intermittent tributaries that contribute surface water flow to such waters;
3. certain lakes, ponds, and impoundments of jurisdictional waters; and,
4. wetlands adjacent to other jurisdictional waters.

Paragraph (a) of the final rule identifies four categories of waters that are “waters of the United States.” These waters are referred to as “jurisdictional.”

Section 404 jurisdiction in "other waters" such as lakes, ponds, and streams, extends to the upward limit of the ordinary high water mark (OHWM) or the upward extent of any adjacent wetland. The OHWM on a non-tidal water is:

- the "line on shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter or debris; or other appropriate means that consider the characteristics of the surrounding areas" (33 CFR Section 328.3[7]).

8.1.2 CLEAN WATER ACT DEFINED WETLANDS

Wetlands are defined as: "...those areas that are inundated or saturated by surface or ground water at a frequency and duration to support a prevalence of vegetation adapted for life in saturated soil conditions" (33 CFR Section 328.3 [16]). Wetlands usually must possess hydrophytic vegetation (i.e., plants adapted to inundated or saturated conditions), wetland hydrology (e.g., topographic low areas, exposed water tables, stream channels), and hydric soils (i.e., soils that are periodically or permanently saturated, inundated or flooded and that exhibit properties that typically include redoximorphic chemical changes to the soil properties indicative of periodic saturation or inundation, and, thus that meet the hydric soil criterion). All three parameters must be present to be regarded as a Clean Water Act defined wetland. Wetlands may or may not be regulated by the Corps pursuant to the Clean Water Act depending on whether they occur as part of a navigable water or have direct adjacency to a navigable waters, as defined above.

8.1.2.1 Permitting Corps Jurisdictional Areas

To remain in compliance with Section 404 of the Clean Water Act, project proponents and property owners (applicants) are required to be permitted by the Corps prior to discharging or otherwise impacting waters of the U.S. In many cases, the Corps must visit a proposed project area (to conduct a "jurisdictional determination") to confirm the extent of area falling under their jurisdiction prior to authorizing any permit for that project area. Typically, at the time the jurisdictional determination is conducted, applicants (or their representative) will discuss the appropriate permit application that would be filed with the Corps for permitting the proposed impact(s) to "waters of the United States."

Pursuant to Section 404, the Corps normally provides two alternatives for permitting impacts to the type of waters of the U.S. found in the project area. The first alternative would be to use Nationwide Permit(s) (NWP). The second alternative is to apply to the Corps for an Individual Permit (33 CFR Section 235.5(2)(b)). The application process for Individual Permits is extensive and includes public interest review procedures (i.e., public notice and receipt of public comments) and must contain an "alternatives analysis" that is prepared pursuant to Section 404(b) of the Clean Water Act (33 U.S.C. 1344(b)). The alternatives analysis is also typically reviewed by the federal EPA and thus brings another resource agency into the permitting framework. Both the Corps and EPA take the initial viewpoint that there are practical alternatives to the proposed project if there would be impacts to waters of the U.S., and the proposed permitted action is not a water dependent project (e.g., a pier or a dredging project).

Alternative analyses therefore must provide convincing reasons that the proposed permitted impacts are unavoidable. Individual Permits may be available for use in the event that discharges into regulated waters fail to meet conditions of NWP(s).

NWPs are a type of general permit administered by the Corps and issued on a nationwide basis that authorize minor activities that affect Corps regulated waters. Under NWP, if certain conditions are met, the specified activities can take place without the need for an individual or regional permit from the Corps (33 CFR, Section 235.5[c][2]). In order to use NWP(s), a project must meet 27 general nationwide permit conditions, and all specific conditions pertaining to the NWP being used (as presented at 33 CFR Section 330, Appendices A and C). It is also important to note that pursuant to 33 CFR Section 330.4(e), there may be special regional conditions or modifications to NWPs that could have relevance to individual proposed projects. Finally, pursuant to 33 CFR Section 330.6(a), Nationwide permittees may, and in some cases must, request from the Corps confirmation that an activity complies with the terms and conditions of the NWP intended for use (*i.e.*, must receive “verification” from the Corps).

Prior to finalizing design plans, the applicant needs to be aware that the Corps maintains a policy of “no net loss” of wetlands (waters of the U.S.) from project area development. Therefore, it is incumbent upon applicants that propose to impact Corps regulated areas to submit a mitigation plan that demonstrates that impacted regulated areas would be recreated (*i.e.*, impacts would be mitigated). Typically, the Corps requires mitigation to be “in-kind” (*i.e.*, seasonal wetlands would be filled, mitigation would include seasonal wetland mitigation), and at a minimum of a 1:1 replacement ratio (*i.e.*, one acre or fraction thereof recreated for each acre or fraction thereof lost). Often a 2:1 replacement ratio is required if the Permittee is responsible for the mitigation. In some cases, the Corps allows “out-of-kind” mitigation if the compensation site has greater value than the impacted site. Finally, there are many Corps approved wetland mitigation banks where wetland mitigation credits can be purchased by applicants to meet mitigation compensation requirements. Mitigation banks have defined service areas and the Corps may only allow their use when a project would have minimal impacts to wetlands.

8.1.3 APPLICABILITY TO THE PROPOSED PROJECT

M&A completed a delineation of waters of the United States on the project site on June 23, 2020 and July 7, 2020. This delineation was prepared for a reverification of a previously Approved Jurisdictional Determination prepared on March 20, 2013 that expired on March 20, 2018. M&A submitted this reverification request to the Corps on July 15, 2020. On M&A’s wetland delineation, only one potential water of the United States was mapped onsite: Kirker Creek (Sheet 1). The project as proposed would not impact Kirker Creek (that is, no outfall structures are proposed, no bridges with footings in the creek are proposed). All project site runoff is being directed north, away from this creek, and will be directed to an existing offsite detention basin (B. Hammons, Mt. Diablo Resource Recovery, pers. comm. with S. Lynch of M&A). If the plans for the proposed project change and could result in any impacts to Kirker Creek, a Section 404 permit from the Corps may be required.

8.2 California Regional Water Quality Control Board (RWQCB)

8.2.1 SECTION 401 OF THE CLEAN WATER ACT

The State Water Resources Control Board (SWRCB) and RWQCB regulate activities in “waters of the State” (which includes wetlands) through Section 401 of the CWA. While the Corps administers a permitting program that authorizes impacts to waters of the U.S., including wetlands and other waters, any Corps permit authorized for a proposed project would be inoperative unless it is a NWP that has been certified for use in California by the SWRCB, or if the RWQCB has issued a project specific certification of water quality. Certification of NWPs requires a finding by the SWRCB that the activities permitted by the NWP will not violate water quality standards individually or cumulatively over the term of the permit (the term is typically for five years). Certification must be consistent with the requirements of the federal CWA, the California Environmental Quality Act, the California Endangered Species Act, and the SWRCB’s mandate to protect beneficial uses of waters of the State. Any denied (i.e., not certified) NWPs, and all Individual Corps permits, would require a project specific RWQCB certification of water quality. Where a project will result in dredge or fill of non-federal waters of the State, the RWQCB will authorize those fills through waste discharge requirements issued under the Porter Cologne Water Quality Control Act.

On April 2, 2019, the SWRCB adopted a state-level definition of “wetlands,” which definition is broader than the federal definition in that unvegetated areas may be considered a wetland water of the State. As a part of the same policy, the Water Board adopted permit procedures and standards governing the discharge of dredged or fill material into wetlands and other waters of the State. The policy includes, among other things, requirements for analyses to identify the least environmentally damaging practicable alternative (LEDPA) and compensatory mitigation standards including a minimum 1:1 ratio for wetlands and streams, and full functional replacement of all waters on top of this minimum where applicable. The policy, which will govern both Section 401 certifications and WDRs, is scheduled to become effective nine months following the completion of review by the California Office of Administrative Law.

8.2.2 APPLICABILITY TO THE PROPOSED PROJECT

Based on a wetland delineation completed by M&A in June 2020, and pending confirmation from the Corps, there is only one potential water of the State on the project site: Kirker Creek. The project as proposed would not impact Kirker Creek (that is, no outfall structures are proposed, no bridges with footings in the creek are proposed). All project site runoff is being directed north, away from this creek, and will be directed to an existing offsite detention basin. If the plans for the proposed project change and could result in any impacts to Kirker Creek, a Clean Water Act Section 401 Certification may be required.

8.3 State Water Resources Control Board (SWRCB)

The uncontrolled discharge of pollutants into impaired water bodies is considered particularly detrimental. According to the EPA, sediment is one of the most widespread pollutants contaminating U.S. rivers and streams. Sediment runoff from construction sites is 10 to 20 times greater than from agricultural lands and 1,000 to 2,000 times greater than from forest lands.

Consequently, the discharge of stormwater from large construction sites is regulated by the RWQCB under the federal CWA and California's Porter-Cologne Water Quality Control Act.

The Porter-Cologne Water Quality Control Act, Water Code § 13260, requires that "any person discharging waste, or proposing to discharge waste, that could affect the waters of the State to file a report of discharge" with the RWQCB through an application for waste discharge (Water Code Section 13260(a)(1)). The term "waters of the State" is defined as any surface water or groundwater, including saline waters, within the boundaries of the State (Water Code § 13050(e)). It should be noted that pursuant to the Porter-Cologne Water Quality Control Act, the RWQCB also regulates "isolated wetlands," or those wetlands considered to be outside of the Corps' jurisdiction pursuant to the SWANCC decision (see Corps Section above).

The RWQCB generally considers filling in waters of the State to constitute "pollution." Pollution is defined as an alteration of the quality of the waters of the State by waste that unreasonably affects its beneficial uses (Water Code § 13050(1)). The RWQCB litmus test for determining if a project should be regulated pursuant to the Porter-Cologne Water Quality Control Act is if the action could result in any "threat" to water quality.

The RWQCB requires complete pre- and post-development Best Management Practices (BMPs) for any portion of the project site that is developed. This means that a water quality treatment plan for the pre- and post-developed project site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the National Pollutant Discharge Elimination System (NPDES). That is, a *Stormwater Pollution Prevention Plan* (SWPPP) must be developed prior to the time that a site is graded (see NPDES section below). In addition, a post construction BMPs plan, or a Stormwater Management Plan (SWMP) must be developed and incorporated into any site development plan.

8.3.1 APPLICABILITY TO THE PROPOSED PROJECT

As the proposed project is currently planning to discharge all surface runoff north, off-site from the proposed project site, to an existing detention basin, the proposed project does not currently have impacts that would be regulated under California's Porter-Cologne Water Quality Control Act. If the plans for the proposed project change and would result in any proposed discharge impacts to a water of the State (see Sheet 1), a Notice of Applicability and an application for Waste Discharge Requirements under the Porter-Cologne Water Quality Control Act will be required. Additionally, measures must be taken to ensure that adequate pre-and post-construction BMPs are incorporated into the project implementation plans and are in-place pre- and post-construction.

9. CITY OF PITTSBURG GENERAL PLAN BIOLOGICAL RESOURCES POLICIES

Below we provide language from the portions of the City's General Plan that pertain to biological resources. Chapter 9 of the 2001 City of Pittsburg General Plan is entitled the "Biological Resources Objective" and addresses Biological Resources Policies, including:

- a. Ensure that development does not substantially affect special status species, as required by State and federal agencies. Conduct assessments of biological resources as required by CEQA

prior to approval of development within habitat areas of identified special status species. Development located in or adjacent to these ecologically sensitive areas must complete a site-specific assessment of biological resources as part of the development review process. The City's environmental review process would be used to impose appropriate mitigation measures as required by State and federal agencies to reduce impacts on sensitive habitat and special status species.

b. Establish creek setbacks along riparian corridors, extending a minimum of 50 to 150 feet laterally on each side of the creek bed. Setback buffers for habitat areas of identified special status species and wetlands may be expanded as needed to preserve ecological resources.

c. Prohibit development within creek setback areas, except as part of greenway enhancement (for example, trails and bikeways). Encourage developers to reserve space outside of the creek setbacks where endangered species habitat makes trail development inappropriate.

d. Ensure that riparian corridor characteristics are retained. Encourage the retention and/or reestablishment of creeks in the design of new development.

e. Protect and restore threatened natural resources, such as estuaries, tidal zones, marine life, wetlands, and waterfowl habitat. While much of the marshland and mudflats in the Planning Area are intact, potential for reclamation exists in areas where these have been destroyed, especially along the industrial waterfronts. Potential for this reclamation may exist as some of these sites are converted to other uses. A potential way to promote the value of Pittsburg's natural resources is through education. The City could heighten public awareness of the importance of local marshlands for roosting and nesting sites for migrating waterfowl by creating interpretive facilities with educational displays along the marshlands when possible.

f. Ensure that special-status species and sensitive habitat areas are preserved, as required by State and federal agencies, during redevelopment and intensification of industrial properties along the Suisun Bay waterfront. Limit dredging and filling of wetlands and marshlands, particularly adjacent to Browns Island Preserve.

g. Minimize the runoff and erosion caused by earth movement by requiring development to use best construction management practices (BMPs).

h. Preserve and enhance Pittsburg's creeks for their value in providing visual amenity, drainage capacity, and habitat value.

i. Minimize the runoff and erosion caused by earth movement by requiring development to use best construction management practices (BMPs).

j. Preserve and enhance Pittsburg's creeks for their value in providing visual amenity, drainage capacity, and habitat value.

k. Additional flood control mitigation may include intermixing areas of pavement with the naturally vegetated infiltration sites to reduce the concentration of stormwater runoff from pavement and structures.

l. Require an encroachment permit from Contra Costa Water District (CCWD) for any storm drain facility crossing or encroaching onto Contra Costa Canal rights-of-way. Require all crossings to be constructed in accordance with CCWD standards and requirements.

m. As part of the City's Zoning Ordinance, establish regulations for the preservation of mature trees. Include measures for the replacement of all mature trees removed. Trees are valuable along creeks and watersheds because their root systems help stabilize topsoil and reduce erosion.

n. As part of project review and approval, establish maintenance districts to ensure uniform maintenance for selected channels and creeks.

o. As part of project review and CEQA documentation, require an assessment of downstream drainage (creeks and channels) and City storm-water facilities impacted by potential project runoff. Calculate potential sedimentation and runoff based on the maximum storm event and determine necessary capacity of the downstream drainage system. If the project presents potential downstream sedimentation, runoff or flooding issues, require additional mitigation including but not limited to limitations on grading, construction only in dry seasons.

9.1.1 APPLICABILITY TO THE PROPOSED PROJECT

The proposed project is the construction of one building and a road on an existing, hard-packed graveled surface that was previously developed. The proposed building would be a minimum of 50 feet from Kirker Creek's top-of-bank. The associated road would be a minimum of 30 feet from the creek's centerline. Kirker Creek's riparian vegetation would remain unaffected by the proposed project (Attachment B, Site Plan). In order to protect Kirker Creek and downstream waters, BMPs such as silt fencing and wildlife friendly hay wattles (that is, no monofilament netting) would be installed prior to grading or construction. There are no special-status species on the project site and thus, there would be no impacts to any state or federally-protected species.

9.2 California Department of Fish and Wildlife Protections

9.2.1 SECTION 1602 OF CALIFORNIA FISH AND GAME CODE

Pursuant to Section 1602 of the California Fish and Game Code: "An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

- (1) CDFW receives written notification regarding the activity in the manner prescribed by CDFW. The notification shall include, but is not limited to, all of the following:
 - (A) A detailed description of the project's location and a map.
 - (B) The name, if any, of the river, stream, or lake affected.

- (C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.
- (D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.
- (E) A copy of any other applicable local, State, or federal permit or agreement already issued.
- (F) Any other information required by CDFW” (Fish & Game Code 2014).

Please see Section 1602 of the current California Fish and Game Code for further details.

Please also note that while not stated in the regulations above, the CDFW typically considers its jurisdiction to include riparian vegetation (that is, the trees and bushes growing along the stream). Thus, any proposed activity in a natural stream channel that would substantially adversely affect an existing fish and/or wildlife resource, including its riparian vegetation, would require entering into a Streambed Alteration Agreement (SBAA) with the CDFW prior to commencing with work in the stream. However, prior to authorizing such permits, the CDFW typically reviews an analysis of the expected biological impacts, any proposed mitigation plans that would be implemented to offset biological impacts and engineering and erosion control plans.

9.2.2 APPLICABILITY TO THE PROPOSED PROJECT

Kirker Creek is an intermittent drainage as shown on the USGS Antioch North 7.5 minute quadrangle. If the proposed project would impact Kirker Creek or its riparian vegetation, a Section 1602 Agreement (Streambed Alteration Agreement) would be required by the CDFW prior to initiating the work. Impacts to the riparian vegetation or the creek itself would likely require mitigation in the form of tree planting and monitoring and would become conditions of the Streambed Alteration Agreement.

10. IMPACTS ANALYSIS

Below the criteria used in assessing impacts to Biological Resources is presented.

10.1 Significance Criteria

A significant impact is determined using CEQA and CEQA Guidelines. Pursuant to CEQA §21068, a significant effect on the environment means a substantial, or potentially substantial, adverse change in the environment. Pursuant to CEQA Guideline §15382, a significant effect on the environment is further defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. Other Federal, State, and local agencies’ considerations and regulations are also used in the evaluation of significance of proposed actions.

Direct and indirect adverse impacts to biological resources are classified as “significant,” “potentially significant,” or “less than significant.” Biological resources are broken down into four categories: vegetation, wildlife, threatened and endangered species, and regulated “waters of the United States” and/or stream channels.

10.1.1 THRESHOLDS OF SIGNIFICANCE

10.1.1.1 Plants, Wildlife, Waters

In accordance with Appendix G (Environmental Checklist Form) of the CEQA Guidelines, implementing the project would have a significant biological impact if it would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS.
- Have a substantial adverse effect on federally protected “wetlands” as defined by Section 404 of the CWA (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

10.1.1.2 Waters of the United States and State.

Pursuant to Section 404 of the CWA (33 U.S.C. 1344), the Corps regulates the discharge of dredged or fill material into waters of the United States, which includes wetlands, as discussed in the bulleted item above, and also includes “other waters” (stream channels, rivers) (33 CFR Parts 328 through 330). Substantial impacts to Corps regulated areas on a project site would be considered a significant adverse impact. Similarly, pursuant to Section 401 of the CWA, and to the Porter-Cologne Water Quality Control Act, the RWQCB regulates impacts to waters of the state. Thus, if there were substantial impacts to RWQCB regulated areas to a project site, there would also be considered a significant adverse impact.

10.1.1.3 Stream Channels

Pursuant to Section 1602 of the California Fish and Game Code, CDFW regulates activities that divert, obstruct, or alter stream flow, or substantially modify the bed, channel, or bank of a stream which CDFW typically considers to include riparian vegetation. Any proposed activity that would result in substantial modifications to a natural stream channel would be considered a significant adverse impact.

11. IMPACT ASSESSMENT AND PROPOSED MITIGATION

This Impact Assessment is based on an April 30, 2020 Site Plan prepared by JRMA Architects and Engineers (attached). In this section we discuss potential impacts to sensitive biological resources. We follow each impact with a mitigation prescription that when implemented would reduce impacts to the greatest extent possible.

11.1 Impact BIO-1. Development of the Project Would Have a Potentially Significant Adverse Impact on Nesting Birds (Potentially Significant)

Common bird species, typically those well adapted to man's activities, could nest in the riparian trees along Kirker Creek and in the blue gum trees on the project site. Other birds could nest on the ground. Nesting birds are protected under the Migratory Bird Treaty Act (50 CFR 10.13) and their eggs and young are protected under California Fish and Game Code Sections 3503, 3503.5. Any project-related impacts to these species would be considered a significant adverse impact. Potential impacts to these species from the proposed project include disturbance to nesting birds and possibly death of adults and/or young.

Impacts to nesting birds, their eggs, and/or young caused by implementation of the proposed project would be regarded as potentially significant pursuant to the CEQA. Mitigation could be implemented to reduce these impacts to levels regarded as less than significant pursuant to the CEQA.

11.2 Mitigation Measure BIO-1. Nesting Birds

To avoid impacts to nesting birds, a nesting survey shall be conducted within 15 days of commencing with construction work or tree removal if this work would commence between February 1st and August 31st. The nesting survey should include an examination of the entire project site including all riparian habitat and all trees and shrubs onsite and within 200 feet of the project site (i.e., within a zone of influence of nesting birds). The zone of influence includes those areas outside the project site where birds could be disturbed by earth-moving vibrations and/or other construction-related noise.

If birds are identified nesting on or within the zone of influence of the construction project, a qualified biologist shall establish a temporary protective nest buffer around the nest(s). The nest buffer should be staked with orange construction fencing. The buffer must be of sufficient size to protect the nesting site from construction-related disturbance and shall be established by a qualified ornithologist or biologist with extensive experience working with nesting birds near and on construction sites. Typically, adequate nesting buffers are 50 feet from the nest site or nest tree dripline for small birds and up to 300 feet for sensitive nesting birds that include several raptor species known in the region of the project site but that are not expected to occur on the project site.

No construction or earth-moving activity shall occur within any established nest protection buffer prior to September 1 unless it is determined by a qualified ornithologist/biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, or that the nesting cycle is otherwise completed. At the end of the nesting

cycle, as determined by a qualified biologist, temporary nesting buffers may be removed, and construction may commence in established nesting buffers without further regard for the nest site. ***Implementation of these mitigation measures would reduce impacts to nesting birds to a level regarded as less than significant pursuant to CEQA.***

11.3 Impact BIO-2. Bats –Tree Removal and Site Development May Have a Potentially Significant Impact on Western Red Bat (Potentially Significant)

The trees onsite may provide roosting and maternity habitat for the special-status western red bat. This bat species is designated by the State as a “species of special concern.” In accordance with the CEQA Guidelines (Section 15380) which protects “rare” and “endangered” species as defined by CEQA (species of special concern meet this CEQA definition), impacts to this bat species would be considered a **potentially significant adverse impact**. Potential impacts to special-status bats from the proposed project include loss of maternity and/or roosting habitat, death of individual adult bats and/or young. This impact could be mitigated to a less than significant level.

11.4 Mitigation Measure BIO-2. Special-Status Bats

In order to avoid impacts to roosting western red bat or other special-status bats, tree removal should only be conducted during seasonal periods of bat activity: between August 31 and October 15, when bats would be able to fly and feed independently, and between March 1 and April 1st to avoid hibernating bats, and prior to the formation of maternity colonies. Then a qualified biologist, one with at least two years of experience surveying for bats, should do preconstruction surveys for roosting bats within 14 days of starting work. If the qualified biologist finds evidence of bat presence during the surveys, then he/she should develop a plan for removal and exclusion, in conjunction with the CDFW.

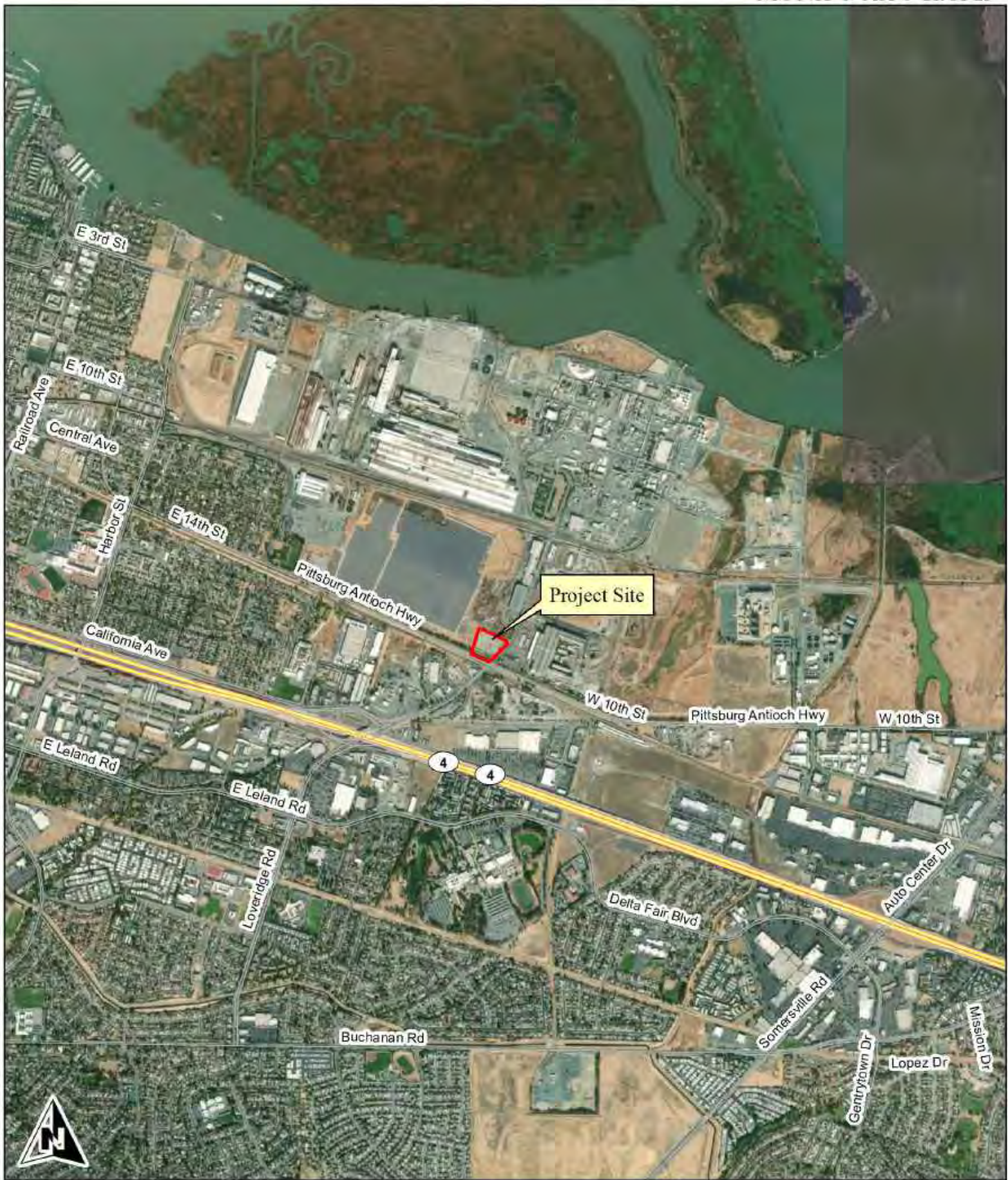
If tree removal must occur outside of the seasonal activity periods mentioned above (i.e., between October 16 and February 28/29, or between April 2 and August 30), then a qualified biologist, one with at least two years of experience surveying for bats, should do preconstruction surveys within 14 days of starting work. If roosts are found, a determination should be made whether there are young. If a maternity site is found, impacts to the maternity site will be avoided by establishment of a non-disturbance buffer until the young have reached independence. The size of the buffer zone should be determined by the qualified bat biologist at the time of the surveys. If the qualified biologist finds evidence of bat presence during the surveys, then he/she should develop a plan for removal and exclusion, when there are not dependent young present, in conjunction with the CDFW.

This mitigation measure would reduce the project’s impact to special-status bats to a level considered less than significant.

12. REFERENCES

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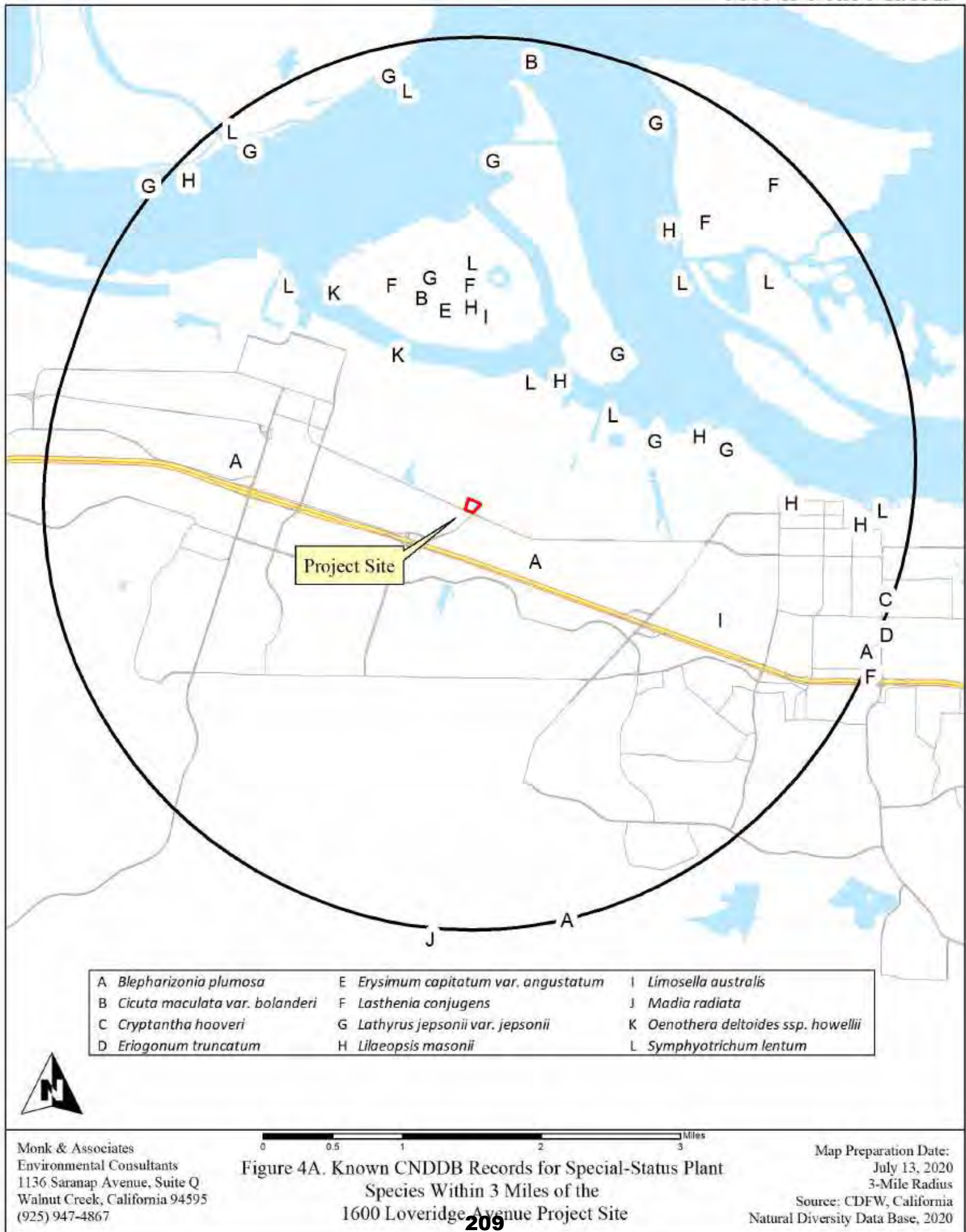


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Figure 2. 1600 Loveridge Avenue Project Site
Location Map
Pittsburg, California

38.018351 -121.859246
Land Grant
7.5-Minute Antioch North quadrangle
Aerial Photograph Source: ESRI
Map Preparation Date: July 13, 2020





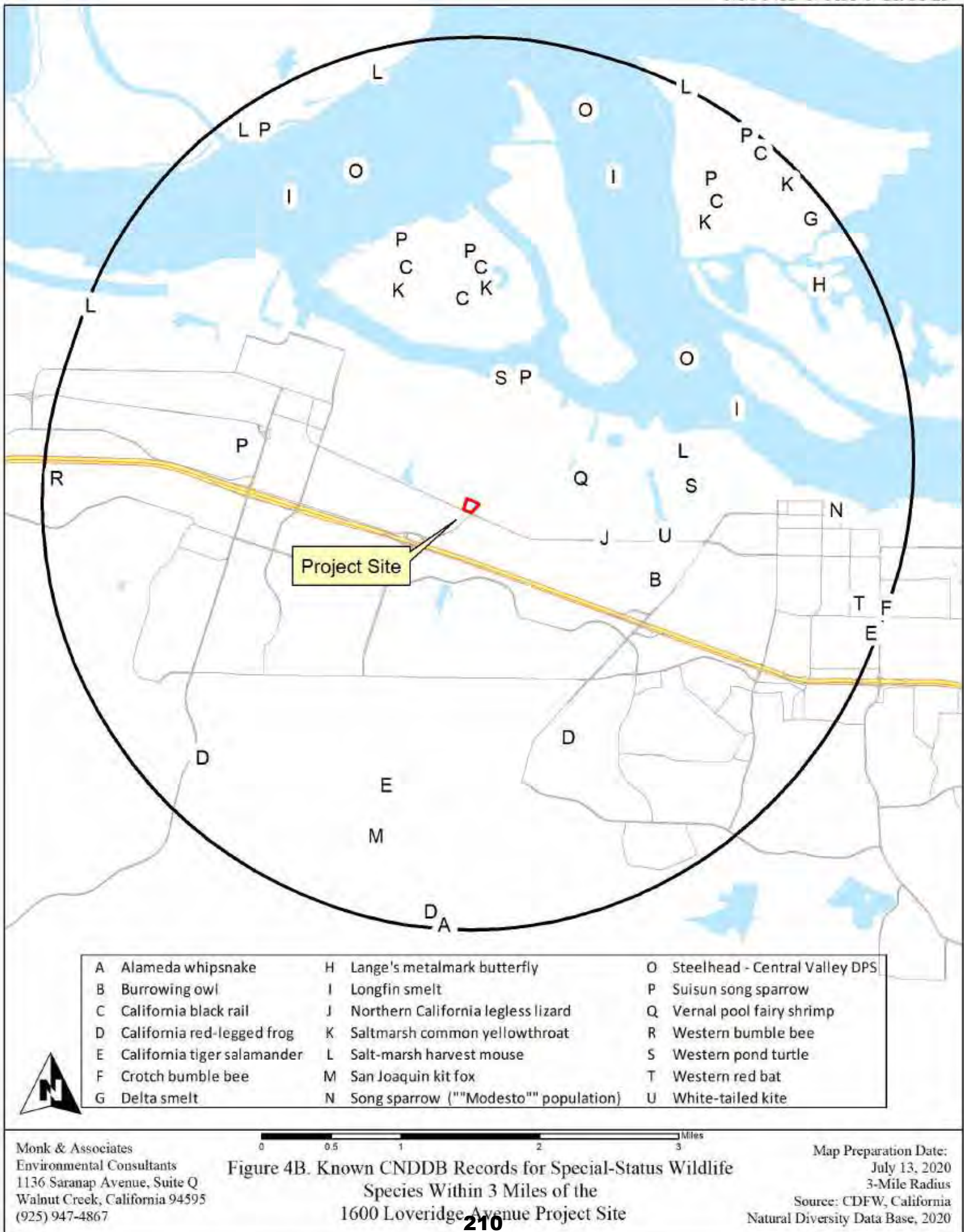


Table 1**Plant Species Observed on the Mt. Diablo Resource Recovery Project Site****Angiosperms - Dicots****Anacardiaceae**

<i>*Pistacia atlantica</i>	Atlantic pistachio
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Apiaceae

<i>*Foeniculum vulgare</i>	Sweet fennel
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Apocynaceae

<i>Asclepias fascicularis</i>	Narrow-leaf milkweed
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Asteraceae

<i>Artemisia douglasiana</i>	California mugwort
<i>Baccharis pilularis subsp. consanguinea</i>	Coyote brush
<i>*Carduus pycnocephalus subsp. pycnocephalus</i>	Italian thistle
<i>*Cynara cardunculus</i>	Artichoke thistle
<i>*Dittrichia graveolens</i>	Stinkwort
<i>*Helminthotheca echioides</i>	Bristly ox-tongue
<i>*Sonchus oleraceus</i>	Common sow-thistle
<i>Xanthium strumarium</i>	Cocklebur

Boraginaceae

<i>Amsinckia intermedia</i>	Common fiddleneck
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Brassicaceae

<i>*Brassica nigra</i>	Black mustard
<i>*Lepidium latifolium</i>	Broadleaf pepperweed

Convolvulaceae

<i>*Convolvulus arvensis</i>	Bindweed
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Fabaceae

<i>*Vicia benghalensis</i>	Purple vetch
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Juglandaceae

<i>*Juglans nigra</i>	Black walnut
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Malvaceae

<i>Malvella leprosa</i>	Alkali mallow
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Myrtaceae

<i>*Eucalyptus sp.</i>	Eucalyptus
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Oleaceae

<i>Fraxinus anomala</i>	Single-leaf ash
<i>Fraxinus latifolia</i>	Oregon ash

Onagraceae

<i>Epilobium brachycarpum</i>	Summer cottonweed
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Polygonaceae

<i>*Rumex crispus</i>	Curly dock
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Salicaceae

<i>Populus fremontii subsp. fremontii</i>	Fremont cottonwood
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* Indicates a non-native species

Page 1 of 2

Table 1**Plant Species Observed on the Mt. Diablo Resource Recovery Project Site**

<i>Salix laevigata</i>	Red willow
Solanaceae	
* <i>Datura sp.</i>	Thornapple
Angiosperms -Monocots	
Cyperaceae	
<i>Cyperus eragrostis</i>	Tall flatsedge
Poaceae	
* <i>Avena barbata</i>	Slender wild oat
* <i>Avena fatua</i>	Wild oat
* <i>Bromus diandrus</i>	Ripgut grass
* <i>Echinochloa crus-galli</i>	Barnyard grass
<i>Elymus glaucus</i>	Blue wildrye
* <i>Festuca perennis</i>	perennial ryegrass
* <i>Hordeum murinum subsp. leporinum</i>	Hare barley
* <i>Phalaris aquatica</i>	Harding grass
* <i>Stipa miliacea var. miliacea</i>	Smilo grass

* Indicates a non-native species

Table 2
Wildlife Observed on the Mt. Diablo Resources Recovery Project Site

Birds	
Rock pigeon	<i>Columba livia</i>
Mourning dove	<i>Zenaida macroura</i>
Tree swallow	<i>Tachycineta bicolor</i>
Barn swallow	<i>Hirundo rustica</i>
Northern mockingbird	<i>Mimus polyglottos</i>
House finch	<i>Haemorhous mexicanus</i>
Mammals	
Raccoon (scat)	<i>Procyon lotor</i>
Virginia opossum	<i>Didelphis virginiana</i>

Table 3**Special-Status Plant Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site**

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
Apiaceae					
<i>Cicuta maculata bolanderi</i> Bolander's waterhemlock	Fed: - State: - CNPS: Rank 2B.1	July-September	Marshes and swamps (coastal, fresh, or brackish). 0 to 200 meters.	Closest known record is approximately 1.0 mile N of the project site (Occurrence No. 2).	None. Not observed in Kirker Creek in June and July 2020. No suitable habitat. No impacts expected.
<i>Lilaeopsis masonii</i> Mason's lilaeopsis	Fed: - State: CR CNPS: Rank 1B.1	April-October	Marshes and swamps (brackish or freshwater); riparian scrub.	Closest known record is approximately 0.92-mile N of the project site (Occurrence No. 21).	None. Not observed in Kirker Creek in June or July 2020. No suitable habitat. No impacts expected.
Asteraceae					
<i>Blepharizonia plumosa</i> Big tarplant	Fed: - State: - CNPS: Rank 1B.1	July-October	Valley and foothill grassland.	Closest known record overlaps the project site (Occurrence No. 1).	None. No grasslands located on the project site. No suitable habitat. Not observed in June or July 2020. No impacts expected.
<i>Lasthenia conjugens</i> Contra Costa goldfields	Fed: FE State: - CNPS: Rank 1B.1	March-June	Valley and foothill grassland (mesic); vernal pools.	Closest known record is approximately 2.3 miles ESE of the project site (Occurrence No. 8).	None. No grasslands or vernal pools located on the project site. No suitable habitat. No impacts expected.
<i>Madia radiata</i> Showy golden madia	Fed: - State: - CNPS: Rank 1B.1	March-May	Cismontane woodland; valley and foothill grassland.	Closest known record is approximately 2.55 miles S of the project site (Occurrence No. 27).	None. No woodland or grassland located on the project site. No suitable habitat. No impacts expected.
<i>Symphyotrichum lentum</i> Suisun Marsh aster	Fed: - State: - CNPS: Rank 1B.2	August-November	Marshes and swamps (brackish and fresh water)	Closest known record is approximately 0.89 miles NE of the project site (Occurrence No. 48).	None. Not observed in Kirker Creek in June or July 2020. No suitable habitat. No impacts expected.

Table 3

Special-Status Plant Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
Boraginaceae					
<i>Cryptantha hooveri</i> Hoover's cryptantha	Fed: - State: - CNPS: Rank 1A	April-May	Valley and foothill grassland (sandy).	Closest known record is approximately 2.9 miles ESE of the project site (Occurrence No. 4).	None. No grasslands located on the project site. No suitable habitat. No impacts expected.
Brassicaceae					
<i>Erysimum capitatum angustatum</i> Contra Costa wallflower	Fed: FE State: CE CNPS: Rank 1B.1	March-July	Inland dunes.	Closest known record is approximately 1.0 mile N of the project site (Occurrence No. 4).	None. No inland dunes located on the project site. No suitable habitat. No impacts expected.
Fabaceae					
<i>Lathyrus jepsonii jepsonii</i> Delta tule pea	Fed: - State: - CNPS: Rank 1B.2	May-September	Marshes and swamps (freshwater and brackish).	Closest known record is approximately 0.92-mile N of the project site (Occurrence No. 1).	None. No marshes or swamps located on the project site. No suitable habitat. No impacts expected.
Onagraceae					
<i>Oenothera deltoides howellii</i> Antioch dunes evening-primrose	Fed: FE State: CE CNPS: Rank 1B.1	March-September	Interior dunes.	Closest known record is approximately 1.11 miles NW of the project site (Occurrence No. 7).	None. No interior dunes located on the project site. No suitable habitat. No impacts expected.
Polygonaceae					
<i>Eriogonum truncatum</i> Mount Diablo buckwheat	Fed: - State: - CNPS: Rank 1B.1	April-September	Chaparral; coastal scrub; valley and foothill grassland; [sandy].	Closest known record is approximately 2.3 miles ESE of the project site (Occurrence No. 4).	None. No chaparral, coastal scrub or grasslands located on the project site. No suitable habitat. No impacts expected.

Table 3

Special-Status Plant Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site

Family	Taxon	Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
Scrophulariaceae							
	<i>Limosella australis</i>		Fed: -	May-August	Marshes and swamps;	Closest known record is	None. Not observed in Kirker
	Delta mudwort		State: -		intertidal mudflats.	approximately 1.22 miles ENE of	Creek in June or July 2020. No
			CNPS: Rank 2.1			the project site (Occurrence No. 39).	suitable habitat. No impacts expected.

***Status**

Federal:
 FE - Federal Endangered
 FT - Federal Threatened
 FPE - Federal Proposed Endangered
 FPT - Federal Proposed Threatened
 FC - Federal Candidate

State:
 CE - California Endangered
 CT - California Threatened
 CR - California Rare
 CC - California Candidate
 CSC - California Species of Special Concern

CNPS:
 Rank 1A - Presumed extinct in California
 Rank 1B - Plants rare, threatened, or endangered in California and elsewhere
 Rank 1B.1 - Seriously endangered in California (over 80% occurrences threatened/ high degree and immediacy of threat)
 Rank 1B.2 - Fairly endangered in California (20-80% occurrences threatened)
 Rank 1B.3 - Not very endangered in California (<20% of occurrences threatened or no current threats known)

CNPS Continued:
 Rank 2 - Plants rare, threatened, or endangered in California, but more common elsewhere
 Rank 2A - Extirpated in California, common elsewhere
 Rank 2B.1 - Seriously endangered in California, but more common elsewhere
 Rank 2B.2 - Fairly endangered in California, but more common elsewhere
 Rank 2B.3 - Not very endangered in California, but more common elsewhere
 Rank 3 - Plants about which we need more information (Review List)
 Rank 3.1 - Plants about which we need more information (Review List)
 Rank 3.2 - Plants about which we need more information (Review List)
 Rank 4 - Plants of limited distribution - a watch list

Table 4

Special-Status Wildlife Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Invertebrates				
Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	Fed: FT State: - Other:	Endemic to the grasslands of the Central Valley, central coast mountains, and south coast mountains. Inhabit static rain-filled/vernal pools, small, clear water sandstone-depression pools and grassed swale, earth slump, or basalt-flow depression pools.	Closest known record is approximately 0.64-mile E of the project site (Occurrence No. 212).	None. No suitable habitat. No pools, swales or slumps on the project site. No impact expected.
Insects				
Western bumble bee <i>Bombus occidentalis</i>	Fed: State: CC Other:	Inhabits grassland with select food plants: Melilotus, Cirsium, Trifolium, Centaurea, Chrysanthamnus, and Eriogonum. Typically nests underground in abandoned rodent burrows or other cavities.	Closest known record is approximately 3.0 miles W of the project site (Occurrence No. 212).	None. Site is disturbed, hard-packed ground. No burrowing opportunities. No impact expected.
Crotch bumble bee <i>Bombus crotchii</i>	Fed: State: CC Other:	Inhabits grassland and scrub areas, with select food plants: Antirrhinum, Phacelia, Clarkia, Dendromecon, Eschscholzia, and Eriogonum. Nests underground, often in abandoned rodent dens.	Closest known record is approximately 2.3 miles SSW of the project site (Occurrence No. 14).	None. No suitable habitat. No food plants present on project site. No impact expected.
Lange's metalmark butterfly <i>Apodemia mormo langei</i>	Fed: FE State: - Other:	Found in stabilized sand dunes along the San Joaquin River at Antioch (Contra Costa County). Buckwheat (Eriogonum nudum var. auriculatum) is the host plant. Nectars on other wildflowers as well as the buckwheat.	Closest known record overlaps with the project site (Occurrence No. 1).	None. No suitable habitat. No sand dunes or host plants on the project site. No impact expected.
Fish				
Steelhead - California Central Valley ESU <i>Oncorhynchus mykiss</i>	Fed: FT State: - Other:	Found in the Sacramento and San Joaquin Rivers and their tributaries. Migrates through the estuary to spawning grounds. Eggs are laid in small and medium gravel and need a good water flow to survive.	Closest known record is approximately 1.55 miles NW of the project site (Occurrence No. 27).	None. No suitable habitat. No river or suitable tributary on the project site. No impact expected.

Table 4

Special-Status Wildlife Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Longfin smelt <i>Spirinichus thaleichthys</i>	Fed: -- State: CT Other:	Endemic to the Sacramento-San Joaquin River system. Inhabits open waters in the Delta and Suisun Bay. After spawning, larvae are carried downstream to brackish nursery areas.	Closest known record is approximately 0.85-mile NE of the project site (Occurrence No. 17).	None. No suitable habitat. No open waters or brackish water on the project site. No impact expected.
Amphibians				
California tiger salamander (Cnt Vly DPS) <i>Ambystoma californiense</i>	Fed: FT State: CT Other:	Found in grassland habitats of the valleys and foothills. Requires burrows for aestivation and standing water until late spring (May) for larvae to metamorphose.	Closest known record is approximately 2.1 miles SSW of the project site (Occurrence No. 814).	None. No suitable habitat. No grassland habitat on project site, no vernal pool habitat. No impact expected.
California red-legged frog <i>Rana draytonii</i>	Fed: FT State: CSC Other:	Occurs in lowlands and foothills in deeper pools and streams, usually with emergent wetland vegetation. Requires 11-20 weeks of permanent water for larval development.	Closest known record is approximately 1.9 miles SSE of the project site (Occurrence No. 531).	None. No records north of Highway 4. Kirker Creek in vicinity not suitable, heavily disturbed, garbage in creek, dry in summer and fall. See text. No impact expected.
Reptiles				
Western pond turtle <i>Emys marmorata</i>	Fed: - State: CSC Other:	Uncommon to common in suitable aquatic habitat throughout CA, west of the Sierra-Cascade crest and absent from desert regions, except the Mojave River. Associated with permanent or nearly permanent water in a wide variety of habitat types.	Closest known record is approximately 0.8-mile NE of the project site (Occurrence No. 144).	None. No suitable habitat. No water present on the project site. No impact expected.
Northern California legless lizard <i>Anniella pulchra</i>	Fed: - State: CSC Other:	Occurs from the southern edge of the San Joaquin River in northern Contra Costa County south to Ventura County. Inhabit sandy soil/dune area with bush lupine and mock heather as dominant plants. Moist soil is essential.	Closest known record is approximately 0.37-miles SE of the project site (Occurrence No. 381).	None. No suitable habitat. No sand soil or dunes on the project site. No impact expected.
Alameda Whipsnake <i>Masticophis lateralis euryxanthus</i>	Fed: FT State: CT Other:	Coastal scrub and chaparral habitats of Contra Costa and Alameda Counties. Prefers south-facing slopes with a mosaic of shrubs, trees, and grassland.	Closest known record is approximately 2.9 miles S of the project site (Occurrence No. 87).	None. No suitable habitat. No coastal scrub or chaparral habitat on the project site. No impact expected.

Table 4

Special-Status Wildlife Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Birds				
Song Sparrow (Modesto Population) <i>Melospiza melodia mailliardi</i>	Fed: State: CSC Other:	Endemic to California, residing only in the north-central portion of the Central Valley. Inhabits emergent freshwater marsh. vegetated irrigation canals and levees dominated by tules/cattails, and blackberry. Nests in riparian willows and valley oak.	Closest known record is approximately 1.6 miles E of the project site (Occurrence No. 91).	None. No suitable habitat. No marshes located on the project site. No impact expected.
White-tailed kite <i>Elanus leucurus</i>	Fed: State: FP Other:	Found in lower foothills and valley margins with scattered oaks and along river bottomlands or marshes adjacent to oak woodlands. Nests in trees with dense tops.	Closest known record is approximately 1.31 miles ESE of the project site (Occurrence No. 17).	None. Riparian habitat is extremely disturbed because it is channelized, and because it is adjacent to the Pittsburg-Antioch Highway. The canopy is sparse and incomplete. No suitable habitat. No impact expected.
California black rail <i>Laterallus jamaicensis coturniculus</i>	Fed: -- State: CT Other:	Inhabits salt marshes bordering larger bays. Prefers tidal salt marshes of pickleweed.	Closest known record is approximately 1.4 miles N of the project site (Occurrence No. 136).	None. No suitable habitat. No salt marshes on the project site. No impact expected.
Western burrowing owl <i>Athene cunicularia hypugaea</i>	Fed: -- State: CSC Other:	Found in open, dry annual or perennial grasslands, deserts and scrublands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably, the California ground squirrel.	Closest known record is approximately 1.5 miles SE of the project site (Occurrence No. 1153).	None. No suitable habitat. No grassland and no burrowing animals noted on the project site. No impact expected.
Suisun song sparrow <i>Melospiza melodia maxillaris</i>	Fed: -- State: CSC Other:	Resident of brackish marshes surrounding Suisun Bay. Prefers riparian areas, cattails, tules, sedges, and pickleweed. Also found in tangles bordering sloughs.	Closest known record is approximately 0.7-mile W of the project site (Occurrence No. 39).	None. No suitable habitat. No brackish marsh on the project site. No impact expected.
Mammals				
Western red bat <i>Lasiurus blossevillii</i>	Fed: State: CSC Other:	Prefers riparian areas where they roost in tree foliage. This bat is occasionally captured in riparian habitats dominated by cottonwoods, oaks, sycamores, and walnuts and is rarely found in desert habitats.	Closest known record is approximately 2.3 miles SE of the project site (Occurrence No. 66).	Low. Possible rookery and nursery trees are located along a Pittsburg-Antioch Highway, which would heavily disturb this habitat - see text.

Table 4

Special-Status Wildlife Species Known to Occur within 3 Miles of the Mt Diablo Resources Recovery Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Salt marsh harvest mouse <i>Reithrodontomys raviventris</i>	Fed: FE State: CE Other:	Inhabits saline marshes in the San Francisco Estuary. Prefers pickleweed marshes. Requires higher areas for escaping high water.	Closest known record is approximately 0.95-mile E of the project site (Occurrence No. 66).	None. No suitable habitat. No salt marshes located on the project site. No impact expected.
San Joaquin kit fox <i>Vulpes macrotis mutica</i>	Fed: FE State: CT Other:	Inhabits open grasslands with scattered shrubs. Needs loose-textured sand soils for burrowing.	Closest known record is approximately 2.5 miles SSW of the project site (Occurrence No. 554).	None. No suitable habitat. No grasslands or sandy soils on the project site. No impact expected.

***Status**

Federal:	State:
FE - Federal Endangered	CE - California Endangered
FT - Federal Threatened	CT - California Threatened
FPE - Federal Proposed Endangered	CR - California Rare
FPT - Federal Proposed Threatened	CC - California Candidate
FC - Federal Candidate	CSC - California Species of Special Concern
FPD - Federally Proposed for delisting	FP - Fully Protected
	WL - Watch List. Not protected pursuant to CEQA

** This frog is listed as "endangered" in the Southern Sierra, central, and southern California coasts and "threatened" in the Northern Sierra and Feather River. This frog is not protected pursuant to CESA on the northern coast of California.

Mt. Diablo Resource Recovery Center
Kirker Creek Site Representative Photographs July 2020



Figure 1. Accumulated trash in Kirker Creek, east of the the project site.

Mt. Diablo Resource Recovery Center
Kirker Creek Site Representative Photographs July 2020



Figure 2. Kirker Creek, east of the project site, looking west.

Mt. Diablo Resource Recovery Center
Kirker Creek Site Representative Photographs July 2020



Figure 3. Kirker Creek east of the project site, looking east.

Mt. Diablo Resource Recovery Center
Kirker Creek Site Representative Photographs July 2020



Figure 4. Kirker Creek, approximately 300 feet west of the project facing west, showing the only water throughout the section of Kirker Creek that was surveyed.

Mt. Diablo Resource Recovery Center
Kirker Creek Site Representative Photographs July 2020





LEGEND

- EXISTING BUILDING
- PHASE I - 40-FT WIDE ACCESS ROAD

SYMBOLS

- EXISTING PROPERTY LINE
- EXISTING RETAINING WALL
- EXISTING CHAINLINK FENCE
- EXISTING WROUGHT IRON FENCE
- ACCESSIBLE PATH OF TRAVEL
- STRIPING PER CITY STANDARDS
- ♿ EXISTING ACCESSIBLE PARKING STALL SYMBOL
- EXISTING FIRE HYDRANT
- EXISTING LIGHT
- EXISTING BOLLARDS
- EXISTING POWER POLE
- EXISTING TRANSFORMER

VICINITY MAP



- Control Points
- Data Points
- Potential Wetland (10,745 Sq. Ft., 0.247 Acre)
- Non-Jurisdictional "Other Waters" under Section 404 of CWA (370 Lin. Ft., 740 Sq. Ft., 0.017 Acre)
- Non-Jurisdictional "Wetlands" under Section 404 of CWA (787 Sq. Ft., 0.018 Acre)
- CMP
- Black Plastic Pipe
- Rubber-lined Basin
- Limits of Delineation (~36.9 Acres)

Jurisdictional Wetland		Sq. Ft.	Acres
W 1		10,745	0.247
Non-Jurisdictional "Wetland"		Sq. Ft.	Acres
NW 1		787	0.018
Non-Jurisdictional "Other Waters"	Length	Sq. Ft.	Acres
OW 1	370	740	0.017
TOTAL:		12,272	0.282

Note: while M&A maps areas it finds to be potential waters of the United States, only the Corps can issue a jurisdictional determination confirming the location and extent of such waters on the site.



APPENDIX F.
DRAFT AQUATIC RESOURCES MAP
MONK & ASSOCIATES, INC.
JULY 30, 2020

- Control Points
- Data Points
- Potential Wetland (10,745 Sq. Ft., 0.247 Acre)
- Non-Jurisdictional "Other Waters" under Section 404 of CWA (370 Lin. Ft., 740 Sq. Ft., 0.017 Acre)
- Non-Jurisdictional "Wetlands" under Section 404 of CWA (787 Sq. Ft., 0.018 Acre)
- CMP
- Black Plastic Pipe
- Rubber-lined Basin
- Limits of Delineation (~36.9 Acres)

Jurisdictional Wetland		Sq. Ft.	Acres
W 1		10,745	0.247
Non-Jurisdictional "Wetland"		Sq. Ft.	Acres
NW 1		787	0.018
Non-Jurisdictional "Other Waters"	Length	Sq. Ft.	Acres
OW 1	370	740	0.017
TOTAL:		12,272	0.282

Note: while M&A maps areas it finds to be potential waters of the United States, only the Corps can issue a jurisdictional determination confirming the location and extent of such waters on the site.

38.021292 -121.859501

OW1

NW1

Asphalt
(Bare)

Kiker Creek

38.015532 -121.861062



U.S. Army Corps
of Engineers
San Francisco District
Regulatory Division

Extent of U.S. Army Corps of Engineers' Jurisdiction
Pursuant to Section 404 Clean Water Act

ML Diablo Resource Recovery Center
Pittsburg, Contra Costa County, California
(APNs: 075-006-013, 014, 015, 017, 028, 029)

Study Area Boundary



Wetland/Water of the U.S.



Non-Jurisdictional Feature

File ID: 2013-000335

Date: October 5, 2020

1 Sheet



APPENDIX G.
CORRESPONDENCE WITH US ARMY
CORPS OF ENGINEERS WITH APPROVED
JURISDICTIONAL DETERMINATION FORM,
OCTOBER 20, 2020



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 05-OCT-2020

ORM Number: SPN-2013-00033

Associated JDs: N/A

Review Area Location¹:

State/Territory: CA City: Pittsburg County/Parish/Borough: Contra Costa County

Center Coordinates of Review Area: Latitude 38.018571 Longitude -121.859321

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- ☒ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
See a4 below	N/A	N/A	N/A

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
SPN-2013-00033 W1 (Kirk Creek)	330 feet	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Within Kirk Creek which flows to New York Slough

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
SPN-2013-00033 NW1 (wetland ditch) and OW1	625 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	Ditch drains to wetland depression with no apparent outlet or surface connection to other waters

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

 x Information submitted by, or on behalf of, the applicant/consultant: *Request for a Jurisdictional Determination Reverification: Mt. Diablo Resources Recovery Center* (Monk & Associates, July 13, 2020)

This information is sufficient for purposes of this AJD.

Rationale: N/A

 Data sheets prepared by the Corps:

 x Photographs: *(aerial) recent Google Earth imagery accessed 9/9/2020*

 x Corps Site visit(s) conducted on: *1/25/2013 (for previous JD)*

 x Previous Jurisdictional Determinations (AJDs or PJDs): *5/14/2013 (same file #)*

 Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

 x USDA NRCS Soil Survey: *Web Soil Survey for 1300 & 1600 Loveridge Rd, generated 6/24/2020*

 x USFWS NWI maps: *ORM2 mapping accessed 9/9/2020*

 x USGS topographic maps: *ORM2 mapping accessed 9/9/2020*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: Larger 115-acre site was originally field verified by Corps in 2013, including portion of current 37-acre site with excluded wetland ditch.

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

APPENDIX H.
AIR POLLUTANT AND GREENHOUSE GAS
EMISSIONS ANALYSIS –
ILLINGWORTH & RODKIN, INC.,
APRIL 13, 2021

ILLINGWORTH & RODKIN, INC.
/// Acoustics • Air Quality ///

429 E. Cotati Ave
Cotati, CA 94931

Tel: 707-794-0400
www.illingworthrodkin.com

Fax: 707-794-0405
illro@illingworthrodkin.com

Date: April 13, 2021

To: Joan Lamphier, Principal
JML Planning
45 Calle Del Ribera
Stinson Beach, CA 94970
egret4@gmail.com

From: James A. Reyff
Illingworth & Rodkin, Inc.
429 E. Cotati Ave
Cotati, CA 94931

RE: Mt. Diablo Resource Recovery Park in Pittsburg, CA
SUBJECT: Air Pollutant and Greenhouse Gas Emissions Analysis

The Mt. Diablo Resource Recovery Park (MDRRP) project proposes to construct 570,580 square feet (sf) of new buildings to support the MDRRP Enhancements Project that was the subject of an Environmental Impact Report that was prepared was certified by the City of Pittsburg in 2015 with an Addendum that was adopted XXXX^{1,2}. The project is proposed to be modified by adding building structures to support the facilities and operations previously approved by the City. These include the construction of the new buildings, parking and infrastructure.

Analysis

The Proposed Project would construct new buildings to support the approved operations. This construction may include demolition and regrading to the project site to facilitate this construction. Emissions from construction activity would be a new impact that was not studied under the previous environmental analysis. In addition, operation of the buildings, in terms of energy usage was not evaluated. The analysis presented here addresses construction related emissions as well as new emissions caused by operation of the buildings. Traffic and equipment operation associated with future facility operation were previously addressed in the 2015 DEI and 2018 EIR Addendum.

Project Description

Mt Diablo Resource Recovery Park operates a Recycling and Transfer Station, Recycling and Waste processing center at 1300 Loveridge Road in Pittsburg, CA. The existing facility includes three buildings totaling 133,430 sf, parking lots, and infrastructure on an approximate 36-acre site.

¹ City of Pittsburg. 2014. *Mt. Diablo Resource Recovery Park Draft Environmental Impact Report*. December.

² City of Pittsburg. 2018. *Mt. Diablo Resource Recovery Park Initial Study and EIR Addendum*. November.

The proposed project proposes to construct 17 new industrial buildings, totaling 570,580 sf, with parking and driveway modifications that include 16.8 acres of new impervious surfaces.

Methodology

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions.

The project land use types and size, and anticipated construction schedule were input to CalEEMod using CalEEMod default values. The applicant provided construction information for each phase of construction. This information was provided in terms of anticipated schedule, equipment activity and truck hauling volumes. This information was then entered in the CalEEMod model to estimate annual emissions from construction activity.

Most operational emissions associated with the proposed facility expansion were addressed in the 2015 DEIR and subsequent 2018 Addendum. Since these are industrial buildings that support the approved operations of the project expansion, the only new operational emissions would be associated with lighting, water usage and solid waste generation. The proposed project modifications would not increase traffic or any other industrial-related emissions. The CalEEMod model computed annual emissions each of the proposed project buildings.

Construction of the various buildings would occur at various times over an approximate 10-year period. A total of 13 CalEEMod model runs were developed to model emissions from construction of the proposed building, infrastructure and parking lots. Annual emissions for each construction project were divided by the estimated number of construction days to estimate the average daily emissions that are reported in Table 1. Average daily emissions in any year would not exceed any thresholds recommended by the Bay Area Air Quality Management District (BAAQMD).

Table 1. Uncontrolled Average Daily Construction and Annual GHG Emissions

Year	<u>Construction Emissions (pounds/day)</u>				<u>Metric tons per Year</u>
	ROG	NOx	PM10*	PM2.5*	CO2e
2020	0.9	10.3	0.46	0.42	36
2021	4.3	12.2	0.49	0.45	48
2022	7.9	5.3	0.16	0.15	76
2023	0.8	9.4	0.30	0.28	78
2024	12.6	11.3	0.38	0.36	185
2025	10.4	2.8	0.07	0.06	47
2026	2.6	5.5	0.19	0.18	91
2027	0.2	1.7	0.06	0.06	12
2028	2.4	8.0	0.31	0.29	112
2029	4.1	4.2	0.15	0.14	127
2030	6.6	2.2	0.03	0.03	43
<i>BAAQMD Recommended</i>					
<i>Significance Thresholds</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>	<i>none</i>

*Exhaust component only. Fugitive dust emissions are evaluated based on application of best management practices.

Operational emissions from building operation were also modeled. Since the buildings would support equipment and traffic that are part of the project, only emissions associated with electricity usage, water usage and solid waste generation were included in the modeling. Since these are industrial buildings that house equipment, only the lighting energy emissions were computed.

Air pollutant emissions based on the CalEEMod modeling are negligible and not reported in this assessment. There would be GHG emissions that total 855 metric tons of equivalent carbon dioxide (MTCO₂e) per year at full build out of the project, assumed to be about year 2030.

The 2015 DEIR found that with the inclusion of amortized construction-generated GHG emissions, implementation of the proposed project would result in increased emissions from on-site stationary sources and nonstationary sources totaling approximately 25,450 MTCO₂e per year. However, these increases in GHG emissions would be more than offset by avoided emissions that would result with project implementation, including reductions in energy production emissions and avoided landfill emissions. As a result, the proposed 2015 project would result in the avoidance of 154,692 MTCO₂e annually by the year 2020 and 213,697 MTCO₂e annually by the year 2035.

Modifications to the project that were approved in a 2018 EIR Addendum found that the 2018 project would further reduce GHG emissions slightly due to a reduction in long haul truck travel and the processing of food waste that would otherwise be sent to a landfill. The current project would also have beneficial impacts related to greenhouse gas emissions because of its renewable energy and recycling components.

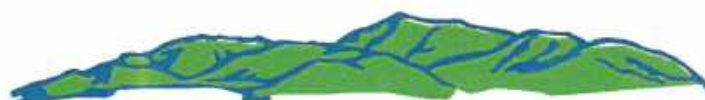
Therefore, the current proposed project would result in similar impacts and would not result in a new significant impact that was not identified in the 2015 EIR.

APPENDIX I.
VEHICLE MILES TRAVELED COMPARISON
EDGAR AND ASSOCIATES,
JUNE 2018

Exhibit 2

Vehicle Miles Traveled Comparison

Mount Diablo Resource Recovery Park



Mt. Diablo Resource Recovery

reduce • reuse • recycle • respect • recover

A Garaventa Company

Edgar & Associates
1822 21st Street
Sacramento, CA 95811
June 2018





Edgar & Associates, Inc. is an environmental engineering company and lobbying firm based in Sacramento and specializing in solid waste management, recycling, composting, and renewable energy issues. Edgar & Associates, Inc. acts as technical adviser and consultant to companies involved with all aspects of materials management services including collection, hauling, processing, recycling, composting, and landfilling. Edgar & Associates, Inc. assists in the deployment of technologies and in obtaining grant funding to commercialize low carbon systems. Since its inception, we have assisted companies and their franchise cities and jurisdictions prepare for greater levels of waste diversion and the lowest carbon footprint possible.

Edgar and Associates regularly calculates vehicle miles traveled, emission, and greenhouse gas analyses for California waste haulers and jurisdictions. Edgar and Associates relies upon the most up-to-date emissions factors provided by the California Air Resources Board, the United States Environmental Protection Agency, and geographic information from Google Maps.

Vehicle Miles Traveled and Emissions Analysis

Mt. Diablo Resource Recovery Park

Current Mixed Solid Waste Operation

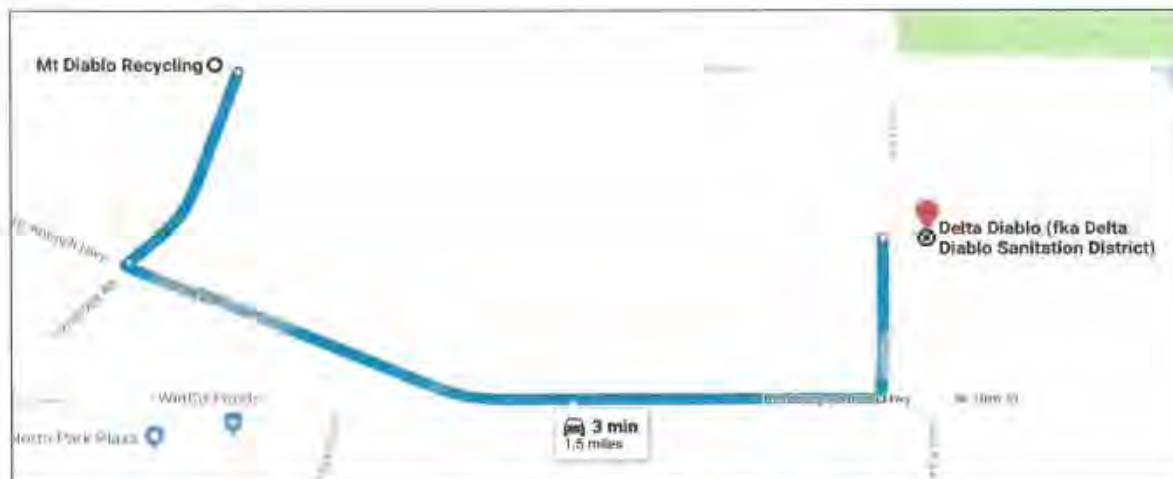
Currently, 339 TPD of Mixed Solid Waste ["MSW"] are being sent from MDRRP to Keller Canyon Landfill ["KCL"], Monday through Friday (260 operating days per year). It takes 17 trips per day of 20-ton payload transfer trucks in order to deliver the aforementioned volume of MSW to KCL. KCL is located approximately 5.9 miles away from MDRRP, which means that each delivery covers approximately 11.8 miles roundtrip.



Route Changes

With the use of the High Diversion Mixed Waste/Wet Organics Processing System, MSW would be manually and mechanically processed to separate out the wet fraction of organic matter in the waste stream (or food waste slurry), additional recyclables, and the inorganic refuse fraction. The wet fraction yield is expected to be approximately 114 TPD. The inorganic refuse fraction is expected to be approximately 225 TPD.

The 225 TPD of inorganic refuse fraction will be sent to KCL for disposal. At 20 tons per load, it would take 12 truck trips per day to deliver 225 TPD to KCL for disposal (260 days per year). For the purpose of this analysis, the 114 TPD of wet fraction would be sent to Delta Diablo instead of going to KCL for disposal. At 20 tons per load, it would take approximately 6 truck trips per day to deliver 114 TPD to Delta Diablo for anaerobic digestion. Delta Diablo is less than 1.5 miles away from MDRRP, which means that each delivery will cover approximately 3 miles roundtrip.



Vehicle Miles Traveled and Emissions

Given the roundtrip distances and trip frequency, the two routing scenarios can be compared with respect to the number of vehicle miles traveled annually. The California Air Resources Board's EMFAC Emission Rates model was used to determine emissions under current MSW operation and under the new High Diversion Material Split (the factors used are the 2018 emissions year, T7 tractor, running off of diesel fuel, for trucks model year 2014).¹

These emissions, annualized are compared side by side in the table below.

	Current MSW Operation	High Diversion Material Split	Difference
Vehicle Miles Traveled	52,156	41,496	10,660
Diesel Gallons	6,014	4,785	1,229

Annual Emissions (Metric Tons)			
ROG	0.004	0.003	0.001
TOG	0.004	0.003	0.001
CO	0.022	0.018	0.004
NOx	0.068	0.054	0.014
PM10	0.00025	0.00020	0.00005
PM2.5	0.00024	0.00019	0.00005
CO ₂ e	82.6	65.7	16.9

As there is no difference in the vehicle types used for this study, the emissions are directly based off of the mileage traveled, which is approximately 20% lower in the High Diversion Material Split scenario than the current MSW operation. The modeling demonstrates a reduction of between 18-25% (21% on average) of the emissions analyzed in the High Diversion Material Split scenario than the current MSW operation.

¹ The Greenhouse Gas impacts are based on the assumption that fleets will be using diesel as described in the low carbon fuel standard as Diesel from the California Air Resources Board. This fuel efficiency, is 102.01 g CO₂e/MJ and can be found on page 66. <http://www.arb.ca.gov/regact/2015/lcfs2015/lcfsfinalregorder.pdf>

Exhibit 3

Vehicle Miles Traveled Comparison: Woodchips Management

Mt. Diablo Resource Recovery Park



Mt. Diablo Resource Recovery

reduce • reuse • recycle • respect • recover

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Edgar & Associates
1822 21st Street
Sacramento, CA 95811
June 2018





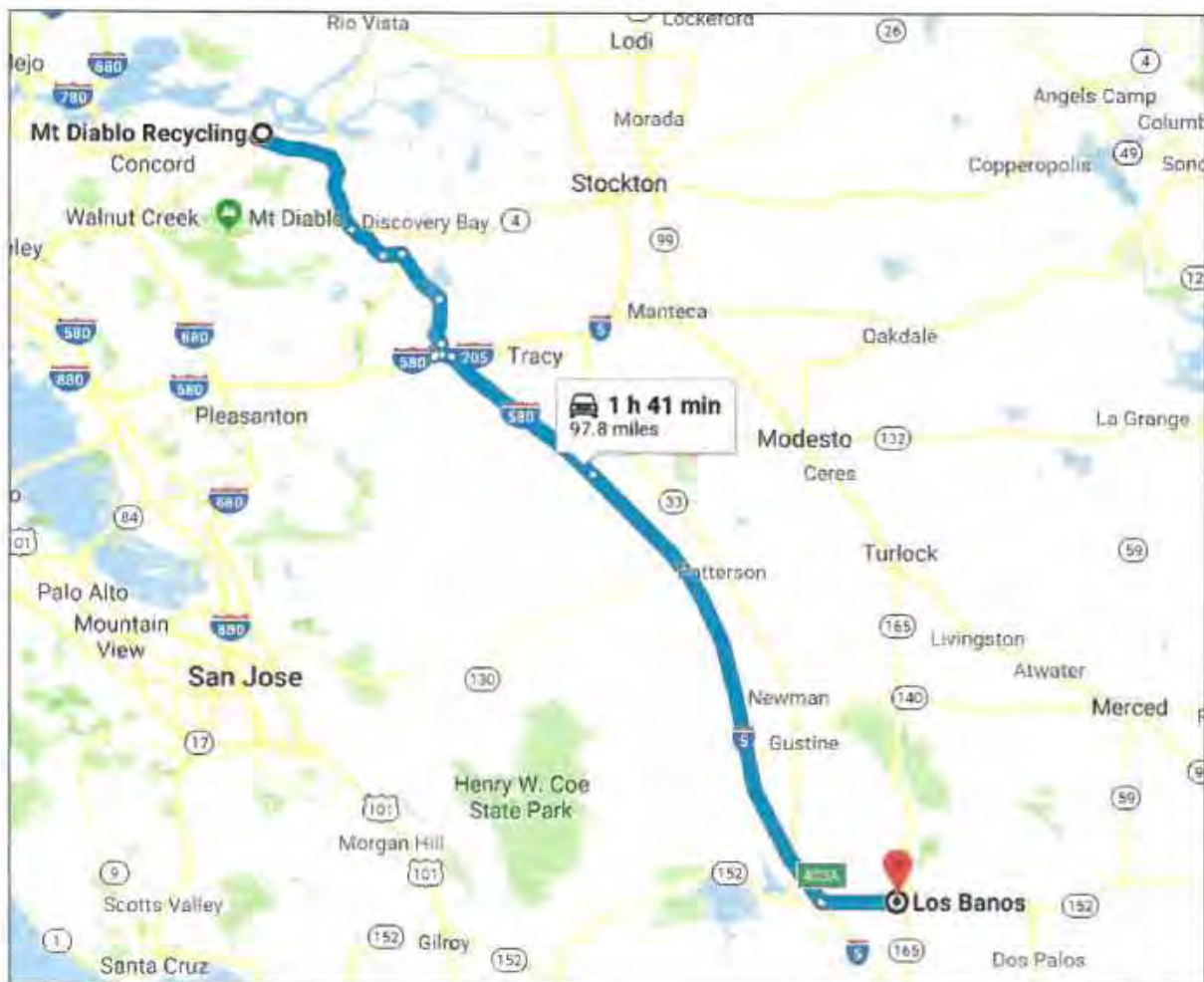
Edgar & Associates, Inc. is an environmental engineering company and lobbying firm based in Sacramento and specializing in solid waste management, recycling, composting, and renewable energy issues. Edgar & Associates, Inc. acts as technical adviser and consultant to companies involved with all aspects of materials management services including collection, hauling, processing, recycling, composting, and landfilling. Edgar & Associates, Inc. assists in the deployment of technologies and in obtaining grant funding to commercialize low carbon systems. Since its inception, we have assisted companies and their franchise cities and jurisdictions prepare for greater levels of waste diversion and the lowest carbon footprint possible.

Edgar and Associates regularly calculates vehicle miles traveled, emission, and greenhouse gas analyses for California waste haulers and jurisdictions. Edgar and Associates relies upon the most up-to-date emissions factors provided by the California Air Resources Board, the United States Environmental Protection Agency, and geographic information from Google Maps.

Mt. Diablo Resource Recovery Vehicle Miles Traveled for Woodchips Management

Vehicle Miles Saved – On Site Utilization of Woodchips

This analysis evaluates the amount of vehicle miles traveled, diesel fuel, and greenhouse gases that are saved by utilizing woodchips onsite at Mt. Diablo Resource Recovery Park (MDRRP). This scenario is modeled against the current conditions in which, on average, approximately 13,000 tons of woodchips material are managed each year by being sent 97.8 miles to the Los Baños Area of California for use in composting or bioenergy facilities. Onsite management of woodchips at MDRRP would effectively eliminate the trek down to Los Baños, depicted on the map below. Annually, the round-trip mileage from MDRRP to Los Baños is approximately 105,950 miles.



Greenhouse Gas Reductions

This is a transportation analysis only and as such the end of life management of the woodchips materials is considered identical in both scenarios. The table below outlines the calculation.

Vehicle Miles Traveled Savings - Woodchips	
Average tons of Woodchips Managed Annually	13,000
Capacity of Transfer Trailer (tons)	24
Trips Required	542
Distance from MDRRP to Los Baños (one-way)	97.8
Fuel Consumption GPM (loaded)	0.17
Fuel Consumption GPM (empty)	0.11
Fuel Consumption GPM per round trip	28
Annual Fuel Consumption	15,283
GHG/Gallon Diesel	0.013732936
Annual MTCO₂e avoided	210

A total of **210 MTCO₂e** are saved each year by utilizing woodchips onsite at MDRRP.

Criteria Pollutants Savings

In addition to reducing GHGs and traffic impacts, the elimination of the trip to Los Baños also reduces the amount of criteria pollutants that the transportation of the wood material would produce. These savings, in metric tons per year, are summarized in the table below.

Annual Criteria Pollutants (MT/year)	
Annual Miles	105,950
ROG	0.007587
TOG	0.008638
CO	0.044802
NO _x	0.139149
PM ₁₀	0.000511
PM 2.5	0.000489

References

The calculations for the above table are based on the following input information.

- Mileage is based on Google™ Maps travel distances between the Mt. Diablo facility and Los Baños California
- The Capacity of a transfer trailer is based on industry experience, which anticipates the payload of such a trailer is 24 tons.
- The fuel consumption per mile is based on Oak Ridge National Laboratory's 2011 study "Effect of Weight and Roadway Grade on the Fuel Economy of Class-8 Freight Trucks".
https://digital.library.unt.edu/ark:/67531/metadc837814/m2/1/high_res_d/1029954.pdf
- The greenhouse gas impacts of diesel fuel usage are based on the following calculation, which uses emission factors from the California Air Resource's Board Low-Carbon Fuel Standard found on page 66 at <http://www.arb.ca.gov/regact/2015/lcfs2015/lcfsfinalregorder.pdf>.

MTCO ₂ e/Gallon		
Annual Total Fuel:	1	Gallons
Conversion:	127,500	Btu/gallon
Total energy:	127,500	btus
Conversion:	0.001056	MJ/btu
Total energy:	135	MJ
Carbon Intensity:	102.01	g CO ₂ e / MJ
MTCO₂e Total:	0.0137	MTCO₂e/Gallon

- The Criteria Pollutants Estimations are based off of the California Air Resources Board's EMFAC model (EMFAC2014) (v1.0.7) Emission Rates with the following inputs:
 - Region: Bay Area
 - Calendar Year 2018
 - Model Year 2014
 - Diesel Fuel
 - T7 tractor vehicle class.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

(Exempt from Recording fees pursuant to
Government Code 27383—Benefits City)

Contra Costa Waste Service, Inc.
1600 Loveridge, LLC
Kirker Creek Business Park, LLC
P.O. Box 5397
Concord, CA 94520
Attention: Legal Dept.

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Attention: City Clerk

APN # 073-200-013, 073-200-014, (Space Above This Line Reserved for Recorder's Use)
073-200-015, 073-200-026, 073-200-027,
073-200-028 and 073-200-029

**DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF PITTSBURG, CALIFORNIA
AND
CONTRA COSTA WASTE SERVICE, INC., 1600 LOVERIDGE, LLC, AND KIRKER CREEK
BUSINESS PARK, LLC**

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “**Agreement**”) is entered into as of the Effective Date between Contra Costa Waste Service, Inc., a California corporation, 1600 Loveridge, LLC, a California limited liability company, and Kirker Creek Business Park, LLC, a California limited liability company (collectively, “**Developer**”), and the CITY OF PITTSBURG, a California municipal corporation (“**City**”), pursuant to California Government Code § 65864 *et seq.* The Effective Date is [REDACTED], 2021.

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted California Government Code § 65864 *et seq.*, which authorizes City to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property.

B. Pursuant to California Government Code § 65865, City has adopted procedures and requirements for the consideration of development agreements (Resolution No. 89-7466). This Development Agreement has been processed, considered and executed in accordance with such procedures and requirements.

C. Developer has a legal interest in certain parcels of real property consisting of approximately 37 acres, as more particularly described in the **Exhibit A** attached hereto and identified as Assessor’s Parcel Numbers 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028 and 073-200-029. (the “**Property**”), and as diagrammed in the attached **Exhibit A-1** (the “**Project Site**”).

D. On August 9, 2010, Contra Costa Waste Service, Inc. filed Use Permit and Design Review Application No. 10-712 requesting approval to bring the solid waste operations at the Recycling Center and Transfer Station (“RCTS”), the Mt. Diablo Recycling Facility (“MDRF”) and the mixed construction and demolition (“Mixed C&D”) recycling facility under a single entity referred to as Mt. Diablo Resource Recovery Park (“MDRRP”). The proposal included an increase in the total amount of materials processed per day at the three facilities from 2,200 tons per day (“TPD”) to a total of 5,500 TPD; established new commercial recycling and organic processing programs for residential and commercial food wastes; permitted construction of a biomass gasification unit to process clean wood waste into energy for on-site use; and as a possible future phase of the project, a rail haul option for waste transportation purposes.

E. On May 26, 2015, the Planning Commission adopted Resolution No. 10001 Certifying the Environmental Impact Report and Adopting Findings, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (“MMRP”), for the Developer. The Final Environmental Impact Report (“FEIR”) identified significant potential environmental impacts that could be reduced with the implementation of the FEIR MMRP. At the same meeting, the Planning Commission adopted Resolution No. 10002 approving a Use Permit and Design Review of Plans to consolidate facility operations, expand waste handling capacity, and construct a new truck maintenance building.

F. On November 20, 2018, the Planning Commission adopted Resolution No. 10109, approving a subsequent use permit modification to permit improvements, including the relocation of the truck maintenance facility to the southern end of the property; an increase in the number of gasification units from one to three; and a reorganization of the operations to allow a more efficient utilization of the property.

G. On February 2, 2021, Developer filed Use Permit, Design Review, and Development Agreement Application No. 21-1553 requesting: 1) an amendment to the existing use permit (approved in 2018) for operational enhancements at the existing Property where Mt. Diablo Resource Recovery Park (“MDRRP”) is located; 2) design review approval of plans to construct five new structures totaling 448,900 square feet of new building area for a total of 570,580 square feet of development; and 3) approval of a Development Agreement relating to the Property (collectively, the “Project”)

H. The Project conforms to the applicable General Plan land use designations of Industrial and Limited Industrial-Limited Overlay and the applicable goals and policies of the Pittsburg General Plan and Pittsburg Municipal Code (“PMC”).

I. The MMRP, as required by State CEQA guidelines and incorporated herein by reference, identifies project mitigation, designation of responsibility for mitigation implementation, and the agency responsible for the monitoring action.

J. The Use Permit, Design Review approval, and Development Agreement policies described in these Recitals, together with this Agreement, are collectively referred to herein as the “**Project Approvals.**”

K. City has determined that the Project presents certain public benefits and opportunities which are advanced by City and Developer entering into this Agreement. This Agreement will, among other things, require conditions of approval and other exactions resulting in:

1. Developer’s formation of a Benefit District or other funding mechanism for the long-term roadway maintenance for Loveridge Road.

2. Developer’s construction of certain frontage improvements on Loveridge Road, in conformance with the ultimate roadway design for Loveridge Road between State Route 4 and the project site.

3. Developer’s contribution of fair share payment for the implementation of improvements relating to the State Route 4 widening project that would improve capacity at the State Route 4 Eastbound ramps/Loveridge Road Intersection. These improvements include:

- Converting the existing configuration from a “T” intersection to a four-leg intersection;
- Modifying the eastbound approach from its current configuration which provides one shared left-turn/through lane and one right-turn lane to provide two left-turn lanes and one right-turn lane;

- Modifying the southbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two left-turn lanes and two through lanes; and
- Modifying the northbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two through lanes and one right-turn lane.

4. Developer's contribution of fair share payment for the following improvements at the Pittsburg / Antioch Highway Loveridge Road Intersection:

- Installing a dedicated eastbound right-turn lane on Pittsburg-Antioch Highway;
- Installing a second westbound left-turn lane on Pittsburg-Antioch Highway;
- Upgrading existing traffic signal equipment to accommodate the changed intersection lane configurations;
- Installing an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach;
- Installing a dedicated left-turn lane on the northbound Loveridge Road approach;
- Converting the existing shared left-turn/through lane on the northbound Loveridge Road approach to be a through-only lane;
- Modifying the signal phasing in the north/south direction from split phase to having protected left-turns; and
- Upgrading the existing traffic signal equipment to accommodate the recommended intersection lane configurations.

5. The inclusion of the Project Site into the existing Citywide Lighting and Landscape District No. 88-01, at no cost to the City, in order to provide funding for certain landscape and lighting costs, as set forth in Section 5.05 of this Agreement.

6. The inclusion of the Project Site into the City's existing Public Safety Services, Community Facilities District 2005-1, at no cost to the City, in order to provide for police services to the Project Site, as set forth in Section 5.06 of this Agreement.

7. The inclusion of the Project Site into the City's existing Fire Facilities and Fire Safety and Emergency Services, as set forth in Section 5.07 of this Agreement.

L. In exchange for the benefits to City described in the preceding Recital K and others set forth herein, Developer will receive, by this Agreement, assurances that it may proceed with the long-term phased development of the Project in accordance with the "Applicable Law" (defined herein), and therefore desires to enter into this Agreement.

M. On August 24, 2021, pursuant to PMC Section _____, the Planning Commission held a duly noticed public hearing and adopted Resolution No. 10173, recommending approval of the proposed Agreement.

N. The City Council, after conducting a duly noticed public hearing, has found that this Agreement is consistent with the General Plan and has conducted all necessary proceedings in accordance with the City's rules and regulations for the approval of this Agreement.

O. The City Council, on _____, 2021, at a duly noticed public hearing adopted Ordinance No. 21-_____, approving and authorizing the execution of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and obligations set forth herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE I DEFINITIONS

"Administrative Agreement Amendment" shall have that meaning set forth in Section 7.02 of this Agreement.

"Administrative Project Amendment" shall have that meaning set forth in Section 7.01 of this Agreement.

"Agreement" shall mean this Development Agreement.

"Applicable Fees" shall have that meaning set forth in Section 3.04 of this Agreement.

"Applicable Law" shall have that meaning set forth in Section 6.03 of this Agreement.

"Buildout" shall mean the City's issuance to Developer of the last certificate of occupancy required for any portion of the Project Site.

"CEQA" shall mean the California Environmental Quality Act.

"Changes in the Law" shall have that meaning set forth in Section 6.07 of this Agreement.

"City" shall mean the City of Pittsburg, a California municipal corporation.

"Complaining Party" shall have that meaning set forth in Section 10.01 of this Agreement.

"Day" or **"days"** shall mean calendar day or calendar days.

"Default Notice" shall have that meaning set forth in Section 10.01 of this Agreement.

“Defaulting Party” shall have that meaning set forth in Section 10.01 of this Agreement.

“Deficiencies” shall have that meaning set forth in Section 9.02(a) of this Agreement.

“Developer” shall mean Contra Costa Waste Service, Inc., a California corporation, 1600 Loveridge, LLC, a California limited liability company, and Kirker Creek Business Park, LLC, a California limited liability company, collectively.

“Effective Date” shall have that meaning set forth in Section 2.01 of this Agreement.

“Fire Facilities and Fire Safety Emergency Services” shall have that meaning set forth in Section 5.07 of this Agreement.

“Fair Share” shall mean the proportionate share which the Developer, or other party, shall bear of the improvement, facility, or structure which is providing service to the Project, Developer or other party. The term “fair share” or similar terms used herein are not intended by the parties to this Agreement to impose a different or higher burden of proof on the City as to its fees, charges, or other exactions, than exists under applicable State or federal law.

“Funding Mechanisms” shall have that meaning set forth in Section 3.11 of this Agreement.

“General Plan” shall have that meaning set forth in Recital H of this Agreement.

“Judgment” shall have that meaning set forth in Section 9.02(a) of this Agreement.

“LLD” shall have that meaning set forth in Section 5.05 of this Agreement.

“Non-Assuming Transferee” shall have that meaning set forth in Section 8.03 of this Agreement.

“Notice of Compliance” shall have that meaning set forth in Section 8.04 of this Agreement.

“Periodic Review” shall have that meaning set forth in Section 10.03 of this Agreement.

“Public Safety Community Facilities District” shall have that meaning set forth in Section 5.06 of this Agreement.

“Project” shall have that meaning set forth in Recital G of this Agreement.

“Project Approvals” shall have that meaning set forth in Recital J of this Agreement.

“Project Site” shall have that meaning set forth in Recital C of this Agreement.

“Public Improvements” shall have that meaning set forth in Article XI of this Agreement.

“Subsequent Approvals” shall mean those certain other land use approvals, entitlements, and permits other than the Project Approvals that are necessary or desirable for

the Project. The Subsequent Approvals may include, without limitation, the following: amendments of the Project Approvals, design review approvals, improvement agreements, use permits, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, subdivision maps, PD Plans, rezonings, development agreements, permits, resubdivisions, and any amendments to, or repealing of, any of the foregoing.

“**Term**” shall have that meaning set forth in Section 2.02 of this Agreement.

“**Transfer Agreement**” shall have that meaning set forth in Section 8.02(a) of this Agreement.

If any capitalized terms contained in this Agreement are not defined above, then any such terms shall have the meaning otherwise ascribed to them in this Agreement.

ARTICLE II EFFECTIVE DATE; TERM

Section 2.01 **Effective Date**. This Agreement shall become effective upon the date the ordinance approving this Agreement becomes effective (the “Effective Date”).

Section 2.02 **Term**. The term of this Agreement shall commence upon the Effective Date and continue for a period of twenty (20) years (the “Term”). However, at such time as Developer has complied with all conditions in this Agreement, and upon the City Manager’s written authorization after receipt of request by Developer, this Agreement shall terminate and be of no further effect between the parties. The termination shall not alter any of the Project Approvals and related matters as to the Project.

ARTICLE III OBLIGATIONS OF DEVELOPER

Section 3.01 **Obligations of Developer Generally**. The parties acknowledge and agree that the City’s agreement to perform and abide by the covenants and obligations of City set forth in this Agreement is a material consideration for Developer’s agreement to perform and abide by its long-term covenants and obligations, as set forth herein. As material consideration for the long-term assurances and vested rights provided by this Agreement and as a condition of approval to one or more of the Project Approvals, Developer agrees to each of the following:

Section 3.02 **Facility Reserve Charges**. Developer agrees to pay City’s Facility Reserve Charges (“FRC”) as set or modified by the City Council from time to time.

Section 3.03 **Water Infrastructure**. Developer shall comply with the 2015 Water System Master Plan, as amended, as well as any and all future Water System Master Plans adopted by the City.

Section 3.04 **Applicable Fees**. City may levy development fees and charges during

the term of this Agreement relative to the development of the Project Site which are in force and effect as of the Effective Date, as more particularly described and according to the payment schedule set forth on Exhibit B ("Applicable Fees"). Unless otherwise provided in this Agreement, no development fees, or charges, or categories thereof, shall be imposed on the Project other than those fees (including categories within such fees), and charges identified as Applicable Fees on Exhibit B, which exhibit shall exclusively govern the Applicable Fee payment schedule. The parties agree that any and all Project development fees, charges or exactions related to schools, fire prevention, water, sewer, stormwater, and storm drainage facilities, which are to be paid by Developer directly to third-party governmental agencies, are not subject to or within the scope of this Agreement whether such third party charges exist or are subsequently imposed by such third parties, whether directly upon Developer or through City. This provision shall not be construed to benefit any Non-Assuming Transferees, as such term is defined in herein.

Section 3.05 **Applicable Fee Adjustments.** Developer shall pay fees and charges consistent with Section 3.04 above, and the applicable adjustments currently provided in such fees, and as modified from time to time by the City, whether such adjustment or modification is an increase or decrease. Developer retains the right to challenge the imposition of any new fees not referenced in this Agreement or the modification, amendment or adjustment of all Applicable Fees pursuant to Government Code § 66000 *et seq.*, not already authorized by ordinances, resolutions or policies in place at the time of this Agreement's execution. Should the City Council approve a new AB 1600 fee study and/or authorize a decrease in any of the Applicable Fees during the term of this Agreement by ordinance or by resolution, Developer shall have the option, at its sole discretion, to pay the lower fee, as may be adjusted by the applicable CPI or ENR, unless otherwise bound by separate contract or memorandum of understanding with City. In no event shall Developer receive retroactive adjustments for lower fees.

Section 3.06 **City Local Traffic Mitigation Fee.** Prior to issuance of a building permit, the Developer shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect at the time of building permit issuance. The Developer understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index ("CCI") and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburgh Local Transportation Mitigation Fee Program Update, copies of which are available from the City.

Section 3.07 **Regional Traffic Fee.** Prior to issuance of a building permit, Developer shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the "RTDIM") amount in effect at the time of building permit issuance. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area, between September 1 and September 1 of the preceding two calendar years.

Section 3.08 **Payment of Fair Share Fees.** Prior to issuance of the first

development permit for the construction of the North Building (permanent organics processing operations), and in accordance with Mitigation Measures MM 3.7.1 (a) and (b) and MM 3.7.2, Developer shall pay their Fair Share for the implementation of improvements relating to:

- Highway 4 widening project that would improve capacity at the State Route 4 Eastbound ramps / Loveridge Road Intersection; and
- Pittsburg-Antioch Highway/Loveridge Road intersection improvements

The final Fair Share costs of these improvements shall be established through a traffic analysis to be prepared by City consultant, Fehr & Peers. However, barring any revisions to the previously prepared 2011 traffic analysis recommended by the new analysis, the Developer shall comply with the mitigation measures contained within the 2011 analysis. The full cost of the traffic analysis prepared by Fehr and Peers or any subsequent studies prepared shall be reimbursed by the Developer.

Section 3.09 **Deferred Frontage Improvements.** Developer agrees that upon the earlier to occur of (a) seven (7) years from the Effective Date, or (b) commencement of construction by Developer of the bale storage and self-haul phase of the Project (currently identified as 'Phase 7'), Developer shall commence construction of the frontage improvements on Loveridge Road, fronting the entire Project Site. Frontage improvements shall include curb, gutter, sidewalk, landscaping, lighting, and undergrounding of utilities, as well as storm drain facility improvements required to meet the storm water control needs of the Project. The design of these improvements shall be in conformance with the City's ultimate roadway design for Loveridge Road between State Route 4 and the Project Site, and subject to the City Engineer's review and approval.

Section 3.10 **Payment for Reconstruction of and Ongoing Maintenance for Loveridge Road.** Developer agrees to pay their Fair Share of reconstruction costs for Loveridge Road. Developer shall annex that portion of the Project Site that contains the main processing plant into a Community Facilities District or similar funding mechanism established by the City for the on-going maintenance of Loveridge Road in perpetuity. The costs of reconstruction of the roadway and ongoing maintenance costs shall be determined through a study conducted by the City or consultant hired by the City, and shall be based on truck trips attributed to the business operated by Developer on the Project Site, or other measurement deemed mutually acceptable by the Developer and the City. The full cost of the study or any subsequent studies prepared shall be reimbursed by the Developer.

Section 3.11 **Fees, Assessments and/or Taxes to be Paid by Developer.** Developer agrees to pay its Fair Share of any levies imposed by any assessment district, landscaping and lighting district, community facilities district, tax-exempt financing mechanisms, or other funding mechanisms related to public safety, traffic, fire, or other infrastructure improvements (including, without limitation, design, acquisition, construction and maintenance costs) (collectively, "Funding Mechanisms") within the Project Site, provided that such Funding Mechanism is referenced herein and/or was legally created pursuant to Applicable Law and subject to the terms of this Agreement concerning the imposition of fees on the Developer, including without limitation, Section 5.08 herein.

Section 3.12 **C.3 Facilities.** Developer shall submit a complete Stormwater Control

Plan and Report compliant with the requirements set forth in the City's most current NPDES permit. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from the associated drainage management areas. The grading and/or building plans shall include drawings and specifications necessary to implement all measures in the approved Stormwater Control Plan. Design features should incorporate low impact development design standards as outlined in the most current edition of the Contra Costa Clean Water Program's C.3 Guidebook. These features include limiting directly connected impervious area, and incorporating pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants. Grading and/ or building permits shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.

Section 3.13 **Payment of Local Sales and Use Taxes.** Any purchase, acquisition, and/or supply of goods and materials, as well as any new or replacement equipment and supplies purchased by the Developer or its contractors, subcontractors, agents or affiliates, subject to the limitation set forth below, in connection with this Project shall be apportioned and paid to and at the applicable sales tax rate in effect for the City as administrated by the California Department of Tax and Fee Administration ("CDTFA"); provided, however, that Developer shall only be required to use commercially reasonable efforts to ensure compliance with this subsection from its contractors, subcontractors, agents, or affiliates and Developer shall not incur any liability to the City under this Section 3.13 with respect to any circumstances beyond the control of Developer. At no point may Developer or its contractors, subcontractors, agents or affiliates contractually agree to waive or share sales and use taxes from this Project with any other city, county or other entity in the State of California, regardless of agreement they might have with another jurisdiction where they have offices or conduct business. The City of Pittsburg will be the sole jurisdiction of record to the transfer of title. Developer and its contractors, subcontractors, agents and affiliates shall comply with the Sales and Use Tax Requirements ("Requirements") set forth below and all CDTFA requirements. If the City becomes aware of modifications necessary to such Requirements, City may propose to incorporate new or revised requirements, subject to Developer's agreement which shall not be unreasonably withheld, conditioned or delayed. Except as expressly provided for herein, failure by Developer, its contractors, subcontractors, agents or affiliates to comply with this condition to ensure appropriate taxes are properly paid and passed through to the City will result in Developer paying a fee equivalent to the taxes which the City would have received had Developer, its contractors, subcontractors, agents or affiliates taken such actions to ensure the sales taxes referenced in the first sentence of this subsection are apportioned to the City.

Developer, its contractors, subcontractors, agents or affiliates, and/or future project owners and/or operators, as applicable, shall adhere to the following steps in effort to maximize the City's allocation of sales and use taxes associated with project construction and operations by taking the following steps:

- A. Prior to issuance of a grading or building permit or within 60 days of the effective date of this approval, whichever comes first, the developer shall register with the CDTFA and keep such registration current throughout the operational life of the project.
- B. Apply for a Use Tax Direct Pay Permit. Upon receipt of registration, provide a copy to the City and/or their consultant for verification.

- C. Self-accrue and pay use taxes in accordance CDFTA requirements.
- D. Report local and district use taxes to CDFTA on applicable use tax returns.
- E. Developer shall use commercially reasonable efforts to endeavor to require all contractors, subcontractors, agents and affiliates providing building materials and fixtures, such as but not limited to, bulk lumber, concrete, structural steel and pre-fabricated building components to be used in connection with the construction and development of, or incorporated into, the Project, to:
 - i. obtain a Seller's Permit;
 - ii. issue a resale certificate to any supplier of material that will allow it to buy property without payment of tax;
 - iii. file timely Sales and Use tax returns and report local tax on materials consumed and fixtures sold by the contractor, subcontractor, agent or affiliate based on the sole jobsite location located in the City of Pittsburg;
 - iv. elect to obtain a sub permit for the job site of any contract valued at Five Million Dollars (\$5,000,000) or more enabling the contractor, subcontractor, agent or affiliate to make a direct allocation of the tax based on the jobsite located in the City of Pittsburg; and
 - v. otherwise designate the Property as the place of use of materials used in the construction of the Project in order to have the full local use tax portion of the sales and use tax distributed directly to the City of Pittsburg.
- F. Developer shall use commercially reasonable efforts to endeavor to require and instruct each of its contractors, subcontractors, agents and affiliates to cooperate with the City to ensure the local use tax is allocated to City of Pittsburg.
- G. To assist City in its efforts to ensure that the full amount of such local sales/use tax is allocated to the City, Developer or its General Contractor shall provide City with a quarterly spreadsheet, which includes a list of all subcontractors, agents or affiliates with contracts in excess of the amount set forth above, a description of all applicable work, and the dollar value of such subcontracts or agreements. City or City's consultant may use the information provided it to contact each contractor, subcontractor, agent or affiliate to determine which may qualify to register the jobsite for allocation of the local use tax to the City of Pittsburg.

Section 3.14 **Fiberoptic Internet Service.** In the event the City of Pittsburg establishes an internet service provider ("ISP") and offers high-speed internet service to the Project Site, Developer shall agree to take service from the City's ISP at the highest service level available to commercial users for the term of Agreement; provided, however, that Developer shall have no obligations under this subsection in the event that it demonstrates to the City Manager that the proposed service levels, bandwidth, pricing, and/or any other material factor relating to the prospective ISP provider are inferior to the internet service then in effect at the Project Site.

Section 3.15 **Utility Service by Pittsburg Power Company.** In the event the Pittsburg Power Company (“PPC”) offers electric and/or gas service to the Project Site, Developer shall take all reasonable steps to become customers of PPC or other municipal utility identified by the City; provided, however, that Developer shall have no obligations under this subsection in the event that it demonstrates to the City Manager that the proposed service levels, pricing, and/or any other material factor relating to the prospective electric and/or gas provider are inferior to the electric and/or gas service then in effect at the Project Site and/or would cause any material hinderance relating to the operation of the Project Site. For purposes of clarity, the terms of this subsection shall in no way prohibit or impede the Developer from producing energy on the Project Site and/or utilizing any such energy that is generated on the Project Site. Any obligation of Developer pursuant to this subsection is further expressly conditioned upon PPC or any other municipal utility identified by the City negotiating and entering into a power purchase agreement with Developer on terms acceptable to Developer, in its sole discretion.

Section 3.16 **Enhanced Infrastructure Financing.** City may, at its discretion, pursue establishment of an Enhanced Infrastructure Financing District (“EIFD”) as a mechanism for, among other things, funding infrastructure improvements within the City that serve the Project and may also serve other properties. Developer agrees to use reasonable efforts to support City’s establishment of an EIFD.

ARTICLE IV OBLIGATIONS OF CITY

Section 4.01 **Obligations of City Generally.** The parties acknowledge and agree that Developer’s agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer’s decision to process the siting of the Project in the City, is a material consideration for City’s agreement to perform and abide by the long-term covenants and obligations of City, as set forth herein.

Section 4.02 **Availability of Public Services.**

(a) **General.** To the extent permitted by law and consistent with its authority, City shall reserve such capacity for water services as may be necessary to serve the Project. This reservation of water infrastructure capacity shall be assured for the Term to the extent consistent with applicable law.

(b) **Construction Water.** City shall make construction water available to the Project by permitting the Project to hook up to existing City water supply infrastructure, at a location reasonably determined by the City, at Developer’s cost and on those terms and conditions and charges customarily applied by City to similar projects consistent with City standards. City shall also permit Developer to install such temporary construction water pipelines and related infrastructure as reasonably necessary to provide construction water to the Project site for Developer’s use in any and all Project grading and construction operations, as long as such water is unrelated to potable use.

Section 4.03 **Developer’s Right to Rebuild.** City agrees that Developer, in

Developer sole's discretion, may renovate or rebuild the Project within the Term of this Agreement should it become necessary due to natural disaster, changes in seismic requirements, acts of God, acts of terrorism, or damage to work in progress by reason of fire, floods or other casualties. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement, and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA and this Agreement.

Section 4.04 **Reimbursement of Infrastructure Costs.**

(a) **Reimbursement.** Unless otherwise provided for herein, to the extent Developer incurs costs related to the planning and construction of traffic infrastructure, water delivery infrastructure, sewer infrastructure or other public infrastructure required by City or this Agreement for the Project that exceed the Project's Fair Share obligation for such infrastructure, City shall reimburse Developer for the City's portion of such costs (including any management fees provided for in this Agreement), subject to City's prior verification through inspection of the construction that is subject to such reimbursement and upon final acceptance of the infrastructure by the City. This reimbursement shall be paid within sixty (60) days after City's final acceptance or at such other time as mutually agreed upon in writing by the parties. Developer shall be entitled to a management fee of five percent (5%) for City's share of approved infrastructure costs, including but not limited to design and special inspection costs. The management obligations of Developer hereunder shall include contracting and managing the construction of the infrastructure, retaining copies of records, photographs and "as built" for the improvement(s) as well as attending meetings and providing necessary reports as reasonably requested by City.

(b) **City's Authorization of Reimbursement.** Notwithstanding any other provision of this Section, or of this Agreement, City shall not be responsible to reimburse or credit Developer for any costs, including as referenced in Section 4.04(a) herein, unless prior to Developer incurring any costs for which Developer will request reimbursement from City, Developer shall first provide written documentation as to the work to be performed, the estimated costs thereof, including a not-to-exceed cap, and such other details as reasonably requested by the City Manager and the City Manager approves the proposed costs and related work. If the City Manager fails to respond within thirty (30) days of its receipt of such estimated costs, Developer shall provide a second written notice to the City Manager and to the City Engineer, if neither responds within thirty (30) days of the City's receipt of the second request, the request shall be deemed approved. The City Manager shall have the discretion to require Developer to obtain competitive bids on any work for which Developer may request reimbursement or credit from the City where the total cost (not just the City's share) of that work is One Hundred Thousand Dollars (\$100,000) or more. City shall also have the opportunity to inspect any and all infrastructure during its construction, as well as to review any work product for which Developer requests reimbursement or credits. If mutually agreed by the parties in writing, any reimbursement due Developer pursuant to this Agreement may be satisfied by City in the form of credits, which can actually be used by Developer to offset Developer's payment of any Applicable Fees. In the event there are not enough credits to fully satisfy the reimbursement due Developer and subject to the terms of the mutual agreement between the parties referenced in the prior sentence, City shall reimburse Developer within thirty (30) days of invoicing.

ARTICLE V COOPERATION — IMPLEMENTATION

Section 5.01 **Processing Application for Subsequent Approvals.** The parties agree that all Subsequent Approvals shall be processed by City in a manner consistent with the following provisions:

(a) **Standard of Review.** By adopting the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed tools to implement those final policy decisions and shall be issued by City so long as they comply with this Agreement and Applicable Law, as defined below, and are not inconsistent with the Project Approvals as set forth above, and meet the intent and comply with any City adopted Designed Guidelines, as applicable. To the extent permitted by law, City shall not use its discretionary authority in considering these Subsequent Approval applications to revisit or frustrate the policy decisions or material terms reflected by the Project Approvals. Developer agrees that development under this Agreement shall comply with provisions reflected in Uniform Codes (whether building, fire, plumbing, or other applicable uniform codes) which may adopted subsequent to the Effective Date of this Agreement.

(b) **Basis for Denial.** City may deny an application for a Subsequent Approval only if such application does not comply with this Agreement or Applicable Law, defined below, or does not substantially comply with the Project Approvals (provided, however, that inconsistency with the Project Approvals shall not constitute grounds for denial of a Subsequent Approval which is requested by Developer as an amendment to that Project Approval). City may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the Subsequent Approval into compliance with this Agreement or Applicable Law, or as is necessary to make this Subsequent Approval consistent with the Project Approvals. If City denies any application for a Subsequent Approval, City shall specify in writing the reasons for such denial and may suggest a modification which would be approved by City.

Section 5.02 **Timely Submittals by Developer.** Developer acknowledges that City cannot expedite processing of the Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to (a) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (b) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other necessary materials as set forth in the Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals consistent with this Agreement.

Section 5.03 **Timely Processing by City.** Upon submission by Developer of all

appropriate applications and processing fees for any Subsequent Approval, City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval applications including, without limitation, (a) providing at Developer's expense and subject to Developer's request and prior written approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Approval application; (b) if legally required, providing notice and holding public hearings; and (c) acting on any such Subsequent Approval application. If Developer elects to request and approve the use of overtime staff assistance or staff consultants for planning and processing of any Subsequent Approval pursuant to this Section 5.03, Developer's reimbursement to City for such services shall be made in amount equal to City's actual costs of providing such services, in accordance with standard City practice.

Section 5.04 **Other Government Permits.** At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. Permits shall be obtained from each agency having jurisdiction over the Project to the extent required by law including the City of Pittsburg Local Enforcement Agency ("LEA"), the Bay Area Air Quality Management District, San Francisco Bay Regional Water Quality Control Board and the Department of Resources Recycling and Recovery.

Section 5.05 **Lighting and Landscaping District (LLD).** Developer agrees that the Project Site will be annexed into the City's existing Lighting and Landscaping District, as established pursuant to City Resolution No. 88-7324 ("LLD"). Developer agrees that the base assessment applies to the Project and is subject to increase, provided any such increase of the base assessment imposed uniformly or similarly situated properties by City in a manner consistent with State law. Developer further agrees that the base assessment shall be levied upon recordation of each of the Project's final maps. The parties agree that the base LLD assessment described herein shall finance, among other things, the maintenance of any and all landscape improvements and the maintenance of the parks.

Section 5.06 **Public Safety Services.** Developer agrees to annex the Project Site into Community Facilities District 2005-1 which provides funding for an increase of police coverage in the area. The rate of the CFD is subject to City Council Ordinance No. 05-1246.

Section 5.07 **Fire Facilities and Fire Safety and Emergency Services CFD 2017-1.** Developer agrees that the Project Site will be annexed into the City's existing Community Facilities District 2017-1 for Fire Facilities and Fire Safety and Emergency Services (CFD 2017-1). The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. Developer shall complete annexation of the property into the CFD 2017-01 prior to the issuance of any building permits.

Section 5.08 **Assessment Districts or Other Funding Mechanisms.** City understands that City's long-term assurances to Developer concerning fees, taxes and assessments related to the Project are a material consideration for Developer agreeing to proceed with the proposed Project and to pay the fees, taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts or other Funding Mechanisms, as defined in Section 3.11 of this

Agreement, covering all or any portion of the Project Site. Notwithstanding the foregoing, Developer retains all its rights to oppose the formation or proposed assessment of any new assessment district, Funding Mechanism, or any and all increases thereto, or to request or pursue assessment credits or reductions, unless otherwise provided for herein or unless such assessment, Funding Mechanism or related increases are in place and legally effective as of the date of this Agreement's Effective Date.

Section 5.09 **Warranty Bonds**. Developer agrees that every infrastructure improvement dedicated to City (except landscaping, unimproved real property or open space dedications) pursuant to this Agreement shall be accompanied by a one (1) year warranty bond in a form and in an amount, and with a surety acceptable to City.

ARTICLE VI STANDARDS, LAWS AND PROCEDURES GOVERNING THE PROJECT

Section 6.01 **Vested Right to Develop**. Developer shall have a vested right to develop the Project on the Project Site in substantial conformance with the terms and conditions of this Agreement, the Project Approvals (as and when issued), the Subsequent Approvals (as and when issued), and amendments thereto as shall, from time to time, be approved pursuant to this Agreement. Nothing in this Section 6.01 shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.

Section 6.02 **Permitted Uses Vested by this Agreement**. The permitted uses of the Project Site; the density and intensity of use of the Project Site; the maximum height, bulk and size of proposed buildings; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals.

Section 6.03 **Applicable Law**. "**Applicable Law**" shall mean the existing rules, regulations, official policies, standards and specifications governing permitted uses of the Project Site; governing density; and governing design, improvements, and construction standards and specifications applicable to the Project and Project Site as set forth in this Agreement and the Project Approvals, and in force and effect on the Effective Date of this Agreement. However, this Agreement and this Section shall not be construed to prevent the City, in any subsequent actions applicable to the Project Site, from applying any new rules, regulations, official policies, standards, and specifications that do not conflict with those rules, regulations, official policies, standards, and specifications existing as of the Effective Date of the Agreement.

Section 6.04 **Uniform Codes**. Notwithstanding any other provision of this Agreement, City may apply to the Project Site, at any time during the Term, the then current Uniform Building Code and other uniform construction codes as properly modified by City and uniformly applied on a citywide basis, and City's then current design and construction standards for road and storm drain facilities. In no event shall any such uniform code or standard be adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

Section 6.05 **Moratorium and Conflicting Enactments**. To the extent consistent with State Law, if any ordinance, resolution or other measure is enacted, whether by action of City, by initiative, referendum, or otherwise, that imposes a building moratorium, or a voter-approval requirement which would otherwise affect the timely development of the Project on all or any part of the Project Site, City agrees that such ordinance, resolution or other measure shall not apply to the Project, the Project Site, this Agreement, the Project Approvals, or the Subsequent Approvals, if any, during the term of this Agreement, unless the building moratorium is imposed as part of a declaration of a local emergency or state of emergency as defined in Government Code Section 8558. Developer reserves the right to challenge in court any City action or inaction which Developer believes is in conflict with Applicable Law or this Agreement.

Section 6.06 **Life Development Approvals and Permits**. To the extent consistent with Applicable Law, the term of any permit or other land use entitlement approved as a Project Approval or Subsequent Approval shall automatically be extended for the duration of this Agreement, including any extensions. The term of this Agreement and any Project Approval or Subsequent Approval shall not include any period of time during which any applicable development moratorium (including, but not limited to, a water or sewer moratorium) or the actions of other public agencies that regulate land use, development or the provision of services to the land, prevents, prohibits or delays the construction of the Project. The term of this Agreement and any Project Approval or Subsequent Approval shall not include any period of time during which any applicable court order or other legal requirement prevents the processing of any Subsequent Approval or prevents any Project development activities.

Section 6.07 **State and Federal Law**. As provided in California Government Code § 65869.5, if any state or federal laws or regulations, enacted after this Agreement's Effective Date prevent or preclude compliance with one or more provisions of this Agreement ("**Changes in the Law**"), such provision of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations as may be necessary to comply with Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Article V and Section 10.05. Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically required by State or Federal laws and regulations.

Section 6.08 **Timing of Project Construction and Completion**.

(a) **Project Phasing**. Developer will construct the Project in approximately eight (8) phases in response to the timing for the implementation of various recycling and diversion programs and capacity demands associated with these programs over the Term of the Agreement. Except as otherwise specifically provided by this Agreement with respect to Project infrastructure timing, City and Developer expressly agree that there is no requirement that Developer initiate or complete development of the Project or any particular phase of the Project within any particular period of time, and City shall not impose such a requirement on any Project Approval.

(b) **Project Time Schedule**. The parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, and Developer shall determine which part of the Project Site to develop

first, and at Developer's chosen schedule. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that Developer shall have the right to develop the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Developer's rights under this Section 6.08(b) shall be subject to the requirement that adequate infrastructure to serve each phase of the Project is constructed concurrently with such phase. The City Manager shall reasonably determine what infrastructure will be required to serve each phase of the Project, which determination shall be consistent with Applicable Law.

(c) Developer Agreements. Nothing in this Agreement shall exempt Developer from completing work required by a road improvement agreement, or similar agreement in accordance with the terms thereof.

Section 6.09 **Exempting Fees, Mitigation Measures and Similar Requirements Imposed by Outside Agencies.** Notwithstanding any other provision of this Agreement, the City agrees to exclude Developer from any and all discretionary collection agreements regarding fees, mitigation measures and similar requirements including, but not limited to, development impact fees, which other public agencies request the City to impose at City's discretion on the Project or on the Project Site after the Effective Date through the Term of this Agreement. This Section 6.09 shall not prohibit the City from imposing on Developer any fee, mitigation measure or similar requirement or obligation that is required by a local or regional agency in accordance with local, regional, State or Federal obligations and implemented by the City in cooperation with such local, regional, state or federal agency, provided such fee, mitigation measure or similar requirement or obligation is imposed in a similar manner on similarly situated properties within the City as, for example, stormwater-related C.3 requirements and increases thereto.

Section 6.10 **City's Joint-Inspection Jurisdiction.** Developer acknowledges that City has joint inspection jurisdiction within other third-party governmental entities within any and all City rights-of-way and easements.

ARTICLE VII AMENDMENT

Section 7.01 **Amendment to Project Approvals, Subsequent Approvals.** To the extent permitted by State and Federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner:

(a) Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the City Manager or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement, Applicable Law,

applicable uniform codes and State or Federal law. If the City Manager or his/her designee finds that the proposed amendment or modification is minor in the context of the entire Project, consistent with this Agreement and Applicable Law, and will result in no new significant environmental impacts not addressed and mitigated in the EIR, the amendment shall be determined to be an **“Administrative Project Amendment”** and the City Manager or his/her designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments.

(b) Non-Administrative Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

Section 7.02 **Amendment of this Agreement**. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:

(a) Administrative Agreement Amendments. The City Manager, or his/her designee, may, except to the extent otherwise required by law, enter into certain amendments of this Agreement on behalf of the City as long as any such amendment does not substantially affect (i) the Term of this Agreement, (ii) permitted uses of the Project Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Project Site or the maximum height or size of proposed buildings or (vi) monetary contributions by Developer (**“Administrative Agreement Amendment”**), and shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. For purposes of this Section 7.02(a), the term “substantially affect” shall be evaluated in the context of the entire Project.

(b) Amendment Exemptions. No amendment of a Project Approval or Subsequent Approval, whether done administratively or not, shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Project and vested under this Agreement when written and executed by both parties.

(c) Amendment Limitations. In consideration of the scope of the benefits to City set forth in this Agreement, any amendment to this Agreement shall only be subject to such new terms and conditions, including new exactions or other obligations, as are reasonably related to the impacts on City directly attributable to such amendment.

**ARTICLE VIII
ASSIGNMENT, TRANSFER AND NOTICE**

Section 8.01 Assignment of Interests, Rights and Obligations.

(a) Developer shall not assign any of its obligations imposed pursuant to this Agreement without the prior written consent of the City Council, as expressed by City Council resolution. The consent of the City Council shall not be unreasonably withheld, provided that in determining whether to consent to such assignment, the City Council may consider all relevant factors relating thereto, including, but not limited to, the qualifications, experience and financial responsibility of the prospective assignee. This Agreement is not transferable upon change in ownership status of the Developer, except as provided hereinabove and in subsections (b) and (c) of this section 8.01.

Except as set forth in subsections (b) and (c) of this section 8.01, the term assignment shall include any dissolution, merger, consolidation or other reorganization of Developer which results in change of control of Developer, or the sale or other transfer by probate proceeding or otherwise of a controlling percentage of Developer's capital stock to a person not a shareholder on the date of the execution of this Agreement; provided, however, that no assignment shall be deemed to have occurred if the sale or transfer is between blood relatives or related family members of the Garaventa family, or entities controlled thereby, or between such family member(s) and a trust whose trustors, trustees, and beneficiaries are limited to members of the Garaventa family and any blood relatives or related family members thereof.

The Developer, or the prospective assignee, shall pay to the City prior to the effective date of any approved assignment under section 8.01(a) of this Agreement, a sum equal to the costs incurred by the City in reviewing and processing the application for such assignment. The City Manager shall determine the amount required for such reimbursement which determination shall be final and conclusive.

(b) For purposes of this Agreement, the term "assignment" does not include any transfers relating to internal business reorganizations or formations of new companies by Developer or formation of trusts by Developer, so long as essential management decisions are retained by the blood relatives or related family members of the Garaventa family ("Permitted Transferee").

(c) For purposes of this Agreement, it is understood and agreed by the parties Developer, as defined within this Agreement, may presently and in the future perform the obligations and responsibilities of the Operator relating to the RCTS. Performance of the obligations and responsibilities of the Operator by such companies shall not be deemed an assignment under this section.

Section 8.02 **Transfer Agreements.**

(a) In connection with the transfer or assignment by Developer of all or any portion of the Project (other than a transfer or assignment by Developer to a Permitted Transferee, an affiliated party, or any deed of trust beneficiary or mortgagee, Developer and the transferee shall enter into a written agreement (a “**Transfer Agreement**”) regarding the respective interests, rights and obligations of Developer and the transferee in and under the Agreement, the Project Approvals, and the Subsequent Approvals. Such Transfer Agreement may (i) release Developer from obligations under the Agreement, the Project Approvals, or the Subsequent Approvals that pertain to that portion of the Project being transferred or assigned, as described in the Transfer Agreement, provided that the transferee expressly assumes such obligations, (ii) transfer to the transferee vested rights to improve that portion of the Project being transferred and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the transfer or assignment.

(b) Any Transfer Agreement shall be binding on Developer, City and the transferee. Failure by City to respond within thirty (30) days of a written request by Developer for City’s consent shall be deemed City’s approval of the Transfer Agreement in question. Such determination concerning the City’s consent to a proposed assignment or transfer shall be made by the City Manager and is appealable to the City Council. Upon recordation of any Transfer Agreement in the Official Records of Contra Costa County, Developer shall automatically be released from those obligations assumed by the transferee therein.

(c) Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer’s obligations under this Agreement shall be attributed to Developer, nor may Developer’s rights hereunder be canceled or diminished in any way by any breach or default by any such person.

Section 8.03 **Notice of Compliance Generally.** Subject to City’s finding that the facts contemplated by clauses (a) through (c) herein are true and accurate, within thirty (30) days following any written request which Developer may make from time to time, City shall execute and deliver to Developer (or to any party requested by Developer) a written “**Notice of Compliance**,” in recordable form, duly executed and acknowledged by City, that certifies that (a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications, (b) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default, and (c) any other information reasonably requested by Developer. City’s failure to deliver such notice within such time period shall constitute a conclusive presumption against City that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer’s sole discretion, to record the Notice of Compliance.

ARTICLE IX COOPERATION IN THE EVENT OF LEGAL CHALLENGE

Section 9.01 **Cooperation.**

(a) Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of the Agreement or any Project Approval or any Subsequent Project Approval, or otherwise arising out of or stemming from this Agreement. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The parties shall cooperate in defending such action or proceeding. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent in regard to defense of the action or proceeding. The parties shall use best efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis City for all such court costs, attorney fees, and time referenced herein.

(b) Developer also agrees to indemnify, defend and hold harmless the City, its officials, officers, employees, agents and consultants from any claims, costs, damages or other liabilities for any personal injury or death, or property damage, resulting from the construction of the Project or of operations by the Developer, its officers, employees, agents or consultants, under this Agreement, except for such claims, costs, damages, or other liabilities which are caused by the sole or gross negligence of the City, its officials, officers, employees, agents, or consultants. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense.

(c) The parties agree that this Section 9.01 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.01, which shall survive such invalidation, nullification or setting aside.

Section 9.02 **Cure; Reapproval.**

(a) If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 9.01, all or any portion of this Agreement, Project Approvals, or Subsequent Approvals are set aside or otherwise made ineffective by any judgment (a "**Judgment**") in such action or proceeding (based on procedural, substantive or other deficiencies, hereinafter "**Deficiencies**"), the parties agree to use their respective best efforts to sustain and reenact or readopt this Agreement, Project Approvals, and/or Subsequent Approvals that the Deficiencies relate to, as follows, unless the parties mutually agree in writing to act otherwise:

(i) If any Judgment requires reconsideration or consideration by City of this Agreement, Project Approval, or Subsequent Approval, then the City shall consider or reconsider that matter in a manner consistent with the intent of this

Agreement. If any such Judgment invalidates or otherwise makes ineffective all or any portion of this Agreement or any Project Approval, or Subsequent Approval, then the parties shall cooperate and shall cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of this Agreement and the Judgment. Upon the parties cure of such Deficiencies, City shall then take steps consistent with the Judgment necessary to readopt or reenact this Agreement and any applicable Project Approval, Subsequent Approval, or any portion thereof.

(ii) Acting in a manner consistent with the intent of this Agreement or a Judgment includes, but is not limited to, recognizing that the parties intend that Developer may expand capacity for waste handling up to 5,500 TPD, establish new commercial recycling and organic processing programs for residential and commercial food wastes, establish an engineered municipal solid waste conversion unit (gasification) to process clean wood chips, biosolids, and or organic slurry, tires, fiber or refuse derived fuels into energy for on-site use or feedback to the energy grid, relocate the SEG truck maintenance facility, and establish possible future rail haul for transport of waste material, and adopting such ordinances, resolutions, and other enactments, including but not limited to a general plan amendment, rezoning, design review, use permits, solid waste facility permit, grading permits, building permits, sewer and water connection permits, certificates of occupancy, final development plans, development agreements, permits, and any amendments to, or repealing of, any of the foregoing as are necessary to readopt or reenact all or any portion of this Agreement, Project Approvals, and/or Subsequent Approvals without contravening the Judgment.

(b) The parties agree that this Section 9.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 9.02, which shall survive such invalidation, nullification or setting aside.

ARTICLE X DEFAULT; REMEDIES; TERMINATION

Section 10.01 **Defaults**. Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (the “**Complaining Party**”) (unless such period is extended by mutual written consent), shall constitute a default under this Agreement. The Complaining Party’s notice (“**Default Notice**”) shall specify the nature of the alleged failure and, may specify the manner in which the failure satisfactorily may be cured By the other party (the “**Defaulting Party**”). Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of a default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then no fault shall be deemed to have occurred if: (a) the cure shall be commenced at the earliest practicable date following receipt of the Default Notice; (b) the cure

is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (if no event later than thirty (30) days after the Defaulting Party's receipt of the Default Notice), the Defaulting Party provides written notice to the Complaining Party that the cure cannot practicably be completed within such 30-day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within one hundred twenty (120) days after the Notice of Default is given. Complaining Party shall not send notice to any third party, including, but not limited to, bonding and surety companies, until such time as the cure opportunities set forth above have expired unless otherwise required by applicable law. Upon the occurrence of a default under this Agreement, the Complaining Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured consistent with this Section, then no default shall exist and the Complaining Party shall take no further action.

Section 10.02 **Termination**. If City elects to consider terminating this Agreement due to a material uncured default of Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. As used herein, a finding of materiality shall be based on the effect of the default in relation to the size and scope of the Project. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter; provided, however, that if Developer files an action to challenge City's termination of this Agreement within such 60-day period, then this Agreement shall remain in full force and effect until a trial court has affirmed City's termination of this Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired).

Section 10.03 **Periodic Review**.

(a) **Conducting the Periodic Review**. Throughout the Term of this Agreement, at least once every twelve (12) months following the execution of this Agreement, City shall review the extent of good-faith compliance by Developer with the terms of this Agreement. This review (the "**Periodic Review**") shall be conducted by the City Manager or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code § 65865.1. Developer also agrees to pay City annually the greater of Five Thousand Dollars (\$5,000) or the actual cost of Periodic Review Fee (not to exceed Ten Thousand Dollars (\$10,000)), whichever is greater. The Five Thousand Dollars (\$5,000) shall be increased annually thereafter by the CPI for the San Francisco Oakland Area, with the first increase implemented in January 2022 reflecting 2021 increases. Such Periodic Review Fee shall only be paid in the years in which a Periodic Review is actually conducted.

(b) **Notice**. At least ten (10) days prior to the Periodic Review, and in the manner prescribed in **Article XII** of this Agreement, City shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer's performance

hereunder. Developer shall be permitted an opportunity to respond to City's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. Such response shall be made to the City Manager.

(c) Good Faith Compliance. During the Periodic Review, the City Manager shall review Developer's good-faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the City Manager shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the City Manager shall be appealable to the City Council. If the City Manager finds and determines that Developer has not complied with such terms and conditions, the City Manager may recommend to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in California Government Code §§ 65867 and 65868. The costs incurred by City in connection with the Periodic Review process described herein shall be shared equally by Developer and City.

(d) Failure to Properly Conduct Periodic Review. If, after thirty (30) days following Developer's notice requesting a Periodic Review, City fails to initiate the Periodic Review, such failure shall be conclusively deemed an approval by City of Developer's compliance with the terms of this Agreement.

(e) Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within thirty (30) days following a written request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer's sole discretion, to record such notice of compliance.

Section 10.04 Excusable Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, neither party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorism, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting State or Federal laws or regulations, or judicial decisions. Neither party shall be deemed to be in default where delays in performance or failure to perform are due to a court order arising out of or related to litigation attacking the validity of this Agreement, the Project Approvals, the Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than City necessary for the development of the Project. Developer shall not be deemed to be in default where delays in performance or failure to perform are due to Developer's inability to obtain materials, power or public facilities (such as water or sewer service) to the Project and unrelated to Developer's actions or inactions and beyond Developer's control. Upon the properly noticed request of either party hereto, as required by Section 12.09, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be set forth in writing. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon in writing.

Section 10.05 Legal Action. Either party may, in addition to any other rights or

remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

Section 10.06 **California Law**. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 10.07 **Resolution of Disputes**. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City's request, meet with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes. If the parties are then unable to resolve their dispute, either party may commence mediation by providing to JAMS, or its successor, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or ninety (90) days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties both agree in writing. The provisions of this Section 10.07 may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered. Nothing in this Section 10.07 shall in any way be interpreted as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the parties to such meetings.

Section 10.08 **Attorneys' Fees**. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and any related other costs incurred in that proceeding in addition to any other relief to which it is entitled.

Section 10.09 **Default by City or Developer**. In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have all rights and remedies provided herein and under law.

ARTICLE XI NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the parties hereto that unless otherwise expressly provided herein (a) the subject development is a private development; (b) City have no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Subsequent Approvals; (c) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Project Approvals, Subsequent Approvals, and Applicable Law; and (d) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer. The City agrees that Developer's obligations under this Agreement related to the construction of Project water, sewer and drainage infrastructure improvements, the grading and construction of traffic improvements, and the grading and construction of any other public improvements (collectively, the "**Public Improvements**") are all public works of improvement the City is requiring as a condition of regulatory approval of the Project and that the Project is an otherwise private development. The City further agrees that it will contribute no more money, or the equivalent of money, to the overall Project than is required to construct the Public Improvements and that City maintain no proprietary interest in the overall Project.

ARTICLE XII MISCELLANEOUS

Section 12.01 **Incorporation of Recitals and Introductory Paragraph**. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

Section 12.02 **Enforceability**. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by California Government Code § 65866. In the event of any conflict between the provisions of this Agreement and Applicable Law, the Project Approvals or any Subsequent Approval, this Agreement shall prevail.

Section 12.03 **Findings**. City hereby finds and determines that execution of this Agreement furthers public health, safety and general welfare and that the provisions of this Agreement are consistent with the General Plan.

Section 12.04 **Severability**. If any term or provision of this Agreement, or the

application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination to the other party, subject to the express terms contained herein, including without limitation, Section 9.02.

Section 12.05 **Other Necessary Acts**. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

Section 12.06 **Construction**. Each reference in this Agreement to this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 12.07 **Other Miscellaneous Terms**. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.

Section 12.08 **Covenants Running with the Land**. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, California Civil Code § 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Project Site and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.

Section 12.09 **Notices**. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter

containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to City, to: City Manager
City of Pittsburg
Civic Center
65 Civic Avenue
Pittsburg, CA 94565-2830

With Copies to: Donna Mooney
City Attorney
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

If to Developer, to: Chief Executive Officer
4080 Mallard Drive
Concord, CA 94520

With Copies to: General Counsel
4080 Mallard Drive
Concord, CA 94520

Odne Law, APC
Attn: Christopher Odne, Esq.
1981 North Broadway, Suite 220
Walnut Creek, CA 94596

Section 12.10 **Entire Agreement, Counterparts and Exhibits.** This Agreement is executed in two (2) duplicate counterparts, each of which is deemed to be an original. This Agreement consists of thirty (30) pages and three (3) exhibits, which constitute in full the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of any provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

EXHIBIT A - Legal Description
EXHIBIT A-1 - Project Site Diagram
EXHIBIT B - Applicable Fees

Section 12.11 **Recordation of Development Agreement.** Pursuant to California

Government Code § 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement, or Memorandum thereof, in the Official Records of the County of Contra Costa. The parties agree to cooperate as to preparation, execution, and recording of a Memorandum hereof.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the day and year first above written.

CITY OF PITTSBURG, a California municipal corporation

Garrett Evans, City Manager

APPROVED AS TO FORM:

Donna Mooney, City Attorney

Contra Costa Waste Service, Inc., a California Corporation

By: _____
Name: _____
Title: _____

1600 Loveridge, LLC, A California limited liability company

By: _____
Name: _____
Title: _____

Kirker Creek Business Park, LLC, A California limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A
LEGAL DESCRIPTION
(To follow.)

PROJECT SITE DIAGRAM

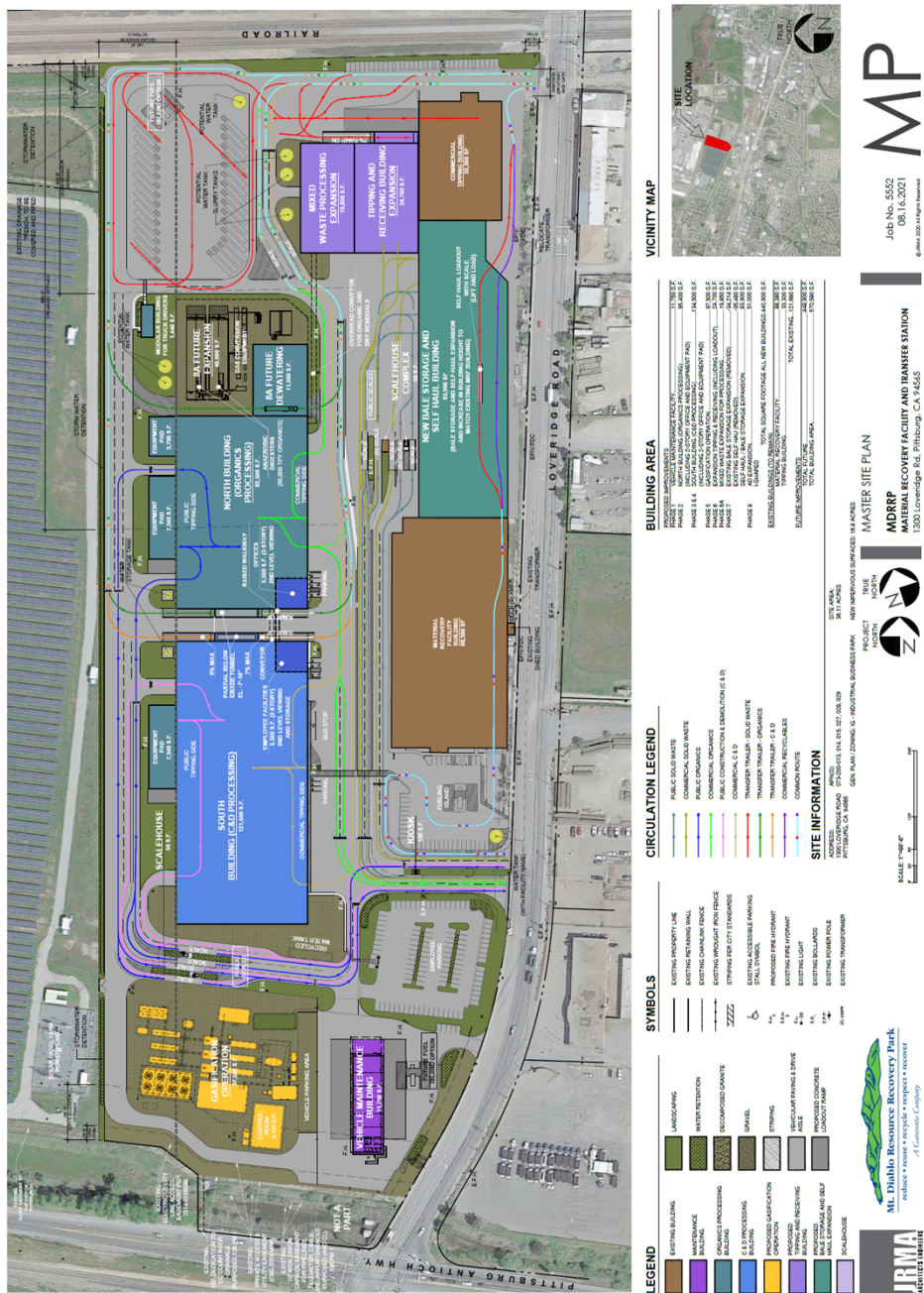


EXHIBIT B

APPLICABLE FEES

(To follow.)



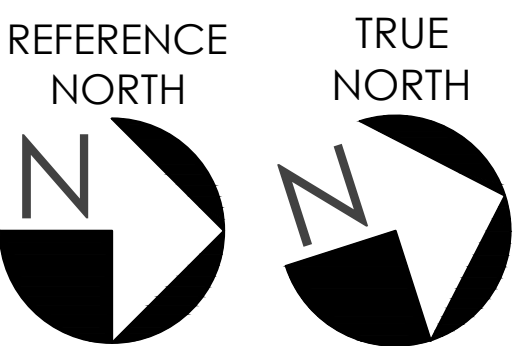
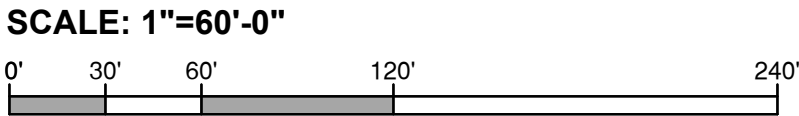
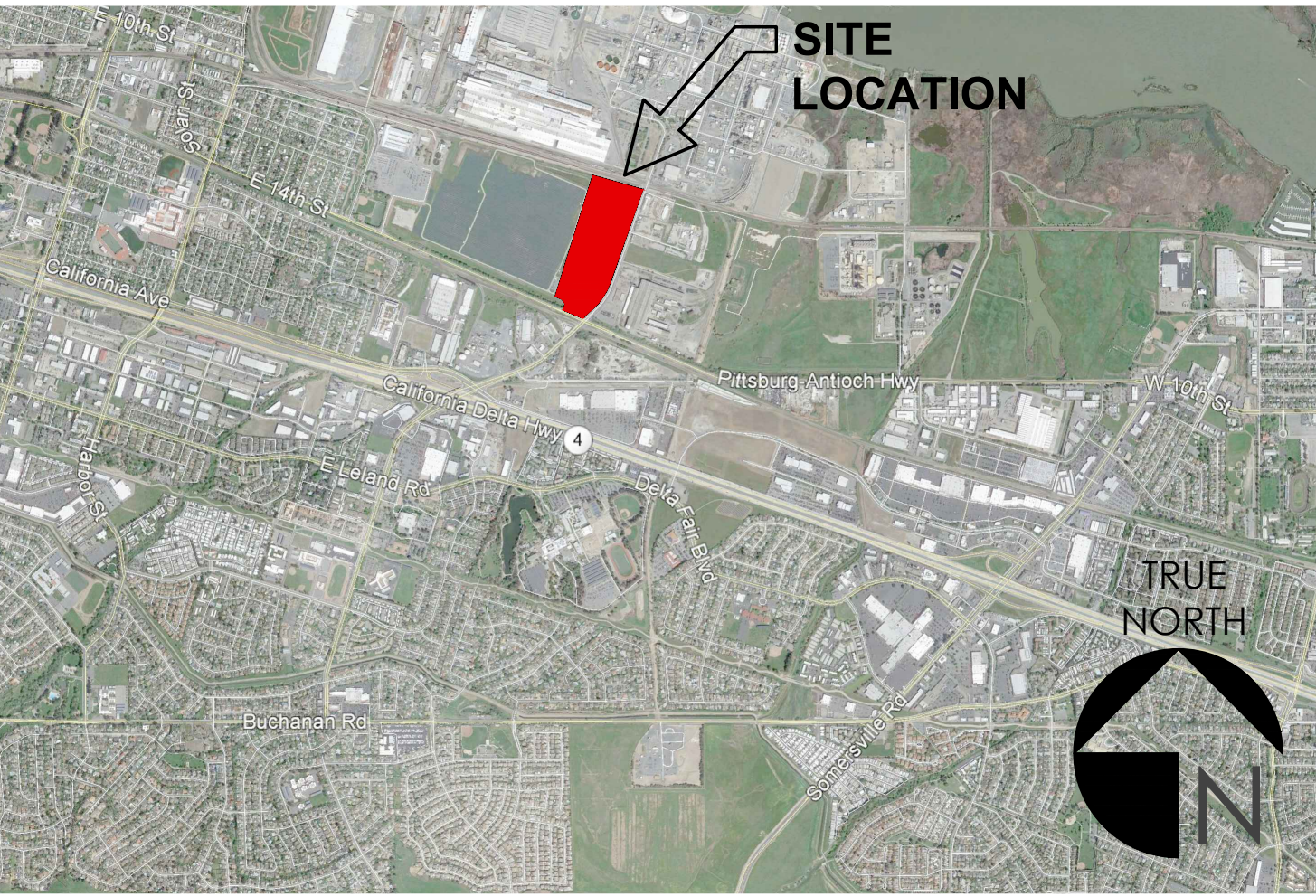
LEGEND

- EXISTING BUILDING
- PHASE I - 40-FT WIDE ACCESS ROAD
- GRAVEL

SYMBOLS

- EXISTING PROPERTY LINE
- EXISTING RETAINING WALL
- EXISTING CHAINLINK FENCE
- EXISTING WROUGHT IRON FENCE
- ACCESSIBLE PATH OF TRAVEL
- STRIPING PER CITY STANDARDS
- EXISTING ACCESSIBLE PARKING STALL SYMBOL
- EXISTING FIRE HYDRANT
- EXISTING LIGHT
- EXISTING BOLLARDS
- EXISTING POWER POLE
- EXISTING TRANSFORMER

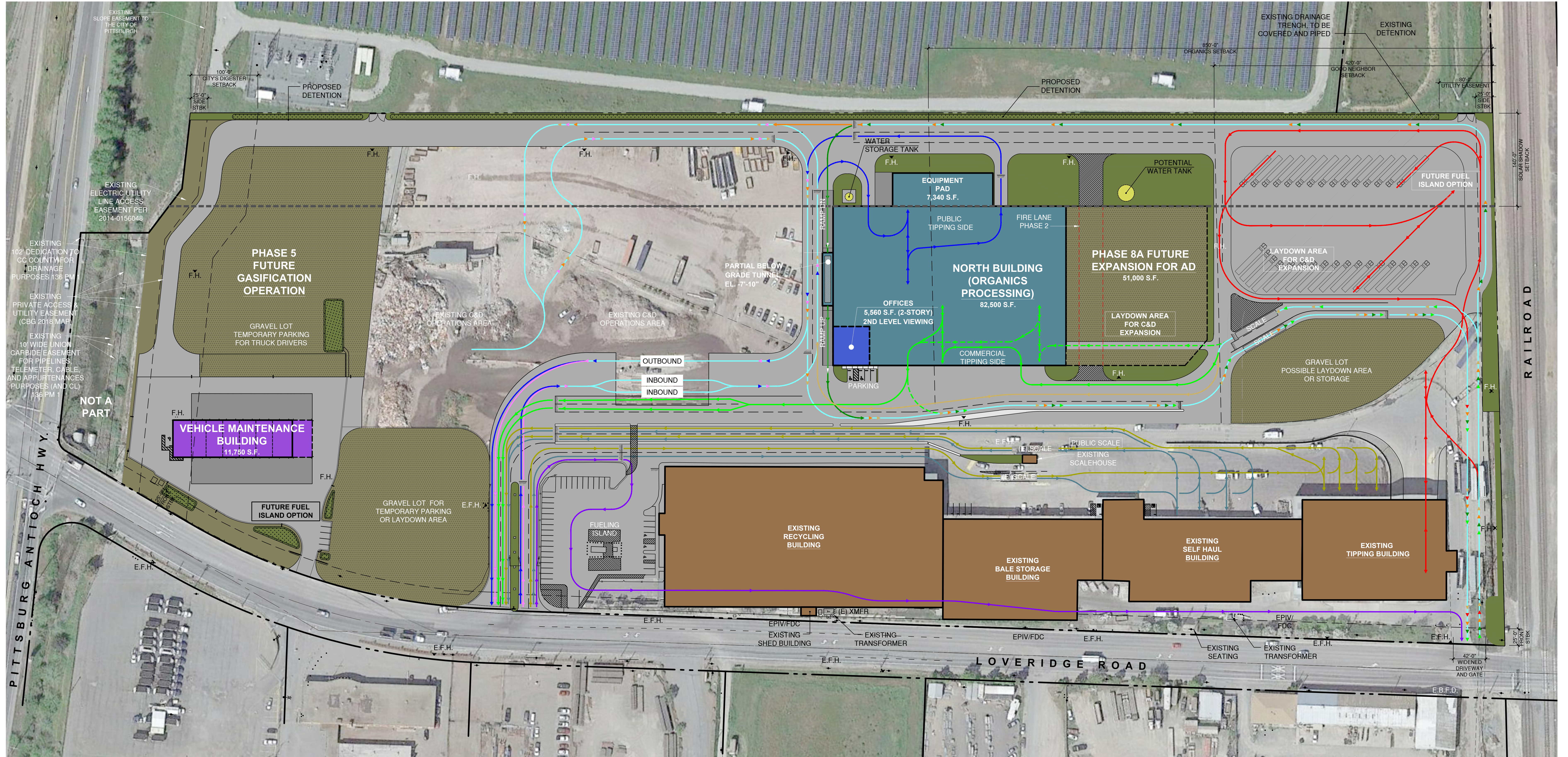
VICINITY MAP



SITE PLAN - PHASE 1
MDRRP
MATERIAL RECOVERY FACILITY AND TRANSFER STATION
1300 Loveridge Rd, Pittsburg, CA 94565

Job No. 5552
08.16.2021
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A1



LEGEND

	EXISTING BUILDING		LANDSCAPING		STRIPING
	MAINTENANCE BUILDING		WATER RETENTION		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		DECOMPOSED GRANITE		PROPOSED CONCRETE
			GRAVEL		DECORATIVE CONC. PAVING

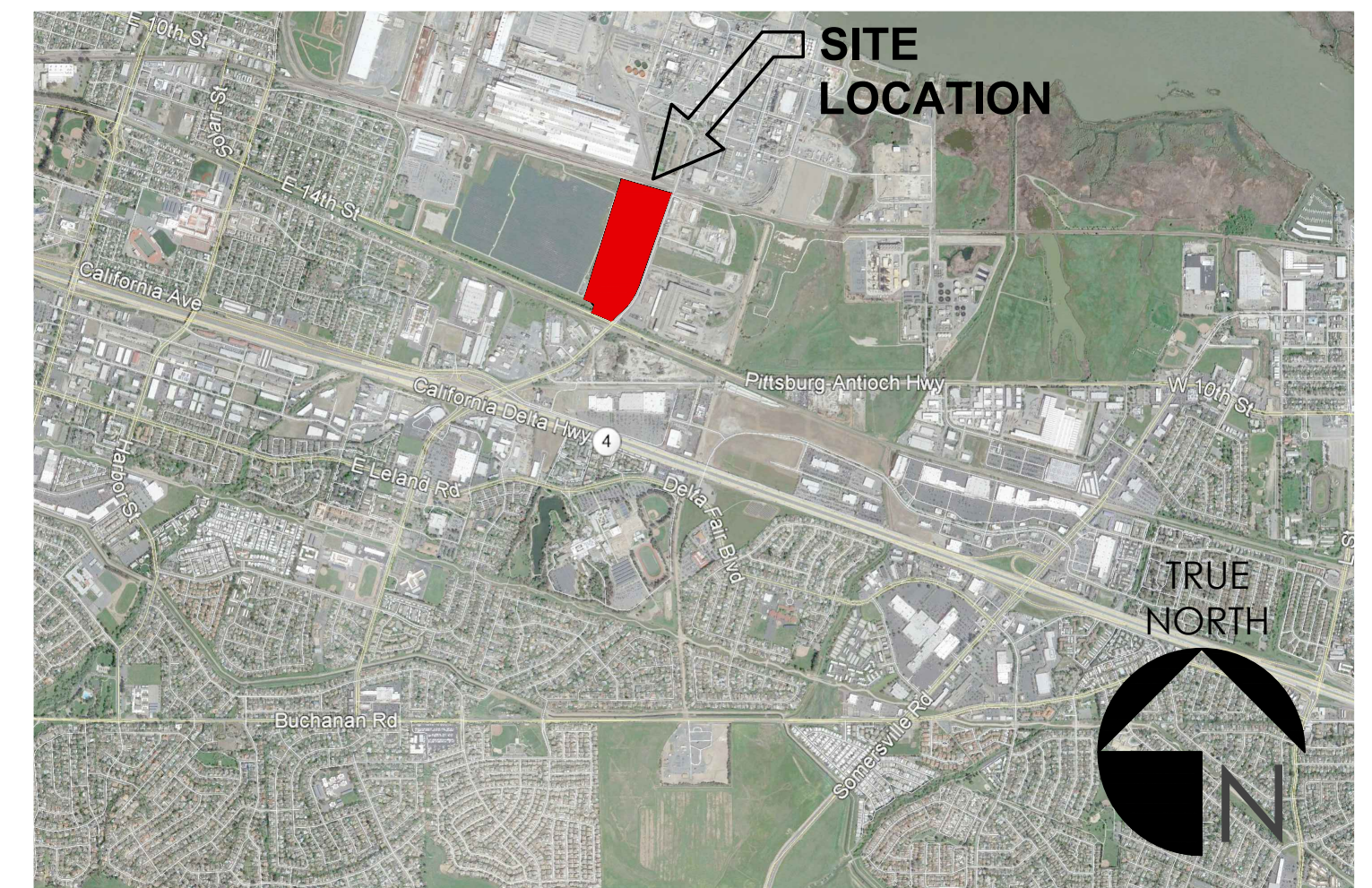
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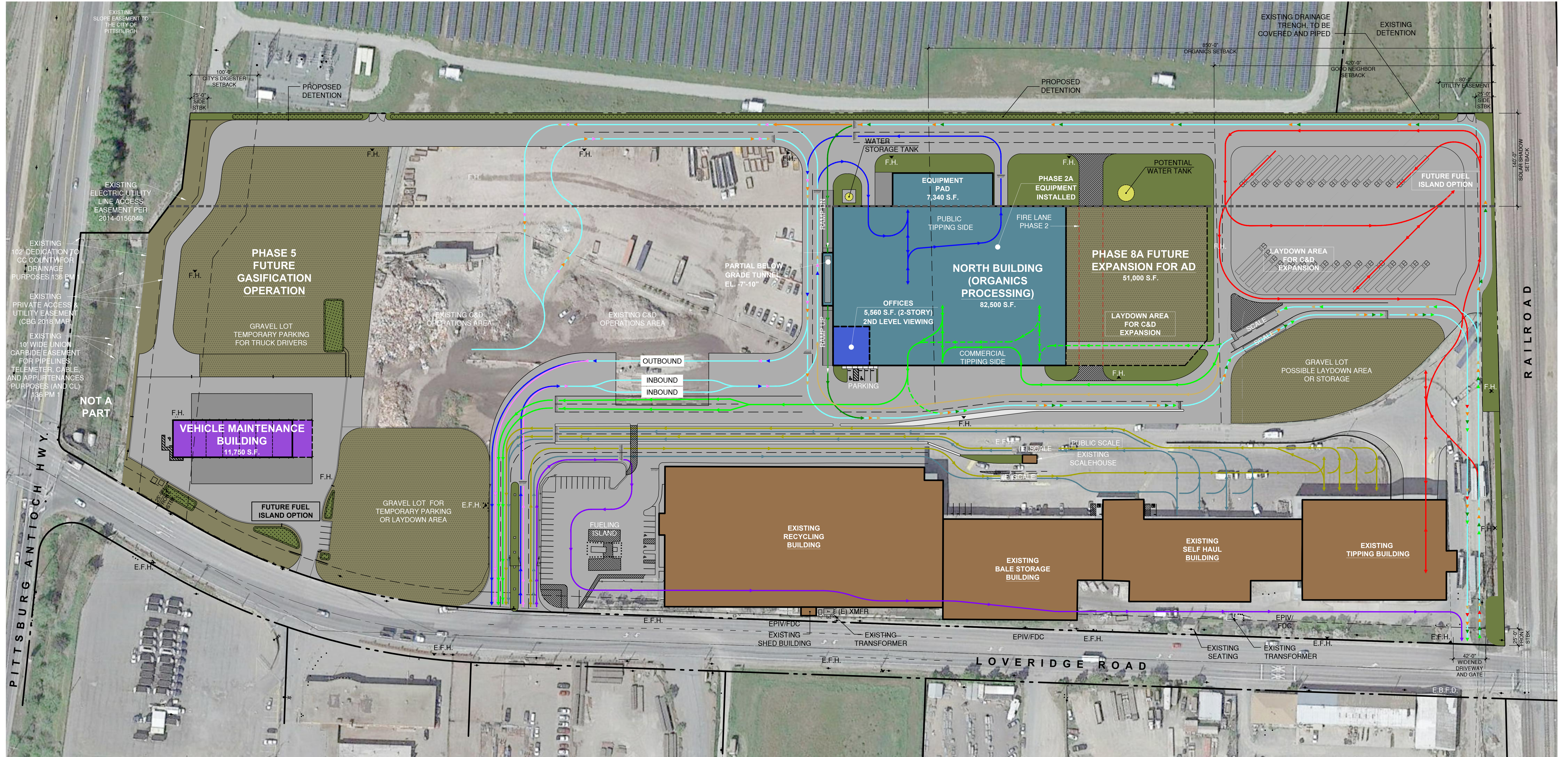
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	EXISTING RETAINING WALL		EXISTING FIRE HYDRANT
	EXISTING CHAINLINK FENCE		EXISTING LIGHT
	EXISTING WROUGHT IRON FENCE		EXISTING BOLLARDS
	STRIPING PER CITY STANDARDS		EXISTING POWER POLE
	EXISTING ACCESSIBLE PARKING STALL SYMBOL		EXISTING TRANSFORMER

CIRCULATION LEGEND

	PUBLIC SOLID WASTE
	COMMERCIAL SOLID WASTE
	PUBLIC ORGANICS
	COMMERCIAL ORGANICS
	PUBLIC CONSTRUCTION & DEMOLITION (C & D)
	COMMERCIAL C & D
	TRANSFER TRAILER - SOLID WASTE
	TRANSFER TRAILER - ORGANICS
	TRANSFER TRAILER - C & D
	COMMERCIAL RECYCLABLES
	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		LANDSCAPING		STRIPING
	MAINTENANCE BUILDING		WATER RETENTION		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		DECOMPOSED GRANITE		PROPOSED CONCRETE
			GRAVEL		DECORATIVE CONC. PAVING

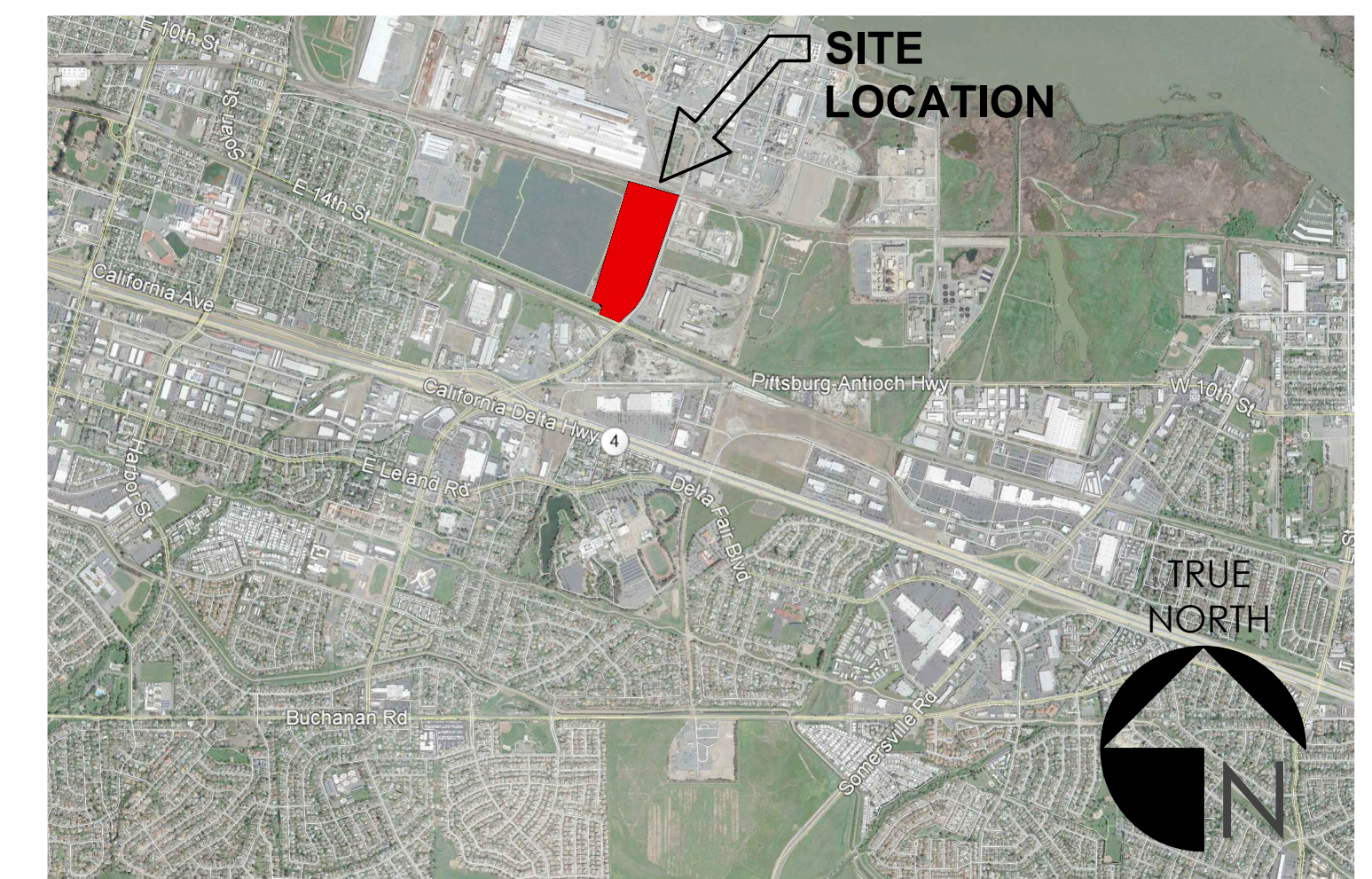
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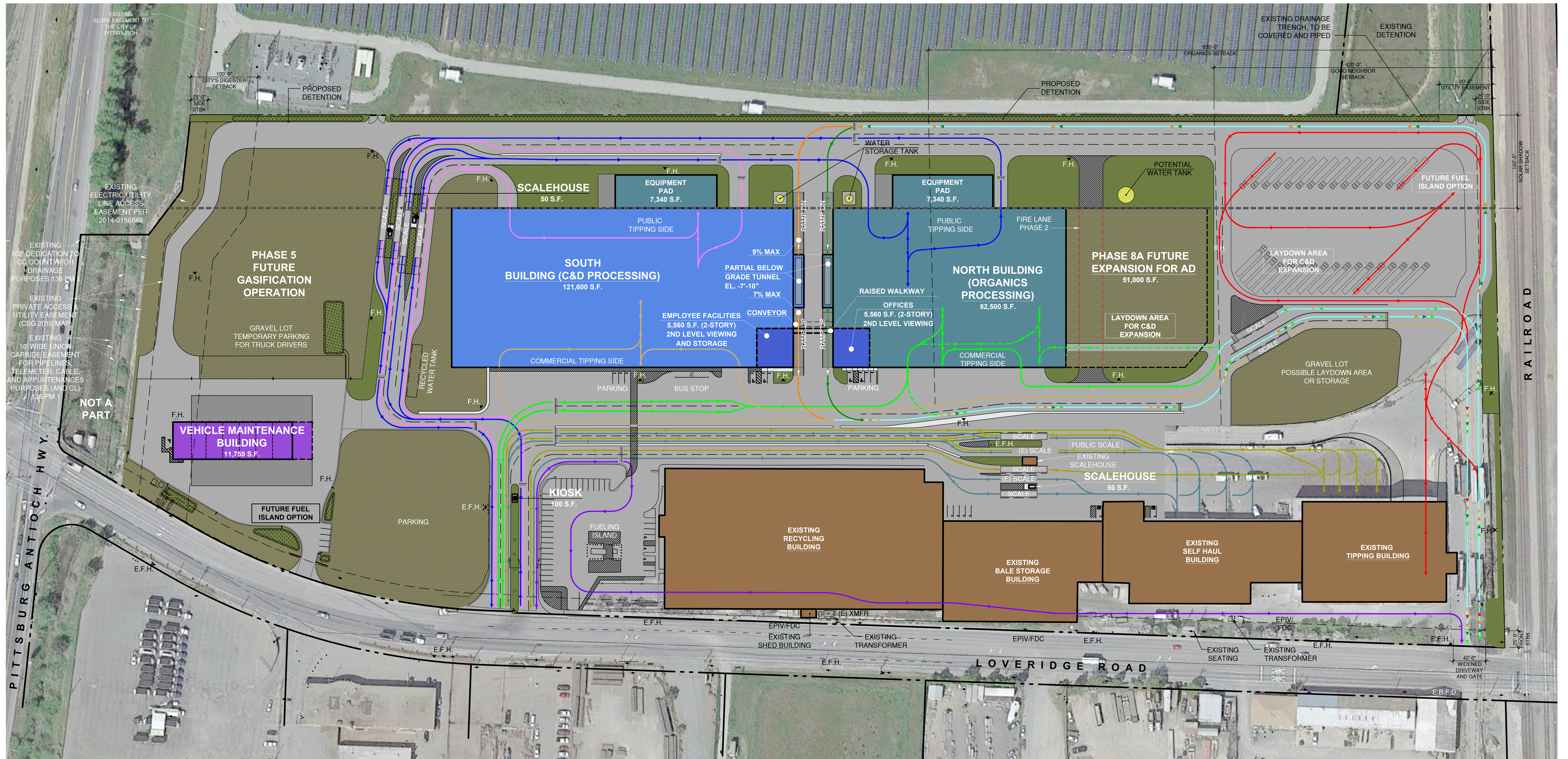
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	EXISTING RETAINING WALL	E.F.H.	EXISTING FIRE HYDRANT
	EXISTING CHAINLINK FENCE	E.L.	EXISTING LIGHT
	EXISTING WROUGHT IRON FENCE	E.B.	EXISTING BOLLARDS
	STRIPING PER CITY STANDARDS	E.P.P.	EXISTING POWER POLE
	EXISTING ACCESSIBLE PARKING STALL SYMBOL	(E) XMFR	EXISTING TRANSFORMER

CIRCULATION LEGEND

	PUBLIC SOLID WASTE
	COMMERCIAL SOLID WASTE
	PUBLIC ORGANICS
	COMMERCIAL ORGANICS
	PUBLIC CONSTRUCTION & DEMOLITION (C & D)
	COMMERCIAL C & D
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	TRANSFER TRAILER - ORGANICS
	TRANSFER TRAILER - C & D
	COMMERCIAL RECYCLABLES
	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
			GRAVEL		

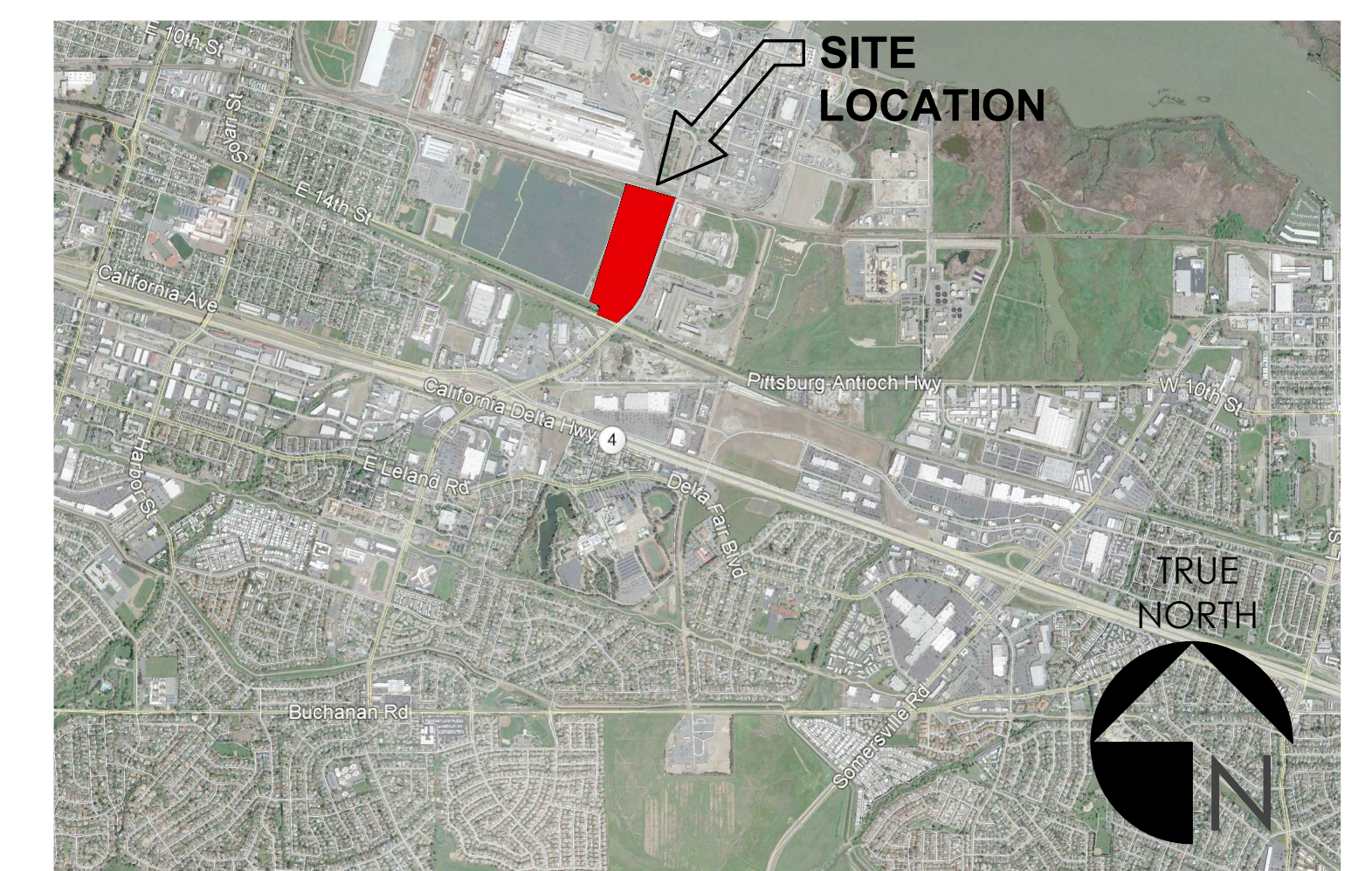
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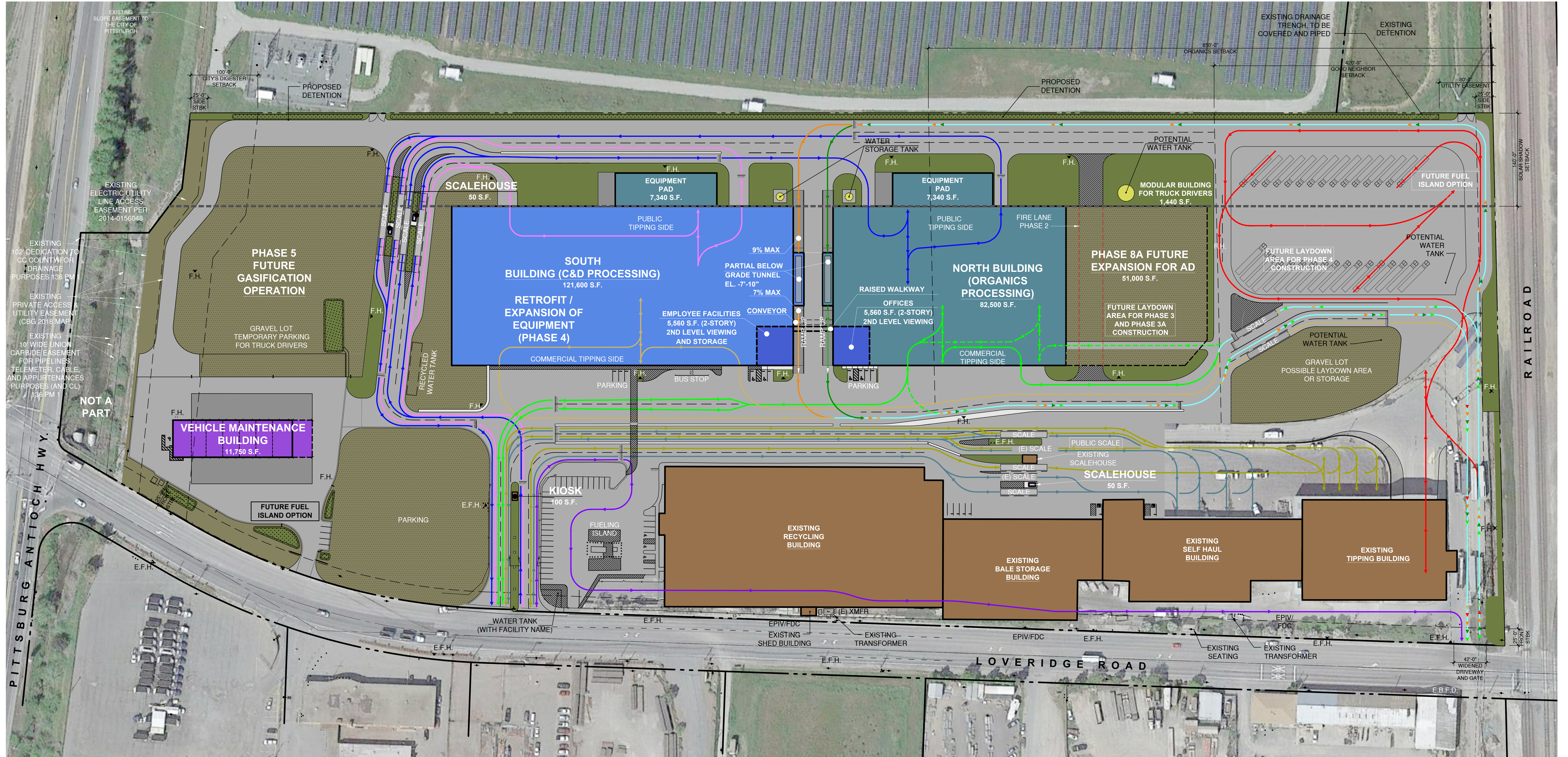
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	COMMERCIAL C & D
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	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
			GRAVEL		

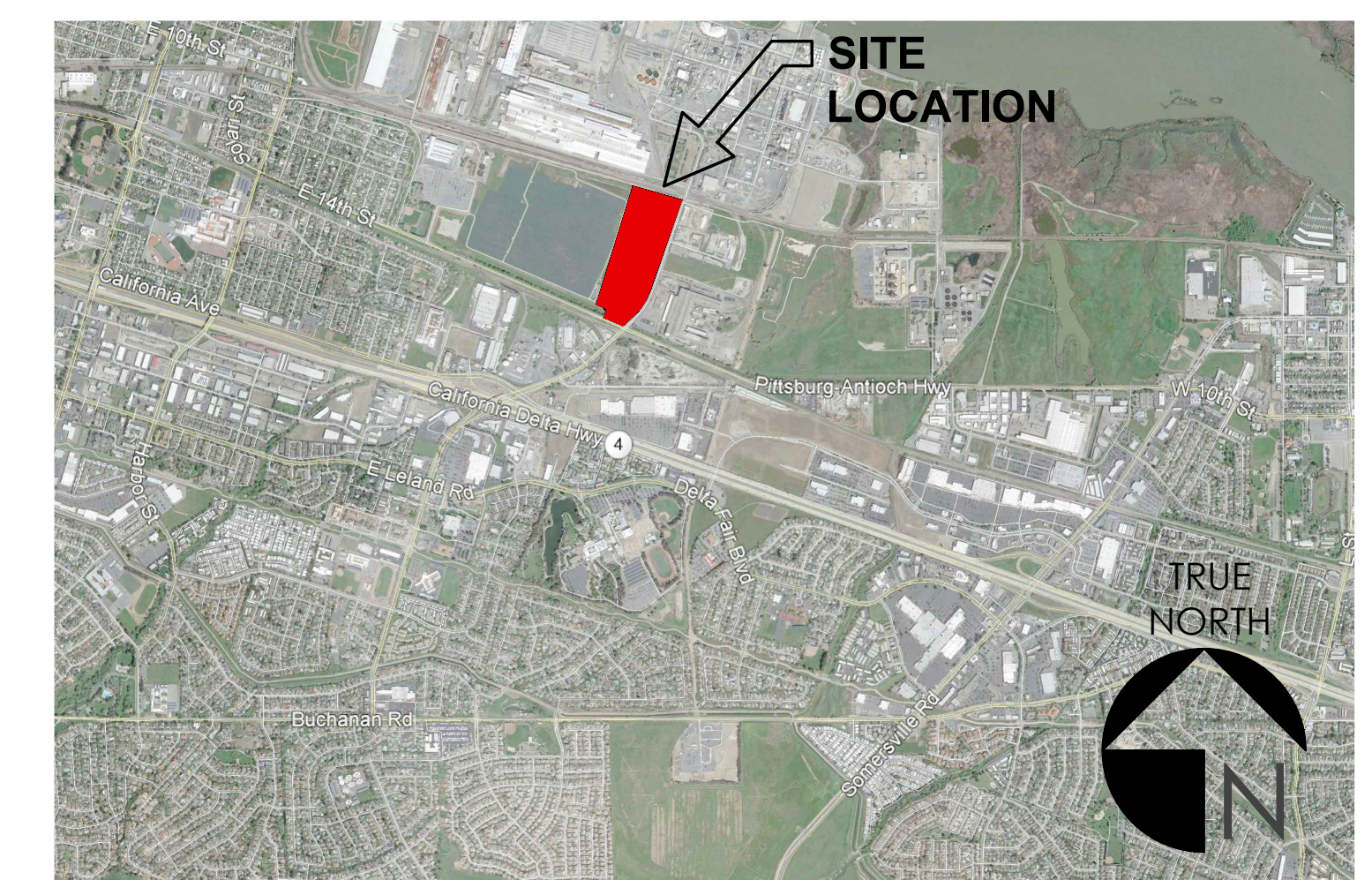
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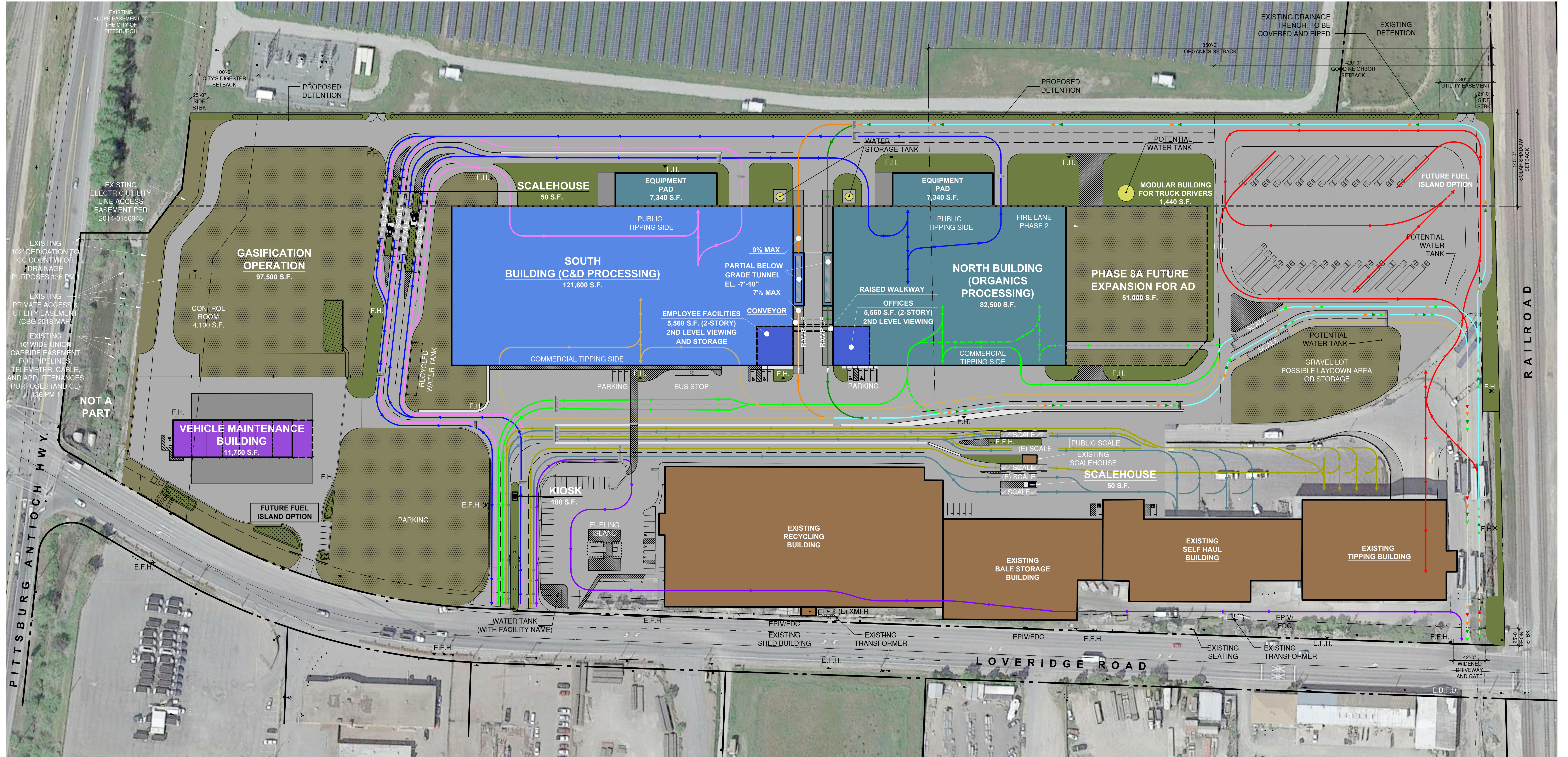
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	COMMERCIAL RECYCLABLES
	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
	PROPOSED GASIFICATION OPERATION		GRAVEL		

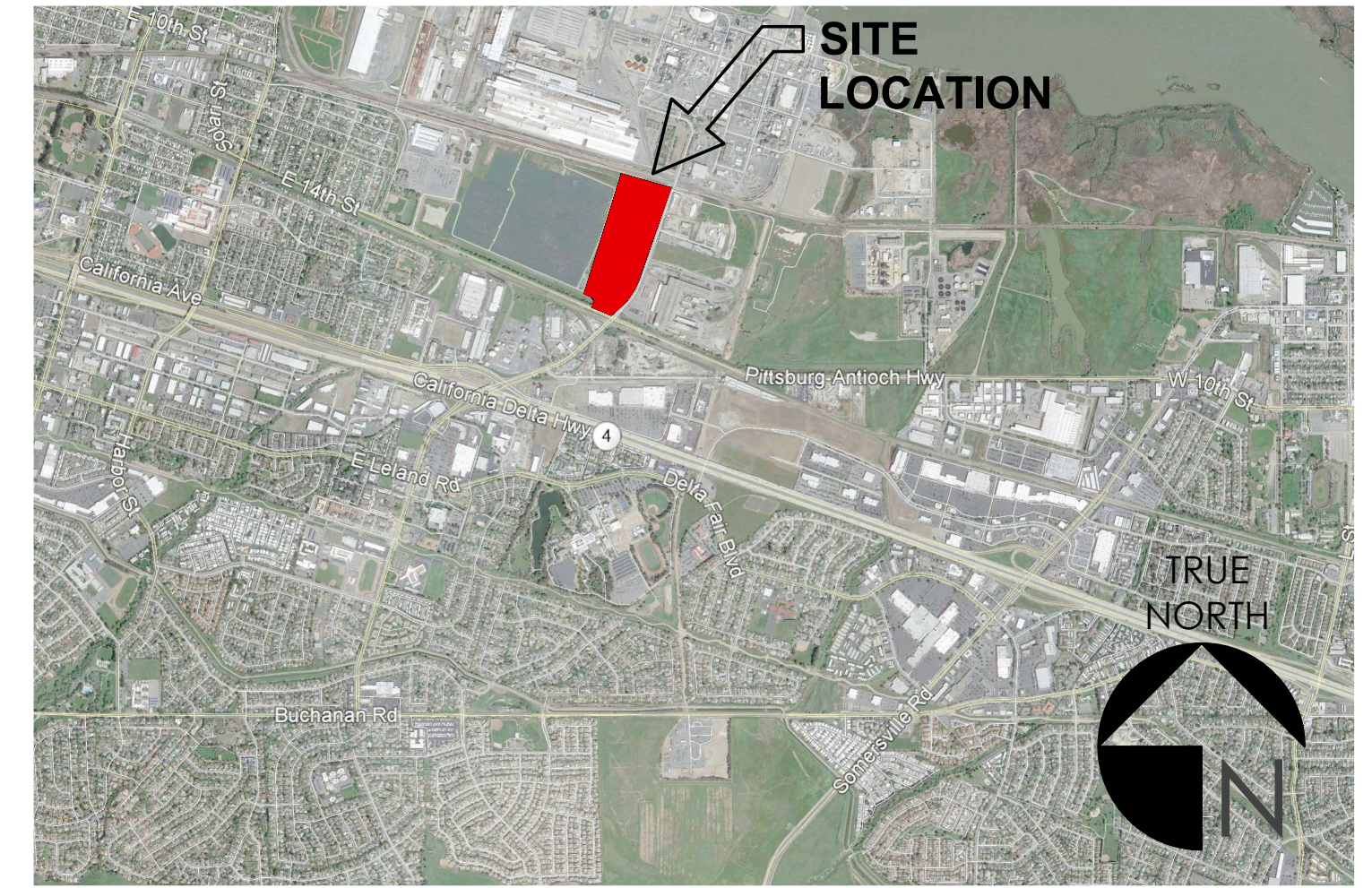
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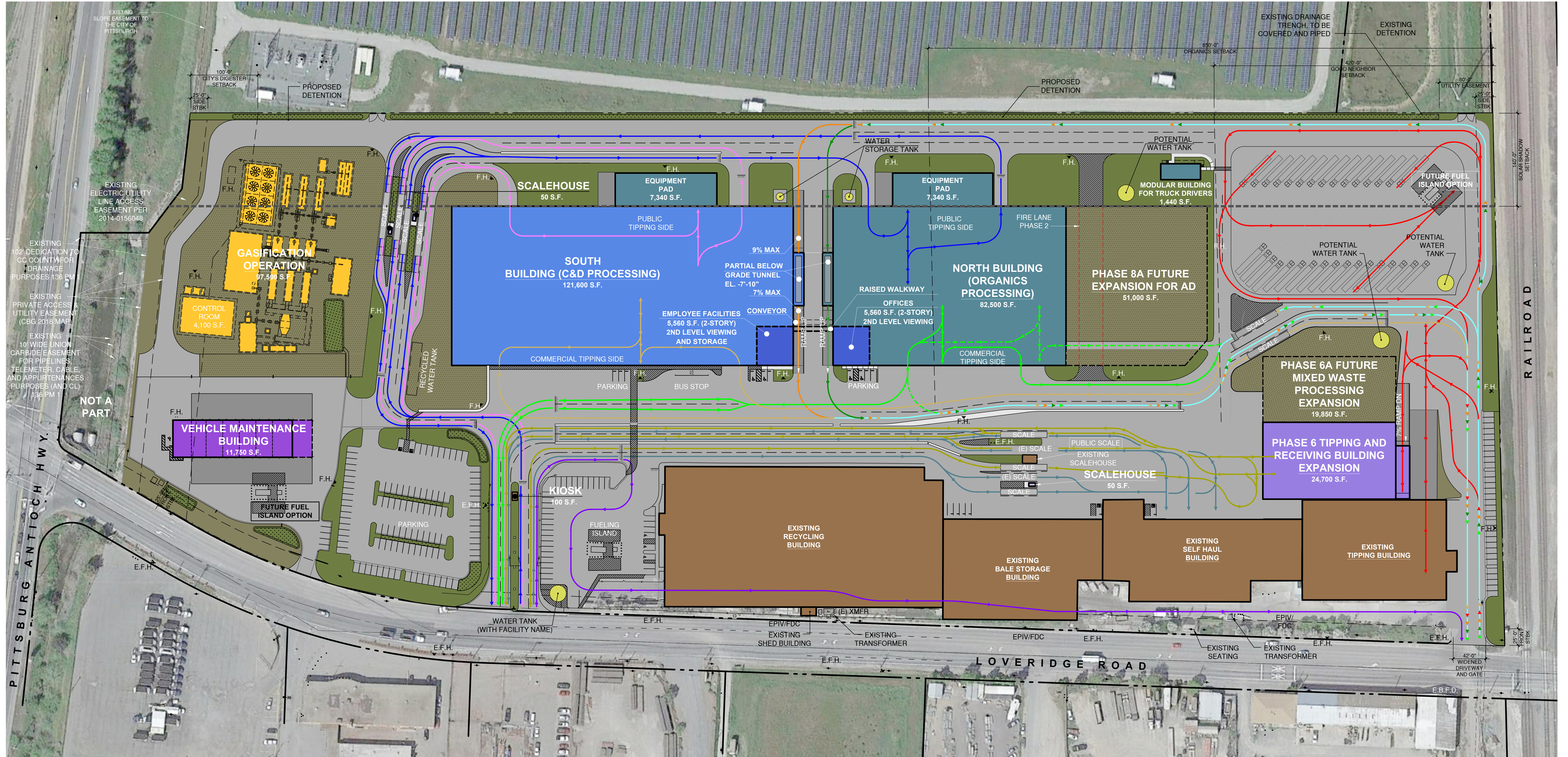
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	TRANSFER TRAILER - C & D
	COMMERCIAL RECYCLABLES
	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
	PROPOSED GASIFICATION OPERATION		GRAVEL		
	PROPOSED TIPPING AND RECEIVING BUILDING				

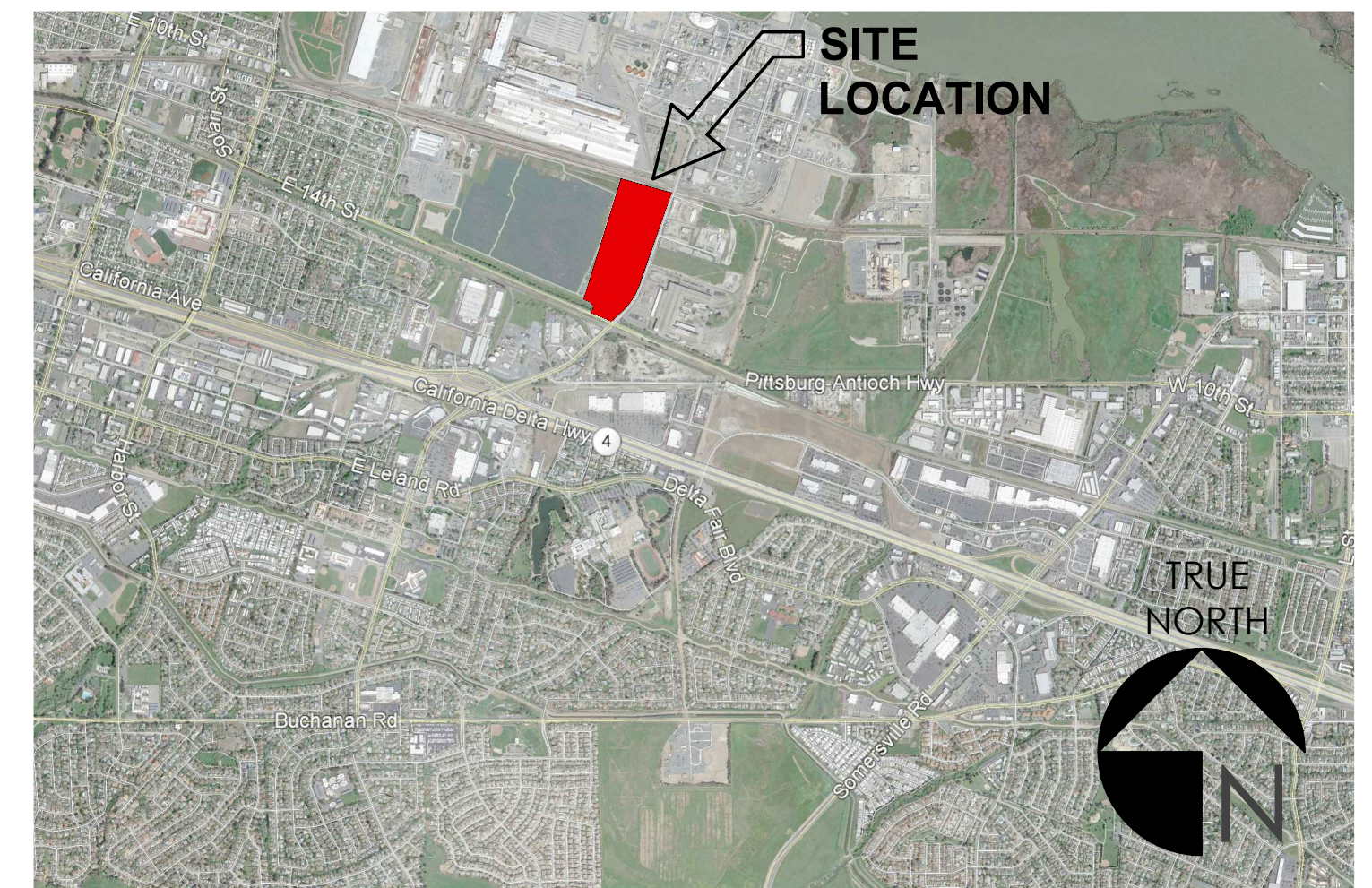
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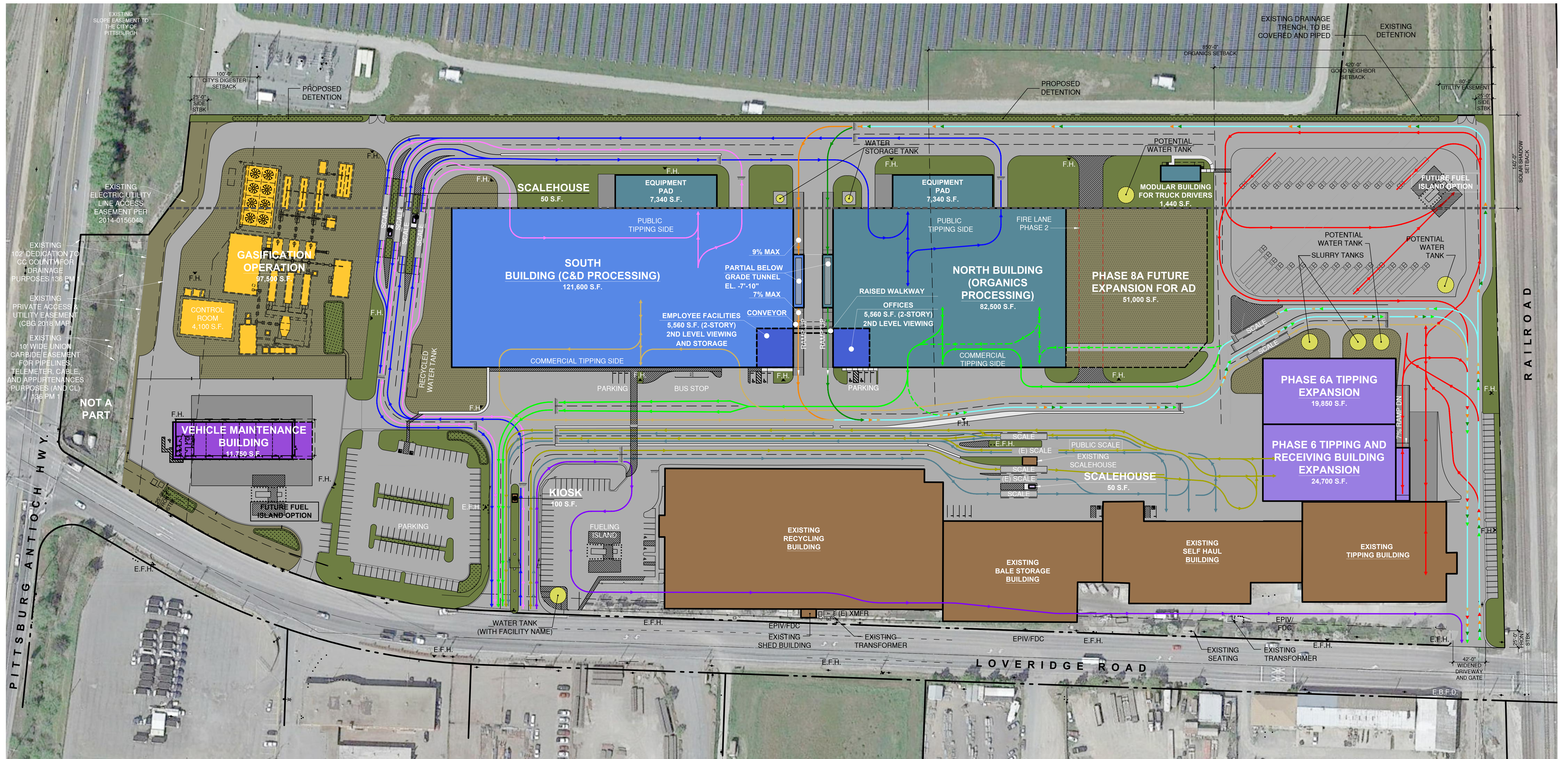
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CIRCULATION LEGEND

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	COMMERCIAL RECYCLABLES
	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
	PROPOSED GASIFICATION OPERATION		GRAVEL		
	PROPOSED TIPPING AND RECEIVING BUILDING				

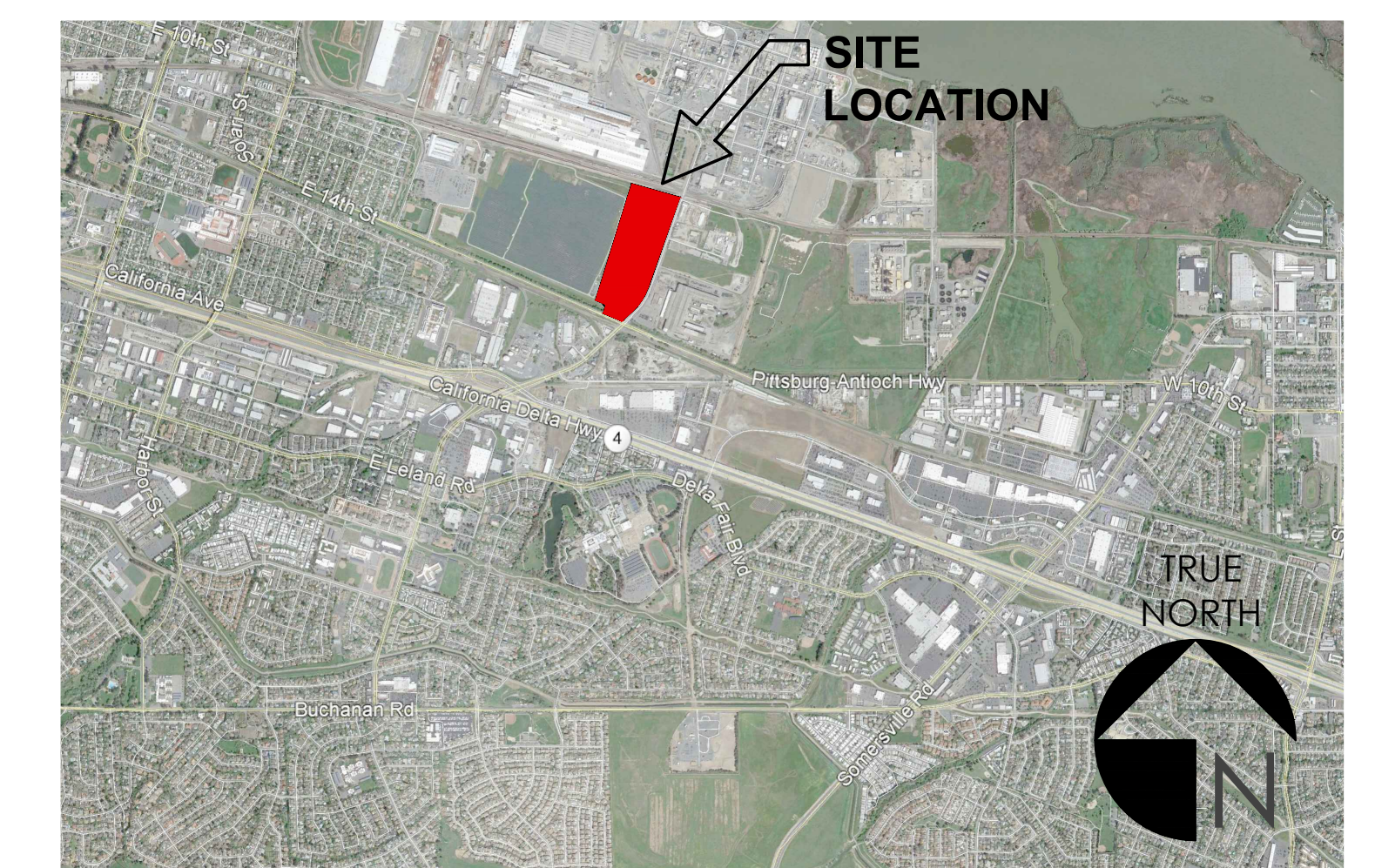
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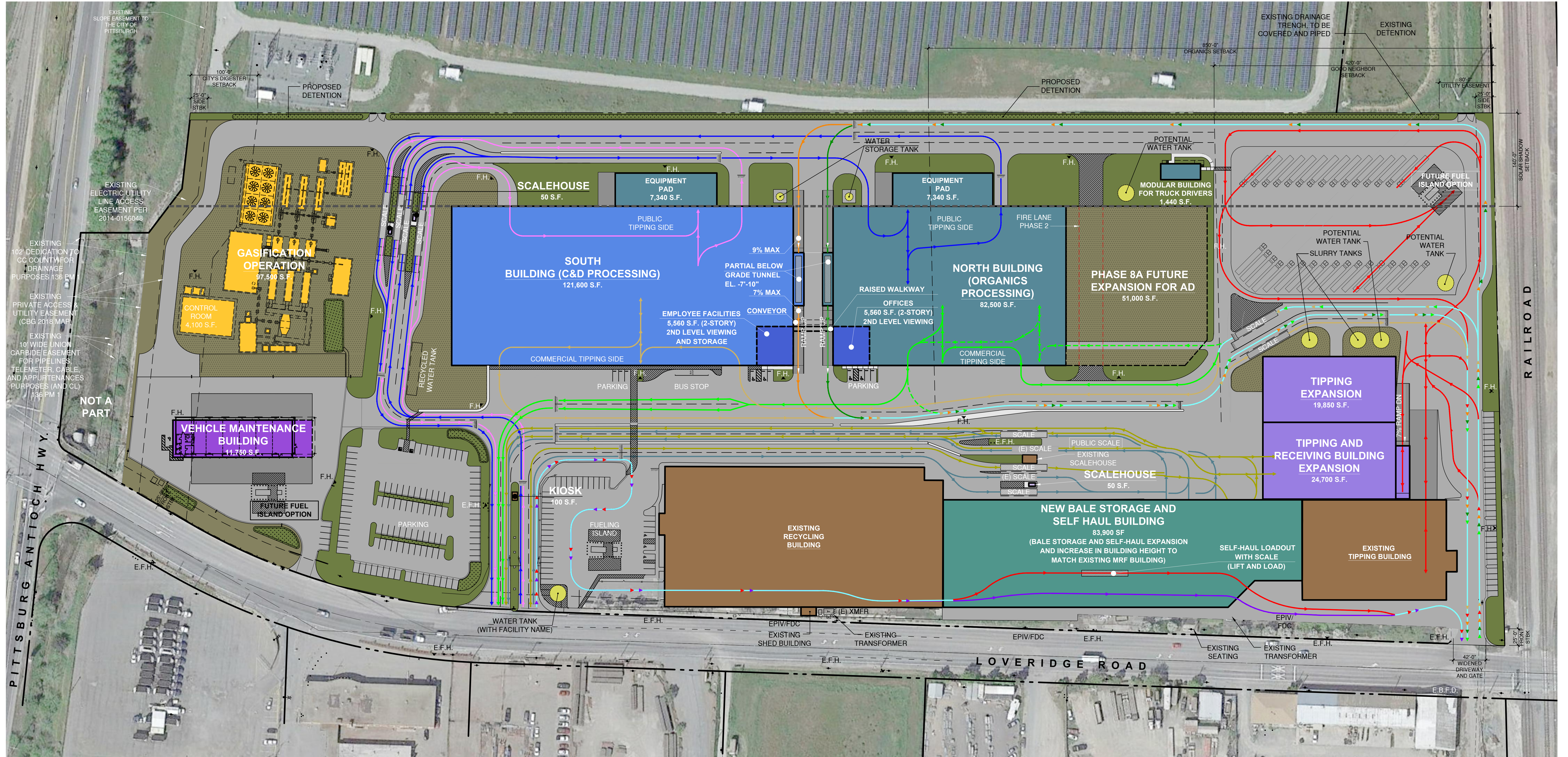
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	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
	PROPOSED GASIFICATION OPERATION		GRAVEL		
	PROPOSED TIPPING AND RECEIVING BUILDING				
	PROPOSED BALE STORAGE AND SELF HAUL EXPANSION				

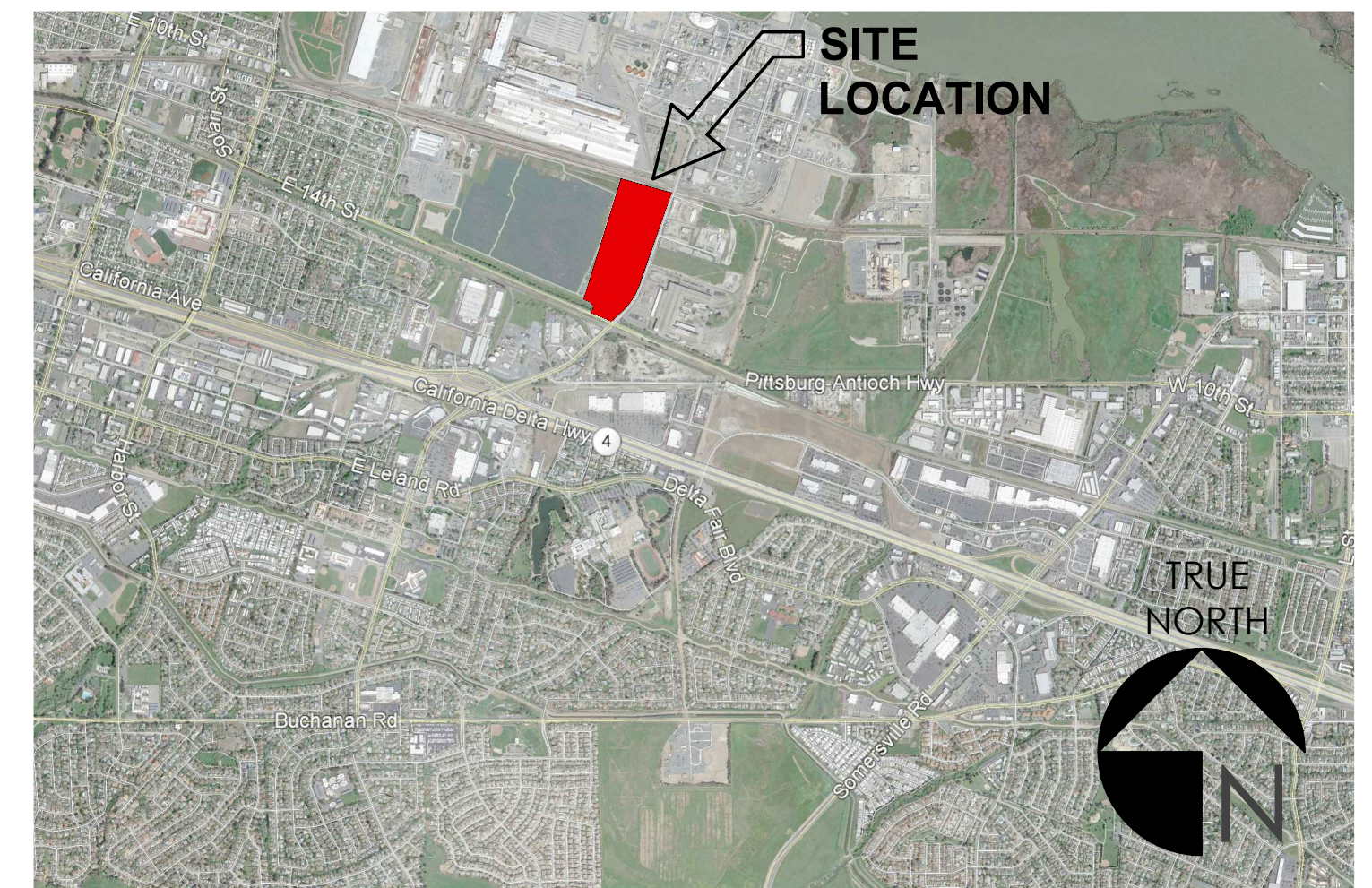
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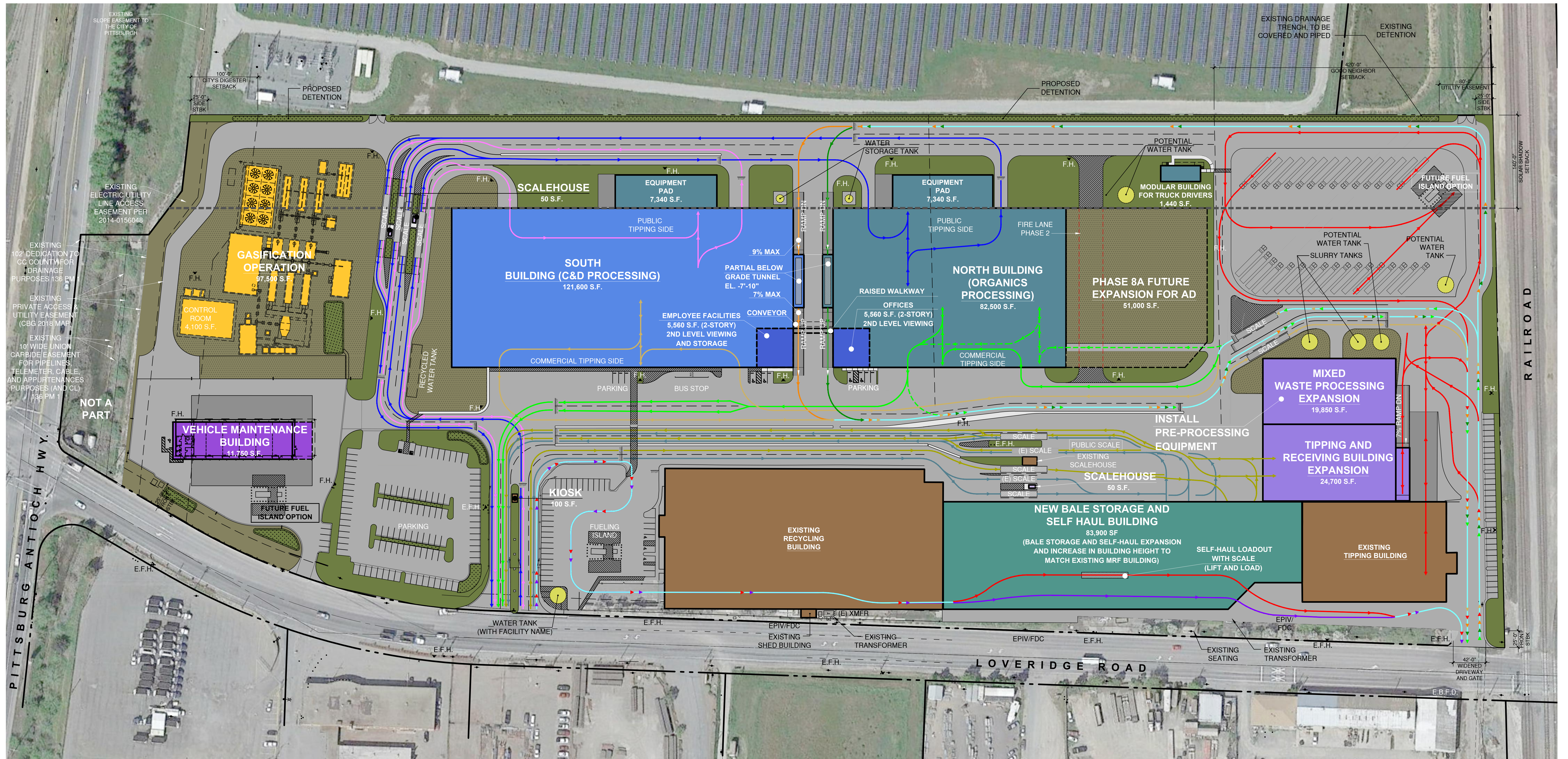
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	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
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	PROPOSED TIPPING AND RECEIVING BUILDING				
	PROPOSED BALE STORAGE AND SELF HAUL EXPANSION				

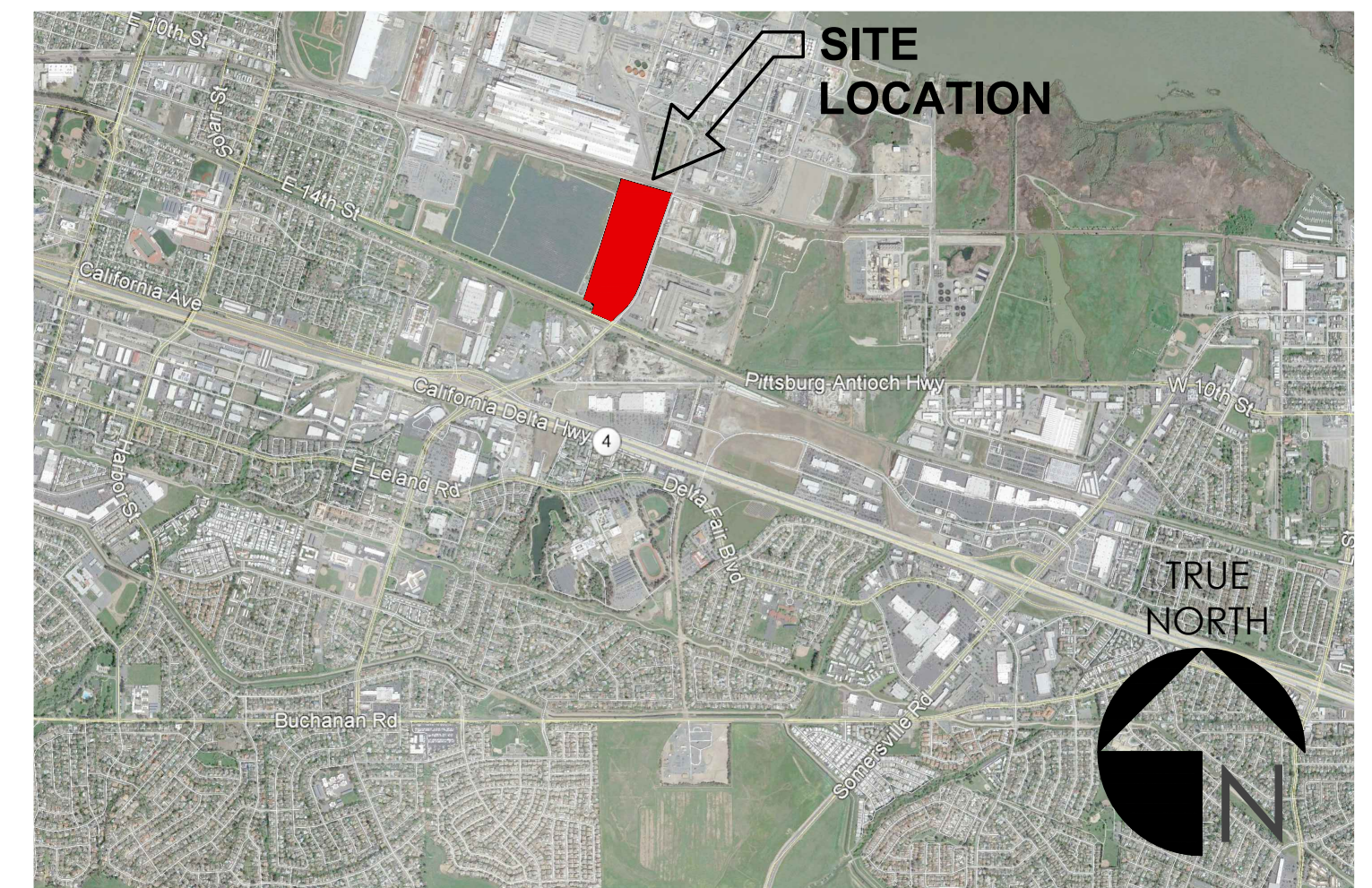
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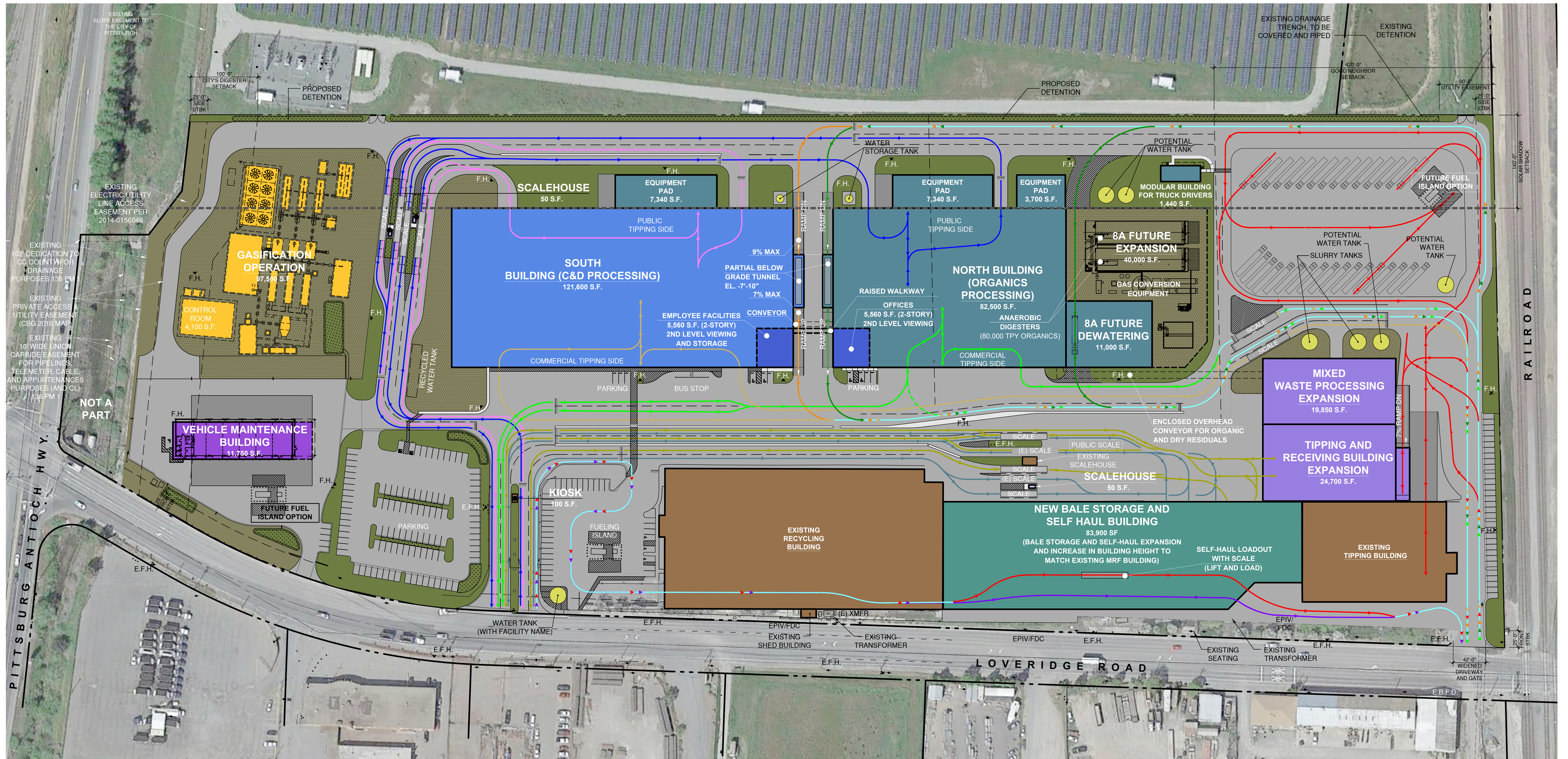
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	TRANSFER TRAILER - C & D
	COMMERCIAL RECYCLABLES
	COMMON ROUTE

VICINITY MAP





LEGEND

	EXISTING BUILDING		SCALEHOUSE		STRIPING
	MAINTENANCE BUILDING		LANDSCAPING		VEHICULAR PAVING & DRIVE AISLE
	ORGANICS PROCESSING BUILDING		WATER RETENTION		PROPOSED CONCRETE
	PROPOSED C & D PROCESSING BUILDING		DECOMPOSED GRANITE		DECORATIVE CONC. PAVING
	PROPOSED GASIFICATION OPERATION		GRAVEL		
	PROPOSED TIPPING AND RECEIVING BUILDING				
	PROPOSED BALE STORAGE AND SELF HAUL EXPANSION				

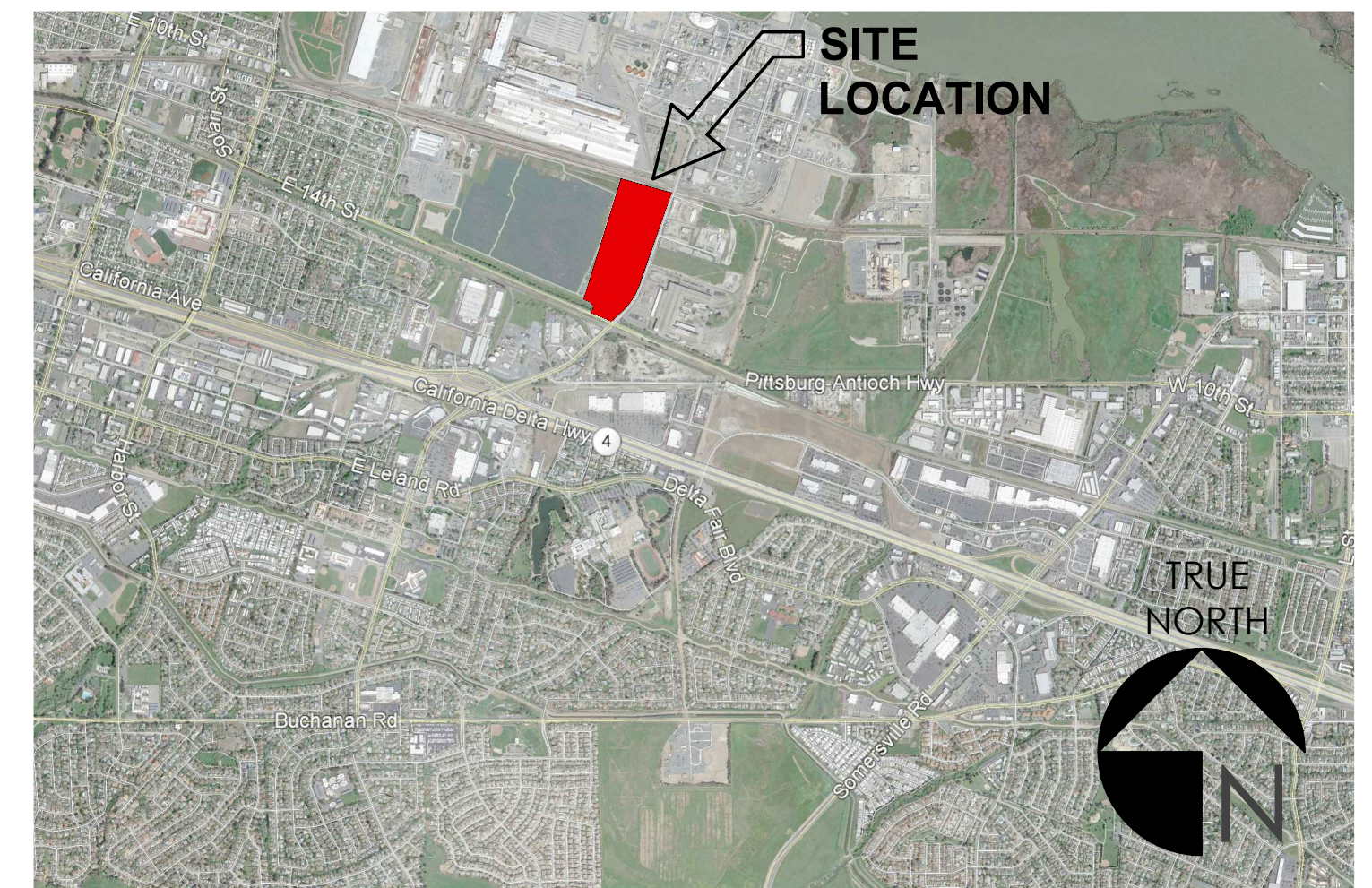
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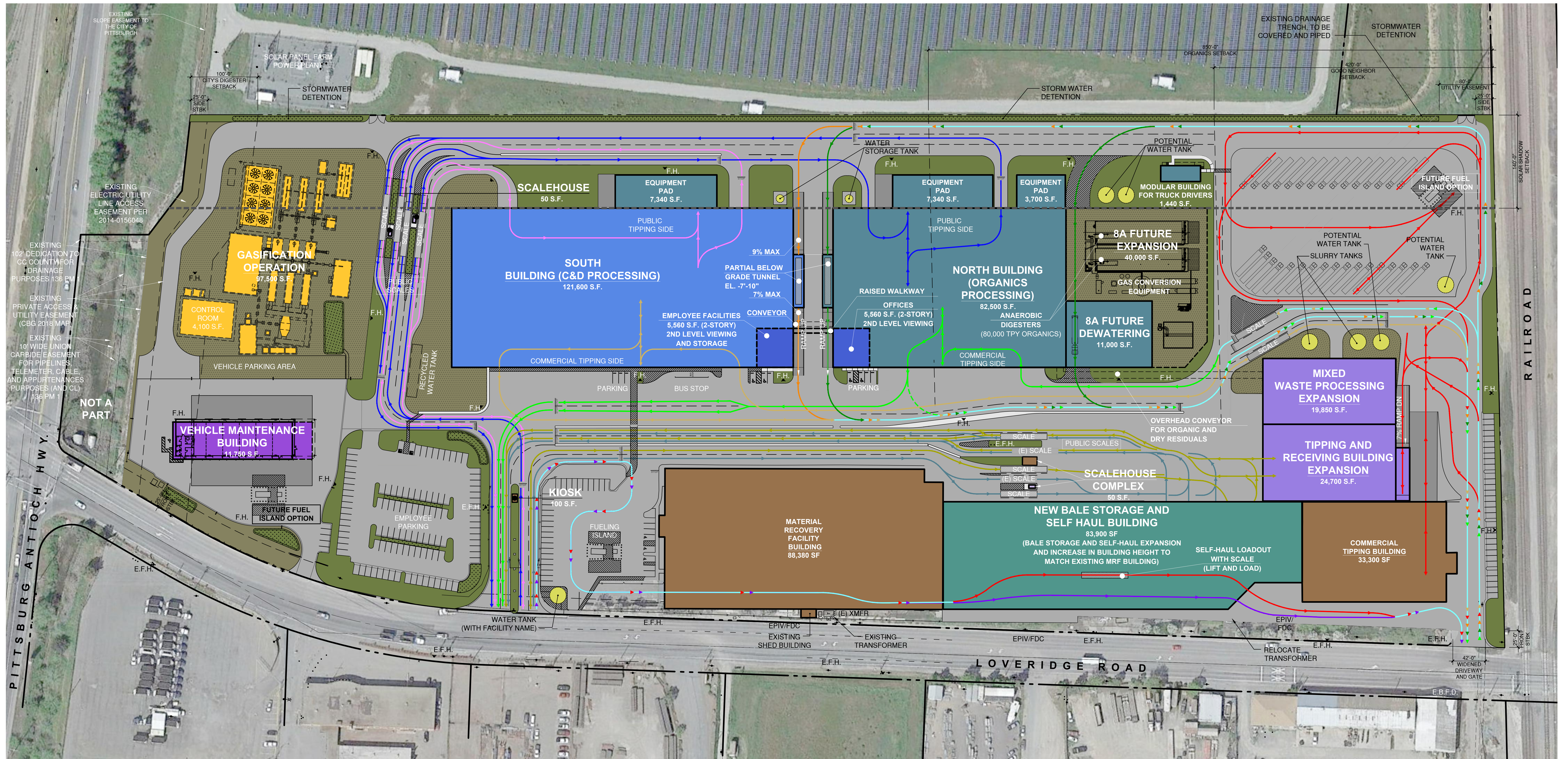
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CIRCULATION LEGEND

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VICINITY MAP





LEGEND

	EXISTING BUILDING		LANDSCAPING
	MAINTENANCE BUILDING		WATER RETENTION
	ORGANICS PROCESSING BUILDING		DECOMPOSED GRANITE
	C & D PROCESSING BUILDING		GRAVEL
	PROPOSED GASIFICATION OPERATION		STRIPING
	PROPOSED TIPPING AND RECEIVING BUILDING		VEHICULAR PAVING & DRIVE AISLE
	PROPOSED BALE STORAGE AND SELF HAUL EXPANSION		PROPOSED CONCRETE LOADOUT RAMP
	SCALEHOUSE		

SYMBOLS

	EXISTING PROPERTY LINE		EXISTING ACCESSIBLE PARKING STALL SYMBOL
	EXISTING RETAINING WALL		PROPOSED FIRE HYDRANT
	EXISTING CHAINLINK FENCE		EXISTING LIGHT
	EXISTING WROUGHT IRON FENCE		EXISTING BOLLARDS
	STRIPING PER CITY STANDARDS		EXISTING POWER POLE
	EXISTING ACCESSIBLE PARKING STALL SYMBOL		EXISTING TRANSFORMER
	PROPOSED FIRE HYDRANT		
	EXISTING LIGHT		
	EXISTING BOLLARDS		
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CIRCULATION LEGEND

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	TRANSFER TRAILER - ORGANICS
	TRANSFER TRAILER - C & D
	COMMERCIAL RECYCLABLES
	COMMON ROUTE

SITE INFORMATION

ADDRESS:
1300 LOVERIDGE ROAD
PITTSBURG, CA 94565

APN(S):
073-200-013, 014, 015, 027, 028, 029

GEN. PLAN / ZONING: IG - INDUSTRIAL BUSINESS PARK

SITE AREA:
36.11 ACRES

NEW IMPERVIOUS SURFACES: 16.8 ACRES

BUILDING AREA

PROPOSED IMPROVEMENTS	
PHASE 1	VEHICLE MAINTENANCE FACILITY.....11,750 S.F.
PHASE 2	NORTH BUILDING (ORGANICS PROCESSING).....95,400 S.F. (INCLUDING 2-STORY OFFICE AND EQUIPMENT PAD)
PHASE 3 & 4	SOUTH BUILDING (C&D PROCESSING).....134,500 S.F. (INCLUDING 2-STORY OFFICE AND EQUIPMENT PAD)
PHASE 5	GASIFICATION OPERATION.....97,500 S.F.
PHASE 6	EXPANSION TIPPING & RECEIVING (INCLUDING LOADOUT).....24,700 S.F.
PHASE 6A	MIXED WASTE EXPANSION FOR PROCESSING.....19,850 S.F.
PHASE 7	EXISTING BALE STORAGE EXPANSION (REMOVED).....34,214 S.F.
PHASE 7	EXISTING SELF HAUL (REMOVED).....35,480 S.F.
PHASE 8	SELF HAUL / BALE STORAGE EXPANSION.....83,900 S.F.
PHASE 8	AD EXPANSION.....51,000 S.F.
TOTAL SQUARE FOOTAGE ALL NEW BUILDINGS: 440,900 S.F.	
EXISTING BUILDINGS (TO REMAIN)	
	MATERIAL RECOVERY FACILITY.....88,380 S.F.
	TIPPING BUILDING.....33,300 S.F.
	TOTAL EXISTING.....121,680 S.F.
FUTURE IMPROVEMENTS	
	TOTAL FUTURE.....448,900 S.F.
	TOTAL BUILDING AREA.....570,580 S.F.

VICINITY MAP



<u>Phase</u>	<u>Description</u>
Phase 1:	<u>1600 Loveridge Road improvements including vehicle/equipment maintenance building and graveled lot to west (future gasification area)</u> Perimeter road - graveled road (along entire west boundary of 1300 Loveridge and south side of 1600 Loveridge) with access via northeast gate of 1300 Loveridge Rd., up along north side of Parcel 3 of 1300 Loveridge to west boundary Install fire hydrant locations on perimeter road as needed; final confirmations needed from MDRR engineering consultant. Gravel future parking area for tractors and transfer trailer parking in northwest corner of Parcel 3. Gravel area between transfer trailer gravel parking area and existing sloped drive aisle west of existing Tipping Building. This area can be used for staging/laydown activities and for parking for drivers and staging for tractor trailers.
Phase 2:	<u>1300 Loveridge Rd. improvements (existing Transfer Station (TS) and MRF complex) – North Building</u> • Rough grade of entire site, apart from existing C&D operations. • Construct North Building (permanent organics processing operation), in one phase, inclusive of a two-story employee break room and staff offices (upstairs). Upstairs area will have an education center/viewing room that can double as meeting space. When Phase 3 is constructed, there will be a connecting bridge from the 2nd floor of the office building in the North Building to the second story of office building in the South Building for use by tour groups to view operations. An approximate 7,200 SF covered equipment area on the west will also be included. Total building footprint of 93,600 SF. This building will have a partially below grade, drive-through loadout area (top-load) on the south side of the building. Actual tenant improvements within the office building may be completed in a subsequent phase. Transfer trailers for organics would enter via northeast gate of 1300 Loveridge Rd and proceed along the perimeter access road and make a left turn (eastbound) to enter the drive through loadout area. Trailers will be parked on a scale in the loadout area and thus won't require scaling out when leaving the loadout area. • Pave perimeter access road from end of pavement near existing transfer trailer parking to point in which transfer trailers need to access loadout port for new North Building and also further along west side of Parcel 2 boundary connecting to the access road on west side of Parcel A (Phase 5). Complete related traffic improvements such as striping, stop signs, curbs, etc. • Pave portion of east side of North Building to allow commercial organics vehicles to maneuver (exit) out of building • Once the North Building is operable, public green/wood waste vehicles will utilize the existing scale complex (for the outdoor C&D and green/wood waste operations) and proceed

PhaseDescription

northwest towards the west perimeter road and turn right and proceed to the North Building entrance. Public vehicles will exit the North Building and reverse course along the west perimeter road and back to the scales to weigh out. The actual traffic flow pattern will change at the existing scale as inbound public vehicles will use the current outbound scales to weigh in and the current inbound scales will be used for weighing out. Vehicles will also ingress and egress through the main entrance intersection. The traffic pattern for the residential and commercial organics route trucks is described below.

- **Construct scale complex shown near west side of Phase 6A of Transfer Station expansion footprint for mixed waste processing.** The inbound scale will be used by residential and commercial organics route trucks and rolloff trucks once the North Building is operable. Commercial vehicles will enter and exit on the east side of the North Building. The northeast gate of the facility will be the site entry and exit point for the commercial vehicles. This inbound scale will eventually be used by the commercial C&D trucks once the C&D operations are moved into the South Building during Phase 3. The outbound scale can be used, if necessary, for weighing out (confirming weights) transfer trailers loaded out from the North and South Buildings.
- During the construction phase of the North Building, the existing traffic flow patterns for the public and commercial C&D and green/wood waste and transfer trailers will remain the same. All vehicles will use the current scales. Once construction is completed, the vehicle traffic patterns for the green/wood waste customers will change to what is noted in the previous two bullets.
- The public and commercial C&D customers will continue to utilize the existing scales as is during the construction of the North Building as no changes will be made to the outdoor C&D operations. The same is true for transfer trailers.

Once the North Building is operable, though, the public C&D vehicles will utilize a similar traffic pattern as the public green/wood waste customers as described above. The only difference is once the public C&D customers proceed northwest to the west perimeter road they will turn left and proceed south to the outdoor C&D operations. These vehicles will reverse course along the west perimeter road and then make a right turn and rejoin with the public green/wood waste customers and proceed to the outbound scales to weigh out.

Clean wood customers will tip at the existing C&D operation until a South Building is constructed.

- **Pave future parking area for tractors and transfer trailer parking in northwest corner of Parcel 3.**
- **Install parking spaces on east side of building for accessing office entry.**
- **Install water storage tank near loadout for water capture and reuse.**
- **Install fire hydrant locations on perimeter of building as needed; final confirmations needed from MDRR engineering consultant.**



<u>Phase</u>	<u>Description</u>
	<i>Operational Assumptions:</i> Use the footprint for future South Building expansion (Phase 3 and part of Phase 4 C&D operation) and area north of proposed north building (Phase 8 Digestion operation) as lay down areas for construction of the North Building. Move existing employee parking and rolloff storage, displaced by construction of the North Building, to the graveled lot on the 1600 Loveridge property (Phase 5 area). Modular building(s) for employee breakrooms to support staff at green waste and C&D ops. will be needed. Green/wood waste and C&D operations continue as is, but with changes to the traffic patterns as previously described. Once the North Building is complete, then shut down of the outdoor green/wood waste operation will occur and move into the building. Grinding will continue to occur outdoors either at the C&D operation and/or in an area to the south of the North Building. If applicable, eliminate any modular employee break room for green waste employees as they will use break room on 1st floor of new office area in North Building. Relocate staff from existing Recycling and Self-Haul buildings to new offices on 2nd floor of office building in new North Building. Once North Building is complete, start using northwest gravel lot for tractor and transfer trailer parking.
<i>Phase 2A:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Installation of Pre-Processing Equipment into North Building</u> • Install organics pre-processing equipment for residential and/or commercially collected materials to meet compost market specs. • Install air infiltration equipment area. • Install potential water storage tank west of the future Phase 8A to allow for location of water truck filling. <i>Operational Assumptions:</i> Keep temporary employee parking on the 1600 Loveridge property. Keep rolloff storage in graveled lot on 1600 Loveridge property. Use future Phase 8A (AD operation) area for staging/laydown for construction. Use of future Phase 6A can also be used for parking for drivers and staging for tractor trailers.
<i>Phase 3:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) - South Building</u> • Construct South Building (C&D), inclusive of a two-story employee break room and education center viewing room (2nd floor); total building footprint of 130,400 SF. This

Phase**Description**

building will have a partially below grade, drive-through loadout area (top-load) on the north side of the building. Transfer trailers for C&D would enter via northeast gate of 1300 Loveridge Rd. and proceed along the perimeter access road and make a left turn (eastbound) to enter the drive through loadout area. Trailers will be parked on a scale in the loadout area and thus won't require scaling out when leaving the loadout area.

- **Pave portions of access roads between building and west perimeter access road** allow for two-way traffic for public C&D customers and for transfer trailer access to loadout port for C&D building. Complete related traffic improvements such as striping, stop signs, curbs, etc. along west perimeter road.
- **Construct new public scale complex for organics and C&D self haul customers with two inbound and two outbound lanes.** This will further constrain the footprint for the existing, outdoor C&D operation, however, if needed this operation can be relocated to the previous location of the outdoor green waste operation. This may also need to be the case if self haul customers delivering brushy or woody materials are tipped near the C&D operation so the material can be ground; this would be an alternative to bringing such customers inside the North Building. To the extent feasible, existing onsite 70' scales (at existing scale complex and outbound transfer trailer scale) will be repurposed and used in this permanent scale complex.
- **Make improvements (add new inbound and outbound scale) to main scale complex for solid waste customers.**
- **Gravel lot for future new employee parking lot near main entrance.**
- **Construct small information kiosk in traffic island between inbound and outbound lanes at main entrance.** A traffic director will be assigned here to address customer directional questions.
- **Install air infiltration equipment area.**
- **Install water storage tank for water capture and reuse.**
- **Install parking spaces on east side of building for accessing office entry and providing a bus parking area for visiting educational tours.**
- **Install fire hydrant locations on perimeter of building as needed; final confirmations needed from MDRR engineering consultant.**

Operational Assumptions:

Use footprint for future Phase 5 (1600 Loveridge Road) or Phase 8A of North Building as lay down area for construction of the South Building. These areas can also be used for parking for drivers and staging for tractor trailers.

Keep temporary employee parking on the 1600 Loveridge property. Keep rolloff storage in graveled lot on 1600 Loveridge property.

Continue C&D operations as is, including customers (self haul, and commercial) using temporary scale complex scales, during construction of the South Building.

Move the C&D operations into the South Building once complete.



<u>Phase</u>	<u>Description</u>
	Remove modular building for employee breakroom to support C&D ops. once the C&D operation is relocated into the South Building. At this point will need an electric powered processing system for grinding and screening wood waste materials in the South Building. Use existing temp. scale house complex in drive aisle along west side of South Building for public C&D customers until the new public scale complex for organics and C&D is completed.

Phase 3A: 1300 Loveridge improvements (existing TS and MRF complex) – Install New C&D Processing Equipment

- **Install new C&D processing equipment into the South building.**
- **Install water tanks in transfer trailer parking area and at main facility entrance.** Water tank (stainless steel) at main entrance would also be wrapped with facility name/logo.
- **Consider installing a fuel island in the northwest corner of paved truck parking lot.**
- **Construct new employee parking lot near main entrance.** Ideally access for this parking lot would be thru 1600 Loveridge and not the main entrance.

Operational Assumptions:

Keep temporary employee parking and rolloff storage on the 1600 Loveridge property graveled lot until the new employee parking lot is completed.

Remove existing C&D processing equipment to make way for new equipment. Wood waste could be processed in the North Building if an electric grinder is available.

Use future Phase 4A (South Building expansion) area for staging/laydown for construction. This area can also be used for parking for drivers and staging for tractor trailers if needed.

Phase 4: 1300 Loveridge improvements (existing TS and MRF complex) – South Building Equipment expansion (for C&D processing operations)

- **Retrofit new C&D processing equipment if needed for expanded volumes.**

Operational Assumptions:

Use future Phase 8A (AD operation) area, or future Phase 5 (Gasification operation) area for staging/laydown for construction.

Move rolloff storage to future Phase 8A area.

Modify C&D processing operations if conducting a retrofit.

Phase 5: 1300 Loveridge improvements (existing TS and MRF complex) – Install Gasification Operation

- **Install gasification equipment and test operation.**
- **Consider installing new fuel island and/or potential charging stations if transfer fleet is electrified.**



<u>Phase</u>	<u>Description</u>
	<i>Operational Assumptions:</i> May have to temporarily relocate some tractor trailers to other parking places onsite while paving of lot occurs. Staging and laydown for the installation of the gasification system will have to occur in close proximity to the operation.
<i>Phase 6:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Transfer Station Tipping Area Initial Expansion</u> • Construct initial phase of Transfer Station Building expansion for tipping only. This includes construction of the back-in tunnel and loadout port on the north side of the expansion. • Install pavement on south side of expansion. <i>Operational Assumptions:</i> Use future Phase 6A and gravel area between transfer trailer parking area and existing sloped drive aisle west of existing Tipping Building for staging/laydown activities. Future Phase 8A area may also be used for staging/laydown. These areas can also be used for parking for drivers and staging for tractor trailers. Some solid waste route trucks may be temporarily redirected to the self-haul tipping area. Once gasification operation is fully operation then processed wood waste materials will be hauled/transferred from the South Building to this new operation.
<i>Phase 6A:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Transfer Station Tipping Area Final Expansion</u> • Construct second phase of Transfer Station Building expansion for future installation of mixed waste processing equipment. <i>Operational Assumptions:</i> Use gravel area for Phase 8A for staging/laydown. This area can also be used for parking for drivers and staging for tractor trailers.
<i>Phase 7:</i>	<u>1300 Loveridge improvements (existing TS and MRF complex) – Bale Storage and Self Haul Building</u> Construct new building, or phased construction of a building, to house bale storage area and expanded self haul tipping area. New building will be same clear height as MRF processing building. Construction will also include adding a new self-haul loadout area (lift and load) off the back side (east) of the building. For example, the bale storage portion of the building may be constructed first and possibly included as part of an earlier phase such as Phase 2.

<u>Phase</u>	<u>Description</u>
	<i>Operational Assumptions:</i> New building construction will have to be phased to limit impact to existing bale storage and self-haul tipping operations. For example, one half of the building can be constructed (e.g., the bale storage area) at a time. When the first half of the building is completed, operations can be flipped from the old area into the new area. Likely will require some outdoor storage of bales and/or placement of trailers for temp. storage of bales. Bales can also be tarped. Some self haul loads may require tipping in the commercial tipping area of the expanded Transfer Station. Future Phase 8A area will be the primary area used for staging/laydown for construction.
Phase 8:	<u>1300 Loveridge improvements (existing TS and MRF complex) - Install Mixed Waste Processing Equipment</u> • Installation of mixed waste processing equipment in the designated area of the expanded transfer station. <i>Operational Assumptions:</i> There may be limited staging and laydown area in the immediate vicinity of the operation.
Phase 8A:	<u>1300 Loveridge improvements (existing TS and MRF complex) – Install Anaerobic Digestion (AD) System and Pre-Processing Equipment</u> • Installation of anaerobic digesters, up to two, and necessary pre-processing equipment to produce slurry. The existing organics pre-processing system will likely be modified (e.g., add shredders, slurry tanks, etc.) as necessary to handle source separated organic materials and organics recovered from the mixed waste processing system. An overhead conveyor system will also be added to move the recovered organics materials (from the mixed waste processing system) to the North Building pre-processing system area. An eco- wall, 30-ft' high will also be constructed around the operation to shield the operations; the operation will not be covered per code requirements. <i>Operational Assumptions:</i> Construction staging and laydown will have to occur in the immediate vicinity of the operation.
Phase 8A – Alternate:	<u>1300 Loveridge improvements (existing TS and MRF complex) – Additional Expansion of the North Building</u> • This alternative assumes the AD system is not installed. The North Building would simply be expanded with some potential for modifications to the existing pre-processing system if needed for compost processors. <i>Operational Assumptions:</i> Construction staging and laydown will have to occur in the immediate vicinity of the operation.

Attachment 6 Map of Surrounding Uses

Mount Diablo Resource Recovery Park, AP-21-1553 (UP, DR, DA)

★ Project Site
 ● Residential
 ● Commercial
 ● Industrial
 ● Park
 ● Other



Attachment 7
Property Development Regulations Table

MDRRP Enhancements Project, AP-21-1553 (UP, DR, DA)

Development Regulations: <i>Overlay District, Ordinance No.04-1214</i>	IL-O Requirement:	IG Requirement	Proposed Project:
Max. Height	50 ft.	50 ft	50.5 ft.
Max. FAR	.8	.8	.36
Max. Lot Coverage	60%	60%	36%
Min. Lot Area	10,000 sq. ft.	20,000 sq. ft.	1,569,417 sq. ft.
Min. Lot Width	70 ft.	100 ft.	533 ft.
Min./Avg. Front Yard Setback	25 ft.	25 ft.	>25 ft.
Min. Side Setback	-	-	50 ft.
Min. Rear Setback	-	-	26 ft.
Min. Site Landscaping	10%	10%	13%

Attachment 8
Applicable Development Review Design Guidelines
MDRRP Enhancement Project, AP-21-1553 (UP, DR, DA)

Design Review Guidelines Section IV. Commercial/Industrial	Meets Guideline?
IV.a: Parking areas should be screened from view from any public right-of-way. Parking areas should be broken up to eliminate vast areas of parking especially along street frontages.	Yes. Landscaping will be provided to screen the relocated parking area at the southern portion of the site.
IV.b: Provisions should be made for permanent shopping cart corrals in retail shopping centers.	Not applicable. The project does not involve a retail shopping center.
IV.c: Existing trees on site should be incorporated into the project site design, unless waived by the City Planner or Planning Commission.	Yes.
IV.d: Developer should elect, at least, one of the schemes provided in Appendix #1 for screening all utility box transformers, backflow preventers, meters, and junction boxes.	Conditionally. A condition has been added that would require compliance with this guideline.
IV.e: Projects with many buildings (greater than three) should have a variety of building sizes and masses.	Yes. Ten new structures are proposed, with the design of each building reflecting the operational requirements of the facility. The building design is intended to create a corporate campus character to the facility. The architecture achieves this goal in unifying the diverse activities on the project site, through the building massing and design.
IV.f: Continuous horizontal roof lines should be broken up whenever possible. An expanse should not exceed 50 feet in length unless architecture or size dictate a greater expanse.	Yes. Given the industrial architecture, large building size and significant massing of each building, strict adherence to this guideline would not be practical.
IV.g: Building entries should be designed as a focal point. They should be designed to set the theme or be the primary feature of the building or commercial center.	Yes. The building entries are highlighted by the building materials.

IV.h: Building elevations visible from public rights-of-way should be addressed in design review and treated appropriately.	Yes. Three existing attached buildings define Loveridge Road frontage and reflect the character of the central and original building which includes a corrugated metal facade. This character will be retained along the Loveridge Road Frontage in the Master Plan.
IV.i: A free-standing structure within an existing commercial or industrial center should be architecturally compatible with the center, including but not limited to materials, colors, and architectural elements.	Yes. The building form, colors and material would be compatible with the existing structures including the Recyclables Processing Building and the Transfer Processing Facility.
IV.j: All roof mounted equipment should be screened completely from view from all public rights-of-way. A site-line study may be necessary to determine appropriate screening method.	Yes. All roof equipment would be screened by the building parapets.
IV.k: All structures including, but not limited to, 'tilt-up' type structures, should have structural reliefs and articulated entries.	Yes. The new buildings are designed to use color and materials to provide structural relief and to articulate entries.
IV.l: Exterior fire escapes, stairs and other appurtenances should be designed or treated as integral parts of the building façade.	Not Applicable. There are no exterior stairs or other appurtenances.
IV.m: Downspouts should be designed into the façade of the building the color and materials palette unless architecturally treated.	Yes. Downspouts are incorporated into the architecture.
IV.n: Add murals, lattice or some other space-frame type treatment to blank walls visible from public view.	Yes. The use of color and materials would visually break up the building mass of large buildings.
IV.o: Prototype or 'theme' architecture is discouraged.	Yes. The architecture reflects the industrial character of the surrounding area.
IV.p: New or remodeled buildings should be designed to be compatible in design, color and materials with adjacent development.	Yes. The color and materials palette would unify both the existing and future buildings on the project site to visually create a corporate campus.
IV.q: The street-oriented elevations shall be designed so as not to present the appearance of a rear elevation.	Yes. As noted above, under IV.h, the character of the existing building elevations on Loveridge Road would be retained.
IV.r: Trash enclosures should include area for collection of recyclables (i.e. space for two 90-gallon containers minimum).	Yes. This is a Recycling Facility and recyclables are handled in the Mt Diablo Recycling Facility Building.

Green Building Design Guidelines Section VI.D Commercial/Industrial	
VI.D.1: Roofs should be designed to integrate renewable energy systems and provide a cool urban environment.	Yes. The buildings are designed so that solar panels could be added to the building roofs when practicable.
VI.D.2: Urban heat island impacts should be minimized.	Not applicable. No new parking areas are required/proposed with this project.
VI.D.3: Hardscapes should be constructed with permeable surfaces. Impermeable surfaces may be used if they direct all runoff toward an appropriate permanent infiltration feature.	Yes. The project is designed consistent with low impact development standards.
VI.D.4: Design choices should incorporate or prepare for electric vehicle charging or used vegetable oil fueling infrastructure.	Not Applicable.
VI.D.5: Fuel cell technology should be considered where other renewables are infeasible.	Not Applicable. This is a Recycling and Waste Processing Facility with the goal of diverting solid waste from landfills and meeting state recycling goals.
VI.D.6: Reclaimed water should be used for as much non-potable water uses as feasible and practical.	Yes. The project site includes a dedicated recycled water line.
VI.D.7: Large commercial and institutional facilities that are anticipated to employ more than 50 employees should consider providing on-site shops and services for those employees.	Not Applicable. This is a heavy industrial facility. Due to the nature of the site, this guideline cannot be feasibly and/or safely implemented.
VI.D.8: Street side building faces should encourage walking.	Not Applicable. The buildings would be set behind a fence to protect the facilities. The landscaping along the Loveridge Road frontage does not include a sidewalk due to the industrial character of this road and the proximity to the Pittsburg Antioch Highway which is a major thoroughfare.
VI.D.9: Secure bicycle parking facilities should be provided for at least 10 percent of expected peak hour trips.	Conditionally. A proposed condition of approval would require the applicant install parking for nine bicycles.

**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT**

ITEM: No. 3 - Mt. Diablo Resource Recovery Park, AP-10-712 (UP, DR).

ORIGINATED BY: Contra Costa Waste Services, Inc., 1300 Loveridge Road,
Pittsburg, CA 94565

SUBJECT: This is a public hearing on a request for: 1) approval of a use permit for the operational expansion and reorganization of the existing Mt Diablo Recycling Facility (MDRF) and the Recycling Center and Transfer Station (RCTS) on a 36-acre site, and 2) design review approval of plans to construct a new approximate 18,000 square foot building and site improvements for an onsite truck maintenance facility. The expanded and reorganized facility would be renamed as the Mt Diablo Resource Recovery Park (MDRRP). The Commission is also being asked to consider the Final Environmental Impact Report (EIR) prepared for the project. The project site is located at 1300 Loveridge Road. The western portion of the property is the IG (General Industrial) District and the eastern portion of the property is within the IL (Limited Industrial) District. Assessor's Parcel Numbers 073-200-013, 073-200-014, 073-200-015, 073-200-024, and a portion of 073-200-023.

RECOMMENDATION:

Staff recommends that the Commission review and consider the proposed project plans along with the Draft and Final EIR for the project, and then adopt: 1) Resolution No. 10001 certifying the EIR and adopting findings, a statement of overriding considerations and a Mitigation Monitoring and Reporting Program (MMRP); and 2) Resolution No. 10002 approving Use Permit and Design Review Application No. 10-712, subject to conditions.

BACKGROUND:

The Mt Diablo facility was first approved by the City of Pittsburg in 1995 and has been operational since that time. It has received several additional approvals (summarized below) related to an expansion of services provided, or related to an increase in the approved capacity of the facility. The current application, also described below, seeks to expand and consolidate the services on the site under one entity with a single permit.

On March 6, 1995, the City Council adopted Resolutions Nos. 95-8143, 95-8144, and 95-8145, approving the initial use permit, a variance and design review of architectural plans (respectively) for the Recycling Center and Transfer Station (RCTS), on a 17.5 acre site located at 1300 Loveridge Road. Prior to that approval, the City Council adopted Resolutions Nos. 95-8134 and 95-8142, certifying the Final Environmental Impact Report (EIR) and adopting mandatory findings of significant environmental impacts and mitigation measures for the project (respectively).

Planning Commission Staff Report

On December 18, 1995, the City Council approved Resolution No. 96-8150, authorizing an agreement that allowed the recycling center and transfer station to begin operation.

On March 27, 2007, the Planning Commission adopted Resolution Nos. 9691 and 9692 approving a new use permit and design review application to locate the Mt. Diablo Recycling Facility (MDRF) on the existing RCTS site. The MDRF was approved to share the same site as the RCTS; however, both facilities operate independently under separate State-granted permits through the Integrated Waste Management Board which permits the RCTS facility and the State Department of Conservation which permits the MDRF.

On April 22, 2008, the Planning Commission adopted Resolution No. 9755, approving another use permit and design review application, establishing a mixed construction and demolition (Mixed C&D) recycling facility, including a green material processing operations area, on a 6.52-acre portion of the RCTS site (the Mixed C&D facility is considered to be under the Integrated Waste Management permit). Conditions of approval for the RCTS and the MDRF were carried forward to the subsequent approvals.

On January 12, 2010, the Planning Commission adopted Resolution No. 9822 modifying the use permit for MDRF in order to expand the maximum amount of material that could be processed per day, expand hours of operation and the number of employees working at the facility.

On August 23, 2010, the current application was filed requesting a subsequent use permit modification in order to bring the current solid waste and recycling operations at the RCTS, the MDRF and the Mixed C&D facilities under a single entity referred to as the Mt. Diablo Resource Recovery Park (MDRRP). The proposal also included an increase in the total amount of materials processed per day at all three facilities from 2,200 tons per day (TPD), to a total of 5,500 TPD; establishment of a new commercial recycling and organic processing programs for residential and commercial food wastes; construction of a biomass gasification unit to process clean wood waste into energy for on-site use; and as a possible future phase of the project, a rail haul option for waste transportation purposes. On August 5, 2013, the applicant filed a modification to the use permit application in order to add an additional 18.5 acres to the original proposal (bringing the total project area to 37 acres).

On September 9, 2014, the applicant filed another modification to their use permit application in order to relocate an existing truck maintenance facility from its current location east of the project site, across Loveridge Road, to the southernmost portion of the MDRRP site. The relocated facility would require construction of a new 18,000 square foot building to store and maintain trucks associated with the operation.

On May 14, 2015, the applicant submitted a letter and revised site plan (Attachment 4) indicating their desire to relocate the proposed Biomass Gasification Unit to the southern portion of the site, the materials and organics processing operations to the

center of the site, and the employee parking to an area along Loveridge Road (previously designated for organics processing), in order to address concerns related to odors and debris that had been raised by their neighbors to the north, west and east. The revised site design would not only address nuisance concerns, but would also result in a more aesthetically pleasing frontage along Loveridge Road and would accommodate better onsite circulation, as it would provide additional internal space for vehicle queuing. In response to this request, staff had the environmental consultant review the revised proposal for consistency with the Draft EIR analysis. The consultant found that the applicant initiated changes would not result in any new environmental impacts not already addressed in the EIR, and therefore no further analysis would be required in order to incorporate the proposed changes. A memo summarizing these findings is attached to this report.

PROJECT DESCRIPTION:

Existing Conditions: The project site is located within the City of Pittsburg, west of Loveridge Road and north of the Pittsburg-Antioch Highway, and just south of the Burlington Northern and Santa Fe (BNSF) railroad. The 37-acre project site encompasses the existing facility (17.5 acres) plus 18.5 acres located west and south of the existing facility. A portion of the project site (approximately 17.5 acres) is currently developed as the MDRF, the RCTS, and the Mixed C&D (including the green material processing) facility, all collectively described as the “existing facility”.

The surrounding uses are industrial in character. Northwest of the project site, across the BNSF railroad tracks, is an industrial facility operated by USS-Posco Industries which manufactures sheets of rolled steel, and also the Dow Chemical Facility which manufactures primarily agricultural and pest-control chemicals. East of the site, across Loveridge Road are a vacant parcel, and two other large industrial facilities. West of the site is the Columbia Solar Energy project, which is currently under construction. The southern boundary of the Project site is bordered by the Pittsburg-Antioch Highway and a Union Pacific Railroad spur beyond. There is an existing residential neighborhood approximately one-half mile west of the project site. The nearest undeveloped residentially designated area is a 4.4-acre medium density residential site that is located approximately 1,500 feet southwest of the project site.

The existing buildings on the project site consist of two large interconnected industrial buildings immediately adjacent to Loveridge Road which have a total floor area of 190,804 square feet. Just south of these buildings is the main parking area, which is accessed by a private roadway that connects with Loveridge Road.

A complete description of the existing facilities and operations is contained in the Draft EIR, Project Description (pages 2.0-1 through 2.0-45).

Proposed Project: The main intent of this application is to upgrade and improve the existing facility to serve as the regional recycling facility for eastern and central Contra Costa County. The goal is also to assist the City of Pittsburg and Contra Costa County

in reducing greenhouse gas emissions in accordance with state mandates related to diversion of solid waste from landfills and statewide recycling goals.

As stated above, the project applicant is seeking approval to bring the current solid waste and recycling operations at the RCTS, the MDRF and the Mixed C&D facilities under a single entity referred to as the Mt Diablo Resource Recovery Park (MDRRP). The proposed project would increase the total amount of materials processed per day at all three facilities from 2,200 TPD, to a total of 5,500 TPD and would add 18.5 acres to the existing site for parking, commodity storage, new commercial recycling and organic processing programs for residential and commercial food wastes, and relocation of the truck maintenance facility and yard, which would include an 18,000 square foot structure in the southeastern portion of the project site (former GWF Power Systems Facility).

The proposal also includes as potential future phases, a possible rail haul option for waste transportation purposes, and construction of a Biomass Gasification Unit to process clean wood waste into energy for on-site use. According to the revised site plan submitted by the applicant on May 14, 2015, the Biomass Gasification Unit would be located immediately north of the new truck maintenance facility and the existing organics processing area would be relocated (and expanded) from its current location adjacent to Loveridge Road, to a new location on the western portion of the site. Relocation of the biomass unit to the southern portion of the site, places it further away from existing offices to the north, thereby minimizing the potential for and odor impacts on neighboring properties.

In addition, after this future relocation, the area immediately northeast of the new truck maintenance facility (adjacent to Loveridge Road) would be utilized for employee parking, and the material processing area would be moved to the center of the site, immediately west of the existing building. The proposed relocation of the materials and organics processing operations to the center and western portions of the site enables the existing building to act as a buffer for any dust and debris that would travel east due to the prevailing winds in the area. All other undeveloped areas on the site would be used for internal circulation and commodity, vehicle and equipment storage.

The truck maintenance facility located at the southern portion of the site, has been identified as "SEG Trucking" on the project plans. The proposed SEG Trucking facility would be used solely for the repair and maintenance of the facility's approximately 60 commercial and residential refuse trucks, as well as RCTS and MDRF equipment. Improvements associated with the facility would include one new 30-foot tall, 18,000 square foot structure comprised of a 15,600 square foot workshop space and a 2,400 square foot office and storage area, with 2,000 square feet of open air canopies on the eastern side of the building. The new building would be a pre-engineered metal structure. The roof and walls would consist of prefinished metal panels with colors to match the existing buildings on the project site. The roof would be a dark green color, the walls a medium beige with terra cotta accents. Site improvements surrounding this new structure would include a new truck wash area, a relocated fuel island (to be

moved from the existing MDRF main parking area) and parking for 47 trucks, 41 regular sized vehicles and six (6) bicycles. This building and surrounding site improvements would be located at the southeastern portion of the project site at the corner of Loveridge Road and the Pittsburgh-Antioch Highway, with primary vehicular access coming from the existing main project entrance to the MDRRP site.

The location and general operational details for the potential future rail haul option have been included in the EIR; however, no project specific design plans have been submitted to date. Since the design of associated rail improvements are unknown at this time, staff would need to review plans at a later date, when the option is exercised, in order to determine whether or not any subsequent discretionary review would be necessary.

For more details on the complete project description, please see the Draft EIR (pages 2.0-1 through 2.0-40) and the Proposed Site Plan, Revised May 7, 2015 (Attachment 6).

GENERAL PLAN/CODE COMPLIANCE:

General Plan: The City of Pittsburgh General Plan identifies the project site as Industrial, which permits manufacturing, wholesale, warehousing and distribution, commercial and business services, research and development, agricultural, food and drug, industrial processing and storage uses. The proposed expansion of the existing use and addition of the SEG Trucking facility and Biomass Gasification Unit would be consistent with this land use designation, and would be consistent with the Loveridge sub-area Goal 2-G-15, to maintain industrial activities in appropriate, designated areas. In addition, the proposed project to increase the capacity of recyclable materials at the existing plant is consistent with General Plan Goal 11-G-6, and Policy 11-P-19, to reduce the amount of solid waste generated in the City through intensification of recycling efforts.

Zoning: The eastern (approximate) half of the project site is zoned IG (General Industrial) District, and western portion is zoned IL (Limited Industrial) District. The IL district is intended to provide opportunities for service-oriented commercial and limited industrial uses in transitional areas, between heavy industry and commercial or residential land uses. The IG district is intended to provide sites for intense industrial uses on large sites adjacent to existing heavy industrial uses. Large recycling facilities, such as the proposed project, require a use permit within the both the IG and IL Districts.

Standards for Large Recycling Facilities: The project proposal would continue to be consistent with the standards for approval of a use permit for a large Recycling Facility that are set forth in PMC section 18.84.575 (C), as described below:

1. The facility would be at least 150 feet from property zoned or planned for residential use.
2. The facility would be screened from public view by operating in an enclosed building or behind dense landscaping or fencing.

3. Yards and landscaping requirements would comply with those provided for the zoning district in which the facility is located.
 4. All exterior storage of material would be in sturdy containers which are covered, secured and maintained in good condition. Oil storage containers would be subject to approval by the Chief Building Official and Contra Costa County Fire Protection District. No storage, excluding truck trailers and overseas containers, would be visible above the height of the fencing or other screening.
 5. The site would be maintained free of litter and any other undesirable materials, and would be cleaned of loose debris on a daily basis.
 6. Noise levels would not exceed 60 dBA as measured at the property line of residentially zoned property, or otherwise not exceed 70 dBA.
 7. The facility would not be located within 500 feet of property zoned, planned or occupied for residential use.
 8. No containers would be provided for after-hours donation of recyclable materials (newspaper, cardboard, aluminum cans, etc.).
 9. Donation areas would be kept free of litter and any other undesirable material, and the containers would be clearly marked to identify the type of material that may be deposited. The facility would also display a notice stating that no material may be left outside the recycling containers.
 10. The facility would be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs would meet the standards of the use. Directional signs, bearing no advertising message, would be installed subject to approval by the Planning Division.
 11. Power-driven processing, including aluminum foil and can compacting, plastic shredding, or other light processing activities, may be used as necessary for efficient temporary storage and shipment of material.
- Parking: PMC section 18.78.030(E)(3) sets forth standards for off-street parking for industrial uses. This section specifies that the parking requirement for large recycling facilities shall be six (6) spaces, plus one per each 1,000 square feet of building area. The new building area being added to the site totals 18,000 square feet, yielding a total parking requirement of 24 spaces. In accordance with PMC 18.78.045, the total number of associated bicycle parking spaces required for the use would be six (6).

As previously stated, the proposed project includes parking for 47 trucks, 41 regular sized vehicles and six (6) bicycles, all of which well exceeds the requirements of the PMC.

Landscaping: PMC section 18.54.115 identifies a minimum landscaping requirement of 10% for IL and IG Districts. According to the project plans submitted, landscaping proposed would equal over 22%, which well exceeds to the requirements of the PMC

Design Review: Pursuant to PMC 18.36.230, the Planning Commission shall discuss the application for design review approval and integrate it with the land use approval process applicable to the project. The proposed project is generally consistent with applicable Development Review Design Guidelines (DRDG's) adopted by the Planning Commission through Resolution No. 9864, in that: 1) the new parking areas would be

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screened from public view behind a chain link fence with 6-foot tall shrubbery surrounding the site (DRDG IV.a); 2) the new SEG truck maintenance building would match in colors and design to the existing MDRF and RCTS facility located on the same site, immediately north of the new building (DRDG IV.p); and 3) the appearance of the continuous horizontal roof line for the new building would be broken up by the periodic placement of the nine (9) foot wide long ridge roof vents on top of the building (DRDG IV.f).

Solid Waste Facility Permit: The project applicant proposes to obtain one solid waste permit to cover all of the existing operations as well as the expanded operations. There are currently three permits covering the existing operation; however, if the expanded operations as proposed are approved, then a new single solid waste permit would be required for all project components in order to permit a total tonnage of 5,500 TPD for the facility. The permit would be issued by the City of Pittsburg Local Enforcement Agency (LEA), with the concurrence of the California Department of Resources Recycling and Recovery (CalRecycle).

Required Findings: In accordance with PMC section 18.16.040, a use permit may be granted only if the Planning Commission can make findings that the project:

- A. is in accord with the objective of this title, the purposes of the land use district in which it is located and is appropriate to the specific location;
- B. is not detrimental to the health, safety, and general welfare of the City;
- C. will not adversely affect the orderly development of property within the City;
- D. will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City;
- E. is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;
- F. will not create a nuisance or enforcement problem within the neighborhood;
- G. will not encourage marginal development within the neighborhood;
- H. will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints imposed by law; and
- I. is consistent with the City's approved funding priorities.

In order to recommend approval of a design review application, the Commission must determine, in accordance with PMC section 18.36.220.B, that:

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- A. the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
- B. the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
- C. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
- D. the structure is in harmony with proposed developments on land in the general area; and,
- E. the application conforms with the criteria set forth in any applicable City adopted design guidelines.

Environmental: The proposed project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code [PRC] section 21080). Pursuant to the provisions of the PRC section 21080(d), a lead agency is required to prepare an EIR for any project that it expects to have a significant effect on the environment. An Initial Study for the proposed project was prepared in early 2011. On the basis of the analysis in the 2011 Initial Study, it was determined that the proposed project could potentially have adverse impacts on the environment, and as such, the city prepared an EIR to analyze the potential impacts of the project in greater detail. The Initial Study, Notice of Preparation (NOP) and NOP comments received during a 30-day public review period were all incorporated into the Draft EIR as Appendix A.

The Draft EIR was completed in early December 2014, and was distributed to the public for a 45-day public comment period that extended from December 16, 2014, through January 29, 2015. Written comments were accepted throughout the entire comment period, and verbal comments were solicited during a public meeting that was conducted on January 15, 2015; however, no members of the public attended that meeting and as such, no verbal comments were received.

A total of ten written comments on the Draft EIR were submitted during the public review period, all of which are contained in the Final EIR, along with individual responses to comments and minor revisions to the Draft EIR, which was completed on April 13, 2015, and circulated to the commenting parties on April 15, 2015. The Planning Commission must consider the Final EIR and Draft EIR, and they must certify the Final EIR for the project, before taking any necessary actions to implement the project.

Since the Planning Commission is considering the final discretionary approvals for this project at the same hearing as the certification of the Final EIR, the Commission is

asked to consider the motion to certify the EIR and adopt findings, a statement of overriding considerations and an MMRP, prior to any motion on the proposed entitlements for the project.

Draft EIR: Summary of Significant Impacts: The Draft EIR identified three potentially significant environmental effects and one cumulatively considerable impact that might occur as a result of the proposed project. The potentially significant and cumulatively considerable impacts fall into the categories of Air Quality and Transportation and Circulation.

For each of these impacts identified, the Draft EIR identifies one or more mitigation measures that would reduce the severity of the impact to a less than significant level. However, the Draft EIR identifies one air quality impact and two transportation-related impacts as significant and unavoidable even after mitigation. Specifically, the proposed project would cause a significant impact related to short term construction emissions. Mitigation requiring implementation of Bay Area Air Quality Management District (BAAQMD) recommended practices for the control of fugitive dust would be required; however, the expected daily construction emissions would not be reduced below the BAAQMD's significance threshold. The proposed project would also result in project-level and cumulative impacts to the Level of Service (LOS) at two intersections: Pittsburg-Antioch Highway/Loveridge Road and Loveridge Road/State Route 4 Eastbound Ramps. Since improvements to both of these intersections are included in the Capital Improvement Project (CIP), mitigation requiring the payment of CIP fees would be required to reduce the severity of this impact; however, since the City currently has no other funding mechanism to construct these improvements, implementation of the mitigation measure cannot be guaranteed, and the corresponding impacts are identified as unavoidable.

Draft EIR: Discussion of the Alternatives to the Project: As required by CEQA Guidelines section 15126.6, the Draft EIR contains alternatives to the proposed project. According to CEQA Guidelines section 15126.6(a), each of the alternatives selected should "feasibly attain most of the objectives of the project," but should "avoid or substantially lessen any of the significant environmental effects of the project." An alternative is considered "feasible" if it can be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors. The EIR must evaluate each alternative against the proposed project in terms of its significant adverse impacts.

Under CEQA Guidelines section 15126.6(e), one of the alternatives must be a "no project" scenario, in which it is assumed that the proposed project does not occur. Aside from the "no project" scenario, two alternatives were chosen based on the list of project objectives contained in the EIR (Chapter 5.0). These alternatives include: 1) a Biomass and Solar Alternative, which assumes construction of these two facilities only and a minimal increase in facility capacity to accommodate an extra 40 tons per day of clean wood chips only; and 2) a Limited Expansion Alternative, which includes an overall facility expansion of only 55% of the requested permit increase, thereby limited the

overall increase to 3,050 TPD instead of the requested 5,500 TPD. One additional alternative analyzing an Off-Site Alternative, was initially considered and rejected from further consideration in the EIR because it was not consistent with the fundamental purpose of the project (to expand the facility) and it would not meet the basic project objectives.

Required CEQA Certification Findings: In accordance with section 15090 of the State CEQA Guidelines, the lead agency shall certify that the Final EIR has been completed in compliance with CEQA; that the Final EIR was presented to the decision-making body of the lead agency and that the decision-making body reviewed and considered the information contained in the Final EIR prior to taking action on the project; and, the Final EIR reflects the lead agency's independent judgment and analysis.

Public Notice: On or prior to Friday, May 15, 2015, notice of the May 26, 2015, public hearing to consider this application was posted at City Hall, at the proposed project site, and on the "Public Notices" section of the City's website; was delivered to the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies expected to provide services to the use, and to individuals who had previously filed written request for such notice, in accordance with PMC section 18.14.010 and Government Code section 65091.

ANALYSIS:

Construction of the project as proposed would require certification of the Final EIR, adoption of CEQA findings, a statement of overriding considerations and adoption of the MMRP, followed by approval of the following entitlements:

1. Use permit for a Large Recycling Facility; and
2. Design review.

Staff believes that the Commission can make the findings necessary to approve these required entitlements, which are addressed in further detail below:

Use Permit. Staff believes that the Planning Commission can make the required findings to permit expansion of the capacity, operations and land area of the existing Mt. Diablo Recycling Facility and the Recycling Center and Transfer Station. The current use of the project site as a large recycling facility was first approved by the City Council in 1995. A Solid Waste Facility Permit was also issued by the City of Pittsburg Local Enforcement Agency (LEA) in 1995 shortly after the original use permit was approved. Three use permits were subsequently adopted to allow expansion of the operation (2007, 2008 and 2010) in order to permit a total tonnage for all project components to 2,200 TPD. The LEA currently inspects the facility once a month and reports that the facility has operated in accordance with the requirements of the LEA permit.

The proposed expansion would be consistent with the Industrial designation of the General Plan, which specifically permits general industrial uses and processing, including large recycling facilities.

As noted above, the current facility operates under existing use permits, which allow a total tonnage of 2,200 TPD. The expansion of the use to 5,500 TPD would be consistent with the intent of PMC Title 18 (Zoning) to permit expansion of this type of use with approval of a use permit.

The proposed expansion of the existing facility complies with all of the Industrial District development standards set forth in the PMC. The use would not cause any detrimental effects to the City or any public nuisance/enforcement problems, as long as: 1) all applicable building and fire regulations are adhered to during construction/installation phase and applicable provisions of the PMC are adhered to throughout the life of the use; 2) the LEA permit requirements are adhered to throughout the life of the use; and 3) the Mitigation Monitoring and Reporting Program is implemented during construction and operation.

The proposed expansion of the existing facility would not create a demand for public services within the City beyond that of the ability of the City to meet because the use is private and would not require any additional public services.

Design Review: The Design Review aspect of this application relates to the proposed new structures on the project site which include to the SEG truck maintenance facility and the proposed biomass gasification unit. This discussion focuses on the Truck Maintenance Facility because the Design Review Guidelines for Industrial Districts relate primarily to buildings and landscaping and do not address industrial equipment. With that said, the biomass gasification unit would be placed on the interior to the project site and would be significantly screened from public viewpoints by fencing, landscaping and the existing buildings which face Loveridge Road.

The intent of design review is to encourage quality design in all land use districts, so that an individual development does not have a negative visual impact on adjacent uses. The project site is currently occupied by industrial buildings and does not contain natural or undisturbed terrain or other features with high scenic quality. It is located within a context of existing industrial uses including large buildings, electricity transmission lines, water towers and other tall structures. The closest residential districts occur west and southwest of the project site and are separated by the Columbia Solar Power Project (approximately one third of a mile distance from the southwest boundary of the project site) and the Pittsburg-Antioch Highway. The Project site is generally flat terrain.

The City of Pittsburg Development Review Design Guidelines (DRDG, Planning Commission Resolution No. 9864) set forth the criteria to be considered in the design of industrial developments. The intent of the DRDG's is to assure that a wide range of individual developments can blend harmoniously and to ensure quality design in all land

use districts. The criterion specified for Industrial Districts focuses on the design of parking lots and buildings and does not contain guidance regarding the waste disposal equipment. The highest number of potential viewers of the site would be travelers on the Loveridge Road that passes along the east side of the Project Site. Views from this vantage point are substantially screened by the two existing connected industrial buildings and the existing line of mature trees located on the east side of the roadway.

The design of the truck maintenance facility is defined by the operational characteristics of the recycling and transfer station. Once constructed, the proposed new building would blend in with and be compatible with the character of the existing structures on the project site and in the surrounding industrial area. The height of the new truck maintenance facility would be consistent with the existing structures on the project site and in the surrounding area. The size, scale, layout and character of the truck maintenance facility would not conflict with the visual character of the existing, surrounding, predominately industrial land uses.

Extensive landscaping would be provided along the eastern perimeter of the truck maintenance facility which, when mature would provide screening of the facilities from the Loveridge Road viewpoint. As shown in the Project Plans (Sheets L-1 and L-2) a row of vertical accent trees including Hornbeam and/or Lombardy Poplar, would be placed along the driveway entrance to the facility and would be flanked by evergreen canopy trees including Holly Oak and/or Chinese Elm. These plantings would be augmented by an understory of shrubs that would provide a continuous visual screen of the facilities on this portion of the project site.

The southern boundary of the project site abuts a City of Pittsburg creek maintenance road. This portion of the site would be landscaped with six foot tall shrubs including Waxleaf Privet and/or Upright Rosemary. This portion of the project site is set back from the Pittsburg-Antioch Highway and the proposed landscaping would adequately screen it from that viewpoint.

Lastly, minimal new light sources would be added as part of the project. New light sources would be added to the proposed truck maintenance facility; however, light sources would be directed to pathways and roadways on site only. Parking lot light sources would be shielded or directed away from the project boundaries in accordance with PMC section 18.82.030. The limited night lighting would not conflict with surrounding land use conditions and would not be expected to adversely affect night views. In the context of the General and Limited Industrial Districts within which the project is located, this project would be considered visually compatible with the surrounding uses.

Environmental: If the Planning Commission decides to approve the project entitlements as described above, the Commission must first make findings pursuant to CEQA related to the impacts of the proposed project, the alternatives analyzed in the EIR and they must adopt the MMRP. In addition, the Commission must adopt a Statement of

Overriding Considerations (SOC) for the project for impacts that cannot be mitigated to a less than significant level.

As described above, the Draft EIR identifies three significant and unavoidable impacts related to air quality and transportation and circulation. Where impacts cannot be reduced to less than significant through the incorporation of mitigation, CEQA section 21002 requires the City to examine whether the project alternatives analyzed in the EIR are feasible and can avoid those impacts. Related findings regarding alternatives are contained in Attachment 1. In addition to the alternatives findings for significant and unavoidable impacts, the City must also adopt an SOC in connection with the project approval. Through the overriding considerations, the City balances the benefits of the project against the unavoidable impacts and explains the reasons it is supporting the project. The SOC can also be found in Attachment 1.

Further, in accordance with a memo dated May 15, 2015 (Attachment 5), the potential environmental impacts associated with the applicant initiated changes, dated May 14, 2015, were evaluated against the existing analysis presented in the Draft and Final EIR. According to the memo, the worst-case scenario that was analyzed in the Draft and Final EIR with respect to the location of the Biomass unit, adequately addresses the potential impacts associated with the applicant initiated changes proposed by on May 14, 2015. Because the proposed applicant initiated changes are fully covered within the scope of the existing environmental analysis, there would be no new impacts associated with the change and no further environmental analysis is required.

ACTION REQUIRED:

Move to adopt: 1) Resolution No. 10001 certifying the EIR and adopting findings, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program; and 2) Resolution No. 10002 approving Use Permit and Design Review Application No. 10-712, subject to conditions.

ATTACHMENTS:

1. Proposed Resolution No. 10001 to Certify the EIR, adopt CEQA findings, an SOC and the MMRP.
2. Proposed Resolution No. 10002 to Approve Use Permit and Design Review Application No. 10-712
3. Project Plans, date stamped December 24, 2014
4. Contra Costa Waste Service letter and Revised Site Plan, date stamped May 14, 2015
5. PMC Environmental Memorandum Re: Site Plan Reconfiguration, dated May 15, 2015
6. Draft EIR, dated December 2014 (hard copies were previously submitted to the Planning Commission and are available for review at Pittsburg City Hall or the Pittsburg Library)

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7. Final EIR, dated April 2015 (hard copies were previously submitted to the Planning Commission and are available for review at Pittsburg City Hall or the Pittsburg Library)
8. Notice of Public Hearing/Vicinity Map

Prepared by: Joan Lamphier, Consulting Planner

701.03

**PC
RESO**

10002

HP

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving a Use Permit and	)	
Design Review of Plans to Consolidate	)	Resolution No. 10002
Facility Operations, Expand Waste	)	
Handling Capacity and Construct a New	)	
Truck Maintenance Building at 1300	)	
Loveridge Road, for "Mt. Diablo Resource	)	
Recovery Park, AP-10-712 (UP, DR).")	)	

The Planning Commission DOES resolve as follows:

Section 1. Background

- A. On August 23, 2010, Contra Costa Waste Services filed Use Permit and Design Review Application No. 10-712 requesting approval a use permit modification in order to bring the solid waste and recycling operations at the Recycling Center and Transfer Station (RCTS), the Mt. Diablo Recycling Facility (MDRF) and the mixed construction and demolition (Mixed C&D) recycling facility under a single entity referred to as the Mt. Diablo Resource Recovery Park (MDRRP). The proposal also included an increase in the total amount of materials processed per day at all three facilities from 2,200 tons per day (TPD), to a total of 5,500 TPD; establishment of a new commercial recycling and organic processing programs for residential and commercial food wastes; construction of a biomass gasification unit to process clean wood waste into energy for on-site use; and as a possible future phase of the project, a rail haul option for waste transportation purposes. The project site includes a total of 37 acres. The western portion of the property is in the IG (General Industrial) District and the eastern portion of the property is within the IL (Limited Industrial) District. Assessor's Parcel Numbers: 073-200-013, -014, -015, -024 and a portion of 073-200-023.
- B. On August 5, 2013, the applicant filed a modification to the use permit application in order to add an additional 18.5 acres to the original proposal (bringing the total project area to 37 acres)
- C. On September 9, 2014, the applicant filed another modification to the use permit application in order to relocate an existing truck maintenance facility from its current location east of the project site, across Loveridge Road, to the southernmost portion of the MDRRP site. The relocated facility would require construction of a new 18,000 square foot building identified as the SEG Truck Maintenance Facility, to store and maintain trucks associated with the operation.
- D. On May 14, 2015, the applicant submitted a letter and revised site plan indicating their desire to relocate the proposed Biomass Gasification Unit to the southern

portion of the site, the organics processing unit to the center of the site, and the employee parking to an area along Loveridge Road (previously designated for organics processing), in order to address concerns that had been raised by their neighbors to the north, west and east. According to a memo from the environmental consultant, PMC, dated May 15, 2015, the applicant initiated changes would not result in any new environmental impacts not already addressed in the EIR, and therefore no further analysis would be required in order to incorporate the proposed changes.

- E. The existing Mt Diablo Recycling Facility became operational in 1995 and over the years, has expanded its operations to include additional recycling and disposal services (as described below). The facility serves as a regional recycling facility.
- F. On March 6, 1995, the City Council adopted Resolutions Nos. 95-8143, 95-8144, and 95-8145, approving a use permit, variance and design review of architectural plans (respectively) for the RCTS, on a 17.5 acre site located at 1300 Loveridge Road. Prior to that approval, the City Council adopted Resolutions Nos. 95-8134 and 95-8142, certifying the Final Environmental Impact Report (EIR) and adopting mandatory findings of significant environmental impacts and mitigation measures for the project (respectively).
- G. On December 18, 1995, the City Council approved Resolution No. 96-8150, authorizing an agreement that allowed the recycling center and transfer station to begin operation.
- H. On March 27, 2007, the Planning Commission adopted Resolution Nos. 9691 and 9692 approving a new use permit and design review application to locate the MDRF on the existing RCTS site. The MDRF was approved to share the same site as the RCTS; however, both facilities operate independently under separate State-granted permits through the Integrated Waste Management Board which permitted the RCTS facility and the State Department of Conservation which permitted the MDRF.
- I. On April 22, 2008, the Planning Commission adopted Resolution No. 9755, approving another use permit and design review application, establishing a the Mixed C&D recycling facility, including a green material processing operations area, on a 6.52-acre portion of the RCTS site (the Mixed C&D facility is considered to be under the Integrated Waste Management permit). Conditions of approval for the RCTS and the MDRF were carried forward to the subsequent approvals.
- J. On January 12, 2010, the Planning Commission adopted Resolution No. 9822 modifying the use permit for MDRF in order to expand the maximum amount of material that could be processed per day, expand hours of operation and the number of employees working at the facility.

- K. The proposed expansion and reorganization of the existing facilities to the MDRRP would assist the City of Pittsburg and Contra Costa County in reducing greenhouse gas emissions by generating renewable energy, increasing solid waste diversion rates, and expanding programs to provide recycling options to business and family residences.
- L. The proposed expansion and reorganization of the existing facilities to the MDRRP would also assist the City of Pittsburg and Contra Costa County in maintaining compliance with Assembly Bill (AB) 939 mandates, requiring 50 percent diversion of solid waste from landfills, and preparing to accommodate future AB939 goals and mandates, such as assisting in the statewide recycling goal of a 75 percent recycling rate by 2020, consistent with AB341.
- M. The proposed project conforms to the applicable General Plan land use designation of *Industrial* and the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).
- N. The proposed project is subject to the California Environmental Quality Act (CEQA, Public Resources Code section 21080 (d) and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, sections 15000 et seq). Pursuant to the provisions of the State CEQA Guidelines, a Draft and Final EIR were prepared for this project.
- O. On April 28, 2015, the Planning Commission held a public meeting and continued the project to May 26, 2015.
- P. On or prior to May 15, 2015, notice of the May 26, 2015, public hearing to consider this application was posted at City Hall, the project site and on the city's website; was delivered to the Pittsburg Library; and was mailed via first class mail or email to the property owner, applicant and all other owners of property within 300 feet of the subject site, to utility companies and other agencies anticipated to provide service to the project, and to all interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010 and 18.36.350 and Government Code section 65091.
- Q. On May 26, 2015, the Planning Commission held a public hearing and subsequently adopted Resolution No. 10001 certifying a final environmental impact report (FEIR) for the proposed MDRRP project. It also adopted Findings Concerning Alternatives, a Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program. The Planning Commission must consider the Draft and Final EIR prior to taking action on the application for a Use Permit and Design Review for the proposed project.
- R. PMC section 18.16.040 specifies that the following findings must be made before approval of a use permit. The Commission may grant approval of a use permit if the proposed use:

1. is in accord with the objective of the Zoning Ordinance, the purposes of the land use district in which it is located and is appropriate to the specific location;
2. is not detrimental to the health, safety and general welfare of the City;
3. will not adversely orderly development of property within the City;
4. will not adversely affect the preservation of property values;
5. is consistent with the general plan and applicable specific plan;
6. will not create a nuisance or enforcement problem;
7. will not encourage marginal development within the neighborhood;
8. will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints; and,
9. is consistent with the City's approved funding priorities.

S. Design review approval can be granted only after the Planning Commission makes a determination that the proposed project is consistent with PMC section 18.36.220.B, which is summarized below:

1. the structure conforms with good taste, good design and in general contributes to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
2. the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
3. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
4. the structure is in harmony with proposed developments on land in the general area; and
5. The application conforms with the criteria set forth in any applicable city-adopted design guidelines.

- T. On May 26, 2015, the Planning Commission held a public hearing on the EIR, the Use Permit and Design Review Application No.10-712, at which time oral and/or written testimony was considered.

Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled "Mt Diablo Resource Recovery Park, AP-10-712 (UP)" and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

CEQA:

2. The Draft and Final EIR for this Project was prepared in compliance with Public Resources Code section 21080 et seq. The Planning Commission has independently reviewed and considered the Draft and Final EIR, along with the adopted Statement of Overriding Considerations. With the incorporation of all mitigation measures included in the FEIR Mitigation Monitoring and Reporting Program (MMRP), also incorporated as conditions on this project approval, the project will still have an unavoidable impact on air quality and cumulative impact in the area of transportation.
3. In accordance with a memo dated May 15, 2015, the potential environmental impacts associated with the applicant initiated changes, dated May 14, 2015, were evaluated against the existing analysis presented in the Draft and Final EIR. According to the memo, the worst-case scenario that was analyzed in the Draft and Final EIR with respect to the location of the Biomass unit, adequately addresses the potential impacts associated with the applicant initiated changes proposed by on May 14, 2015. Further, the modified site plan would provide for better onsite circulation by allowing additional internal vehicle queuing space, it would better mitigate potential odor impacts on an existing industrial office building located immediately north of the site, and it would significantly reduce the amount of dust and debris that could travel off site to the east due to prevailing winds in the area. Because the proposed applicant initiated changes are fully covered within the scope of the existing environmental analysis, there would be no new impacts associated with the change and no further environmental analysis is required.

Use Permit:

4. The proposed use, including: 1) the expanded capacity for waste handling to 5,500 TPD; 2) establishment of new commercial recycling and organic processing programs for residential and commercial food wastes; 3) establishment of a biomass gasification unit to process clean wood waste into energy for on-site use; 4) relocation of the SEG truck maintenance facility to the project site; and 5) possible future rail haul option for waste transportation purposes:
 - a) Is in accord with the objectives of the Zoning Ordinance, the purposes of the land use districts in which it is located and is appropriate to the specific location, in that the use is an expansion of an existing use that has operated since 1995 in accordance with the requirements of the existing use permits and the Solid Waste Facility Permit administered by the City of Pittsburg Local Enforcement Agency (LEA). The proposed expansion would comply with the development standards set forth for the IL and IG Districts (PMC 18.16.040.a).
 - b) Will not be detrimental to the health, safety and general welfare of the City, nor will it involve any activities that would be injurious to the City, its residents, or its workforce, if the City of Pittsburg LEA issues a Solid Waste Permit to allow 5,500 TPD, and all applicable regulations of the PMC and the LEA are adhered to throughout the life of the use (PMC 18.16.040.b).
 - c) Will not adversely affect the orderly development of property within the City, in that the expansion of the existing recycling facility will continue to be in character with the existing context of industrial uses located north of the Pittsburg-Antioch Highway and surrounding the site (PMC 18.16.040.c).
 - d) Will not adversely affect the preservation of property values, in that the proposed facility expansion will utilize properties that have been vacated by previous industrial activities (PMC 18.16.040.d).
 - e) Is consistent with the General Plan, in that the expansion of the existing facility meets the intent of the Industrial land use designation in accordance with General Plan and more specifically the Loveridge sub-area Goal 2-G-15, to maintain industrial activities in appropriate, and Goal 11-G-6, and Policy 11-P-19, to reduce the amount of solid waste generated in the City through intensification of recycling efforts (PMC 18.16.040.e).

- f) Will not create a nuisance or enforcement problem, if the facility complies with all applicable provisions of the PMC, the conditions of this resolution and the Solid Waste Facility Permit administered by the City of Pittsburg LEA (PMC 18.16.040.f).
- g) Will not encourage marginal development within the neighborhood, in that the use is an expansion of the existing facility which has been in operation since 1995, and it will utilize vacant parcels from previous industrial uses in the immediate vicinity (PMC 18.16.040.g).
- h) Will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints, in that the use is private and does not require any additional public services (PMC 18.16.040.h).
- i) Is consistent with the City's approved funding priorities, in that there are no public funds involved with the project (PMC 18.16.040.i).

Large Recycling Facilities:

- 5. The proposed use of a large recycling facility is consistent with the following standards, included in PMC section 18.84.575.C:
 - a) The facility will be at least 150 feet from property zoned or planned for residential use.
 - b) The recycling facility will be screened from public view by operating in an enclosed building or behind dense landscaping or fencing.
 - c) Yards and landscaping requirements will comply with those provided for in the IL and IG zoning districts, where the facility is located.
 - d) All exterior storage of material will be secured and maintained in good condition. Oil storage containers will be subject to approval by the Chief Building Official and Contra Costa County Fire Protection District (CCCFPD). No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing or other screening.
 - e) The site will be maintained free of litter and any other undesirable materials, and will be cleaned of loose debris on a daily basis.
 - f) Noise levels originating from the site will not exceed 60 dBA as measured at the property line of the nearest residentially zoned property, or otherwise not exceed 70 dBA.

- g) The facility will not be sited within 500 feet of property zoned, planned or occupied for residential use.
- h) No containers will be provided for after-hours donation of recyclable materials (newspaper, cardboard, aluminum cans, etc.).
- i) Donation areas will be kept free of excess litter and any other undesirable material, and the donation area will be clearly marked to identify the type of material that may be deposited. The facility will also display a notice stating that no material may be left outside the facility.
- j) The facility will be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs will meet the standards of the use. Directional signs, bearing no advertising message, will be installed subject to approval by the Planning Division.
- k) Power-driven processing, including aluminum foil and can compacting, plastic shredding, or other light processing activities, may be used as necessary for efficient temporary storage and shipment of material.

Design Review:

- 6. The proposed project, including the new SEG truck maintenance facility and surrounding improvements:
 - a) Conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that, given the industrial character of the area, the structural design of the SEG truck maintenance facility along with the new screening landscaping proposed along Loveridge Road will be consistent with other structures and landscaping on the MDRRP site and with the other surrounding industrial development.
 - b) Will not be subject to exterior and interior noise, vibrations and other factors which may tend to make the environment less desirable, in that they will be installed within an existing industrial area and to standard building code regulations.
 - c) Will not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value, in that the proposed structural design of the SEG truck maintenance facility along with the new screening landscaping

proposed along Loveridge Road will be consistent with other structures and landscaping on the MDRRP site and the existing surrounding industrial development.

- d) Will be in harmony with proposed developments on land in the general area, such as the Columbia Solar project adjacent to the site, in that the design of the site and new trucking facility are industrial in nature, similar to surrounding development.
- e) The project conforms to the applicable criteria set forth in the City's adopted Development Review Design Guidelines (DRDG), adopted by Planning Commission Resolution No. 9864 in that: 1) the new parking areas would be screened from public view behind a chain link fence with 6-foot tall shrubbery surrounding the site (DRDG IV.a); 2) the new SEG truck maintenance building would match in colors and design to the existing MDRF and RCTS facility located on the same site, immediately north of the new building (DRDG IV.p); and 3) the appearance of the continuous horizontal roof line for the new building would be broken up by the periodic placement of the nine (9) foot wide long ridge roof vents on top of the building (DRDG IV.f).

Section 3. Decision

A. Based on the findings set forth above, the Commission hereby approves Use Permit and Design Review Application No. 10-712, subject to the following conditions:

- 1. The use shall be constructed and operated in substantial conformance with the project plans, date stamped December 24, 2014, as amended on the proposed Revised Site Plan, date stamped May 14, 2015, and as presented to the Planning Commission in the staff report identified in Section 2 above, except as may be modified by the conditions below. Construction and operation of the approved use in a manner inconsistent with this use permit shall be grounds for revocation of the use permit.

Standard Conditions and Indemnification

- 2. The applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of the project approval, subsequent project approval, or other action arising out of, or in connection with, or the project approvals. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement,

City may select its own legal counsel at Applicant's sole cost and expense. The applicant may select its own legal counsel to represent applicant's interests at the applicant's sole cost and expense. The applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

3. It is the responsibility of the applicant to contact each local, state, or Federal agency for requirements that may pertain to this project.
4. The applicant shall be responsible for informing all subcontractors, consultants, engineers, or other business entities providing services related to the project of their responsibilities to comply with all pertinent requirements of the City of Pittsburgh Municipal Code, including the requirement that a business license be obtained by all entities doing business in the City.
5. The Standard Conditions of Development as adopted by the Pittsburgh Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is a conflict between the Standard Conditions of Development, and this Resolution, this Resolution shall prevail.
6. All site development shall comply with Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers) and Chapter 15.88 (Grading, Erosion and Sediment Control) of the PMC as determined by the City Engineer. Issuance of a site development permit will be required whereby specific engineering requirements will be made as conditions of approval.
7. Permits shall be obtained from each agency having jurisdiction over the project to the extent required by law including the City of Pittsburgh LEA, the Bay Area Air Quality Management District, San Francisco Bay Regional Water Quality Control Board and the Department of Resources Recycling and Recovery.

Use Permit Conditions

8. The Mt Diablo Resource Recovery Park shall not receive more than five thousand, five hundred (5,500) tons per day of municipal solid waste, recyclables and construction and demolition material for processing.

9. Organic processing piles shall be setback at least 80-feet from the western property line. Organic processing pile heights shall not exceed 20 feet above the nearest adjacent grade.
10. Pursuant to the applicant's letter dated May 14, 2015, and the revised site plan: i) usage of vacant land within 420 feet of the northern property line shall be limited to commodity, vehicle, and equipment storage; and ii) organics processing and/or storage of piles shall not occur within 850 feet of the northern property line.
11. The applicant shall comply with all previously approved applicable conditions of approval related to the facility, found in City Council Resolutions Nos. 95-8143, 95-8144, 95-8145 and 96-8150, and Planning Commission Resolutions Nos. 9691, 9692, 9755 and 9822. Where there is a conflict between those resolutions and this Resolution, this Resolution shall prevail.
12. The MDRRP shall be operated in a manner as directed by the City so as to ensure that the City achieves the waste diversion mandates of the California Integrated Waste Management Act (the Waste Act) or other applicable law, so long as the City's waste is processed at the MDRRP. If the Applicant fails to comply with the City's direction and fines or other penalties are assessed for failure to meet waste diversion goals, then such fines or penalties shall be borne by the Applicant, and the Applicant shall defend, indemnify and hold the City harmless for any loss, claim or action arising from or in any way connected with such failure to comply with City directives. Pursuant to Public Resources Code Section 50001(a)(2), the RCTS shall recover for recycling the percent of materials as mandated by state law. Nothing in this condition shall prevent the City from establishing additional requirements regarding waste diversion in an authorization issued under Chapter 8.05 of the Municipal Code.
13. The applicant shall monitor and provide the Community Development Director with regular accounting of the origin and quantity of all solid waste and recyclables received by, processed through, and transferred by the MDRRP for disposal or recycling. This accounting shall be in a form satisfactory to the Community Development Director, and at such times and intervals as he specifies and shall be on a jurisdiction by jurisdiction basis. The accounting shall be in addition to any applicable requirements of the state for monitoring and demonstrating compliance with state mandates related to solid waste and recycling. Copies of any reports supplied by MDRRP to other agencies shall be contemporaneously provided to the Community Development Director.

14. The applicant shall allow City staff and the LEA to conduct reasonable inspections of the property and applicant's operation of the MDRRP to ensure compliance with the conditions of approval.
15. All applicable conditions of approval provided in this resolution shall be incorporated by reference into the applicant's Solid Waste Facilities Permit and may be enforced by the LEA at its discretion in conjunction with other appropriate City departments.
16. The Community Development Director or other appropriate City official may require the applicant to update a plan or study required under any condition of approval in this resolution more frequently than otherwise called for herein, as conditions may warrant in such official's judgment.
17. Transfer of solid waste and recyclables shall be to permitted landfills and recycling receivers.
18. The MDRRP shall not generate noise in excess of 70 dBA at the property line as required by PMC Chapter 18.84.
19. The transfer operation shall be operated in a closed building to reduce exposure of waste to the atmosphere and potential odor impacts.
20. The MDRRP shall substantially comply with all the requirements of the Operations Plan and Odor Impact Minimization Plan, included as Appendix B of the Draft EIR, and as may be periodically updated.
21. A bicycle parking area shall be installed on site to accommodate a minimum of six bicycles at any given time. Design of the new bicycle rack shall be in conformance with the City's standard detail, T-9. Final location of the new bicycle rack shall be in subject to review and approval by Planning staff prior to the rack's installation, and the rack shall be installed prior to establishment of the use on site.
22. The property shall be maintained in a neat and clean manner at all times.
23. The applicant shall ensure that any items dumped along the Loveridge Road street frontage are removed at the beginning and end of each business day.
24. The entire 37-acre MDRRP site shall be surrounded by a security fence to capture any litter carried by the wind. The applicant shall remove litter from the building environs daily, and shall institute a load-covering program for hauling vehicles leaving the MDRRP.

25. The tipping floor and processing areas shall be cleaned every twenty-four (24) hours.
26. Non-recoverable solid waste stored at the MDRRP for longer than twenty-four (24) hours shall be stored inside transfer trucks under a tarp or cover. In no event shall disposable, non-recoverable solid waste be stored on site for over forty-eight (48) hours.
27. All MDRRP garbage collection trucks entering and all transfer/packer trucks exiting the site shall be covered or enclosed to prevent or minimize litter and waste material from escaping during transport.
28. Self-haulers (general public) that enter the MDRRP without trash or waste material adequately covered shall be informed by the applicant of the requirement that trucks be covered, as required by Condition No. 26. The applicant shall be responsible for cleaning up litter from self-haulers as required in Condition No. 29. The applicant shall provide notice to the public of the cover requirements in a manner satisfactory to the Director of Community Development.
29. As part of maintenance procedures, the applicant shall assign MDRRP employees to pick up litter each day along roadways within two thousand (2,000) feet of the property boundaries; to the City limits to the east of the Project; and to the Pittsburg Antioch Highway Bypass to the west of the Project. If the City Manager, or his or her designee, determines in his or her sole discretion that the applicant's litter control efforts are not adequate to meet City requirements, then he or she may require the applicant to submit a litter control plan and direct what changes are necessary in order to improve its effectiveness.
30. The interior of the MDRRP site shall be designed so that refuse cannot be retained or trapped in corners, cracks or other irregularities. All surfaces that come into contact with refuse shall be designed to be easily cleaned.
31. The drainage and waste handling systems shall be designed so that no standing water can collect in the refuse handling areas.
32. The applicant shall post signs, as specified by the Safe Water Drinking and Toxic Enforcement Act of 1986 (California Health and Safety Code Sections 25249.5, et seq., and Title 22 of the CCR, Sections 12000, et seq.) warning workers of the hazards of disturbing, handling, drilling, and/or breaking the asbestos-containing floor tiles in the conference room of the transfer facility. In addition, the tiles shall be inspected annually by personnel trained in asbestos inspection. In the alternative, the applicant may have the tiles encapsulated, or removed by a licensed asbestos abatement contractor.

33. Only non-hazardous waste shall be accepted at the MDRRP. To ensure compliance with this condition, the applicant shall prepare a (or update an existing) Hazardous Waste Exclusion Program (the "Exclusion Program") in accordance with Title 23 of the CCR, Section 2523(b) and maintain a policy of excluding hazardous waste from the MDRRP. The Exclusion Program previously submitted by the applicant shall be revised to state that no waste classified as "designated" or "hazardous" under applicable law will be accepted at the MDRRP and shall include a schedule for implementing the proposed training load checking programs. The LEA shall review and approve the updated Exclusion Program as part of the Solid Waste Facilities Permit review process, and shall specify what waste shall be excluded.
34. The applicant is prohibited from receiving hazardous wastes, or engaging in activities which would generate hazardous wastes at the MDRRP. "Receiving Hazardous Waste" does not mean hazardous material that inadvertently is unloaded at the facility (e.g. household material in mixed residential solid waste). The applicant is prohibited from handling hazardous waste substances in sufficient quantities at any one time as to require a permit under the Uniform Fire Code.
35. Management of hazardous materials used or inadvertently received at the MDRRP shall be documented consistent with Division 20, Chapter 6.95 of the Health and Safety Code (commencing with Section 25500) and subdivision (b) and (c) of section 80.103 of the Uniform Fire Code. Chapter 6.95 of the Health and Safety Code, titled "Hazardous Materials Release Response Plans and Inventory," requires the preparation of area plans and business plans. Section 80.103 of the Uniform Fire Code requires the preparation of hazardous Material Management Plans and Hazardous Materials Inventory Statements to ensure compliance with state operating regulations. These plans shall contain among other things; a complete description of personal protective equipment; procedures for handling, packing and disposing of hazardous waste found in mixed wastes inadvertently brought to the MDRRP; the maximum volume to be stored at any one time; and shall specify procedures for the proper segregation of incompatible wastes. Hazardous waste shall be stored in appropriate containers in compliance with all local, state and federal regulations and kept in an area separate from any hazardous materials used by the MDRRP in its operation or construction. These plans shall be submitted to the City, the Contra Costa County Health Services Department, and the CCFPD prior to the issuance of an expansion permit. The LEA shall ensure that these plans have been approved by the appropriate agency. The applicant shall fund the cost of outside technical support, if any.

36. The applicant shall update and maintain its Emergency Response Plan (the "ER Plan") as part of the Business Plan as required by the state Hazardous Material Release Response and Inventory Program (Health & Safety Code Section 25500, et seq.). The ER Plan shall be kept on site and include a detailed description of methods used to identify and control materials susceptible to explosion or combustion; the location, maintenance, and procedures for use of all fire control equipment; identification of responsible and trained fire-fighting personnel; location of fire extinguisher and other fire-fighting equipment and evacuation plans and procedures. The ER Plan shall also specifically address the potential for a power failure during an emergency, emergency response procedures in the event of an earthquake and shall take into account the probability that untrained visitors are likely to be present at the MDRRP. Response procedures for the site shall be submitted to and approved by the CCCFPD prior to the occupancy of the truck maintenance facility. The approved ER Plan shall be submitted to the LEA with the application packet for the Solid Waste Facilities permit.
37. All waste water generated by the MDRRP shall be collected and contained in five thousand (5,000) gallon storage tanks. The wastewater collected at the facility (holding tanks and sumps) shall be removed using vacuum tank trucks on an as-needed basis. The collected wastewater shall be monitored at a regular frequency to assure appropriate storage. Any discharge of wastewater to the sewer shall be in compliance with the requirements and restriction specified by the Delta Diablo Sanitation District. Procedures for wastewater management at the facility shall be included in the in the Spill Prevention Control and Counter Measure Plan. (SPCCP). The Plan shall be updated to address any changes in operational and safety procedures related to future changes in wastewater management.
38. The applicant shall comply with all state and federal occupational safety and health acts ("OSHA") including but not limited to developing a procedure for protecting workers who handle and/or sort sharp materials; requiring workers to wear protective gloves; training workers to identify and safely remove sharp objects and dispose of used hypodermic needles or other inadvertently deposited medical wastes. These procedures shall be included in the Transfer/Processing Report that the applicant will submit to the LEA.
39. The applicant shall institute the following measures to control vectors and odors at the MDRRP:
- a. Regular cleaning and maintenance procedures including sweeping of the yard and tipping areas;
 - b. Handle refuse materials inside the building, rather than outdoors;

- c. Transport putrescible waste for disposal no more than forty-eight (48) hours after it is brought to the MDRRP;
 - d. Transport yard waste offsite within forty-eight (48) hours, if not composted on site;
 - e. Implement a load covering policy and program for hauling vehicles leaving the MDRRP; and
 - f. Regular cleaning of MDRRP trucks by applicant.
40. In addition to the measures required by Condition No. 39, the applicant shall implement a program to monitor the development of any vector problems, including the eradication of pests if needed. The LEA staff shall enforce the state minimum standards for handling and disposing solid waste to reduce any vector problems.
41. Upon the City's request, the MDRRP shall provide recycling programs, such as (without limitation) mixed paper and yard waste diversion programs (as used hereafter in this condition "Programs") that are consistent with and assist in the implementation of the City of Pittsburgh's Source Reduction and Recycling Element ("SRRE"). If the applicant demonstrates to the City's satisfaction that implementation of requested Programs is infeasible at the MDRRP, due to such factors as cost or suitability of the facility, the applicant shall work cooperatively with the City to develop other Programs that are feasible and will ensure that the City mandates its compliance with the Act. Any costs to reflect necessary Program changes at MDRRP shall be paid by the applicant and the cost shall not be passed on the City garbage subscribers or individuals or agencies using the MDRRP.

Design Review

42. Designs of improvements associated with the future potential rail haul operation are not approved with this resolution. Rail related improvements shall be subject to separate review, at such time when the option is exercised, in order to determine whether or not any subsequent discretionary review would be required.
43. Exterior signage is not approved at this time. No signs shall be installed until plans are reviewed and approved by the Planning Division under a separate sign permit application. Additionally, the applicant shall submit proposed signs to the LEA to ensure compliance with state minimum standards for solid waste facilities.
44. Plants installed for project landscaping shall be low-maintenance drought-tolerant varieties, requiring minimal use of pesticides to minimize potential impacts on foraging birds.

45. All landscaped areas shall be maintained in a healthy, thriving and weed free condition.

Construction Activities

46. Construction and operation of the proposed MDRRP shall not interfere with ongoing or proposed investigation, monitoring, and remediation of soils and/or groundwater at the project site. All building plans for proposed improvements shall identify the location of existing and known proposed areas of environmental investigation, monitoring, and/or remediation, including the location of existing and known proposed monitoring and extractions wells, subsurface and above ground piping, and associated treatment and storage tanks. All building plans shall be reviewed by the City to ensure that applicant's proposed improvements will continue to allow access to these areas and not impede remediation of the project site.
47. In areas of the Project site where no soil quality data is available or data is insufficient to describe the potential health risks associated with excavation and handling of soil, a soil sampling investigation shall be developed and implemented for the excavation and grading areas. The investigation shall be conducted by a qualified environmental professional to assess whether areas proposed to be excavated or graded contain concentrations that may pose a health risk to construction workers or require special handling during construction activities. Existing soil quality data shall be used, where available, to delineate the extent of contamination levels and the expected contaminant levels. The work shall be completed prior to construction and the results shall be included in the Construction Safety Plan as required by Condition 48. Development and implementation of the soil quality sampling program shall be integrated with the soil quality management required by Condition 48. The City Engineer shall confirm that the soil quality sampling program has been completed prior to the issuance of a grading permit.
48. In accordance with the guidelines provided in Title 29 of the Code of Federal Regulations (the CFR), Part 1910.120 and Title 18 of the California Code of Regulations (the "CCR"), Section 5192, the applicant shall develop, prepare and implement the Construction Worker Site Health and Safety Plan (the "Construction Safety Plan") for construction workers prior to project construction. The Construction Safety Plan shall include but not be limited to identification of areas of known contaminant releases, types of contaminants, and safety procedures for work in those areas; procedures to be undertaken in the event that unknown contamination is discovered; procedures and personnel responsible for managing contaminated soils and/or groundwater, and emergency procedures and responsible personnel. The Construction Safety Plan shall be prepared

and signed by a certified industrial hygienist and shall be included with the applicant's grading permit application. Individuals who are to perform work in areas where exposure to contaminated materials may occur must have received hazardous materials training in accordance with federal and state regulations.

49. The applicant shall ensure that all contractors on the project comply with the Construction Safety Plan and develop hazardous waste management techniques, protocols and/or methodologies for handling potentially hazardous materials that may be used during project construction. The plan shall specify types, quantities, containment, temporary storage areas, and emergency spill response procedures and shall be approved by the CCCFPD prior to project construction, as part of the standard building inspection, review and permit process.
50. Adequate sanitary disposal facilities shall be required on site during all phases of construction.
51. The applicant shall provide solid waste disposal containers on-site during all phases of construction. The accumulation of refuse and debris which may constitute an unsightly/unsafe public nuisance to surrounding properties is not permitted.
52. The applicant shall control dust during construction by water application. At minimum, active construction areas shall have to be watered at least twice daily pursuant to requirements of a site-specific Soil Management Plan (SMP) required by the restrictive land use covenant (LUC) that applies to the project site. Non-potable water shall be used from a source approved by the City Engineer (PMC, Title 15), or a nontoxic dust palliative may also be used. To prevent an increase in the potential to emit dust following grading, the project design includes stabilizing disturbed areas as soon as practical as described in Section 2.3.5. Crushed rock shall be used on perimeter and intermediate access roads and the area surrounding the substation. Areas that are not graveled or occupied by foundations shall be stabilized by re-vegetation, application of a non-toxic soil binder, or other means of stabilization.
53. The applicant shall comply with the following requirements of Title 13 of the California Code of Regulations (CCR) for diesel-fueled construction equipment to ensure that emission levels during project construction do not obstruct implementation of BAAQMD's air quality plans:
 - a. Individual diesel truck idling in excess of five consecutive minutes shall be prohibited consistent with Title 13 CCR.
 - b. Diesel-power construction equipment shall use low-sulfur diesel fuel pursuant to requirements of Title 13 of the CCR.

54. Any earth moving activity at the site shall be performed in accordance with the Soil Management Plan (SMP) and Health and Safety Plan (HSP) (USS-Posco and DTSC, 2010).
55. The project shall comply with all related water quality standards and any waste discharge requirements that might be issued. A Report of Waste Discharge may be required by the Regional Water Quality Control Board pursuant to California Water Code 13260, if the man-made drainage ditch is filled on the westerly portion of the site. This requirement is intended to ensure that the fill does not affect any beneficial uses of waters of the State.
56. If possible and as directed by the City Engineer, all grading shall be conducted between April 15 and October 15 to minimize silt runoff to the nearby channels located on the boundaries of the Project site. If grading is to be conducted during the rainy season, silt control measures described in the SWPPP's shall include, but not be limited to, creation of silt barriers (e.g. hay bales, silt fences) on the southern and/or western property boundary.
57. Any excavated contaminated soil shall be removed from the Project site and transported to a qualified disposal site; however, contaminated material shall not be transported to the Keller Canyon Landfill or to any facility that will use it as a daily cover.

Subsequent Agreements:

58. The owner shall enter into a deferred improvement agreement with the City to construct frontage improvements for the ultimate roadway design for Loveridge Road between State Route 4 and the project site. Such agreement shall be finalized prior to the issuance of a grading permit. As part of the agreement, the owner shall post a bond, a letter of credit, a certificate of deposit or some other form of financial responsibility agreed upon by the City for the cost of the improvements. Frontage improvements shall include construction of storm drain facilities, curb, gutter, and sidewalk, and undergrounding of utilities.
59. If the applicant cannot provide proof that an agreement has already been executed prior to the approval date of this resolution, then the applicant shall either enter into a Memorandum of Understanding or other agreement instrument to pay a pro-rata share fee for reconstruction and ongoing maintenance for Loveridge Road, prior to the issuance of a grading permit. The costs of reconstruction of the roadway and ongoing maintenance costs shall be determined through a City-sponsored study, and shall be based on truck trips attributed to the business, or other measurement deemed mutually acceptable by the applicant and the City.

General Engineering Conditions

60. All grading work shall be done in accordance with the provisions of PMC Chapter 15.88.
61. All site development shall comply with PMC Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) as determined by the City Engineer. Issuance of a Site Development Permit will be required whereby specific engineering requirements will be made as conditions of approval.
62. All public and pedestrian facilities shall be designed in accordance with Title 24, Handicap Access, and the California Department of State Architect's standards for accessibility compliance.
63. To ensure safety of customers and operations personnel, the proposed access road to the SEG trucking facility shall not be constructed until the Organic Processing Operations Area is relocated. The applicant shall provide an interim access road until such time the relocation occurs.
64. The applicant shall apply for a Parcel Map Waiver or execute a Reciprocal Access Agreement for the shared use of the parking lot and driveways proposed to be used by all facilities on site.
65. The applicant shall maintain the existing access easement that benefits the USS Posco property; however, because proposed stormwater improvements on the SEG trucking site will block access to this easement, it shall be re-aligned. The re-aligned easement shall be mutually agreed upon by the applicant and the beneficiary of the existing easement, USS Posco.
66. The applicant shall comply with City and State guidelines and requirements for traffic control during construction and prior to final project acceptance.

Engineering Division Fees:

67. The applicant shall pay one half of the Engineering Grading and/or Improvement Plan Review Fee with the initial submittal of plans, maps, or other documents for plan review. The Plan Check Fees are based upon the Engineer's Estimate, which shall also be provided at the time the plans are submitted. The Improvement Plan Check fees are 6% of the cost of the improvements based upon the approved Engineer's Estimate. The Grading Plan Check Fee is 2.5% of the Engineer's Estimate, or may be based upon cubic yards of grading. The deposit(s) shall be credited toward the final fee(s) as determined at engineering permit issuance based upon the final, approved

Engineer's Estimate. The deposit shall be paid to the Engineering Department.

68. The applicant shall pay the Improvement and/or Grading Inspection Fee(s) to the Engineering Division at the time of the Grading or Single Parcel Development Permit is issued. The current Improvement Inspection Fee is 5.75% of the cost of grading, and the Grading Inspection Fee is 3% of the cost of Grading. The Grading Inspection Fee may also be based upon an approved Engineer's Estimate of total cubic yards, according to the current schedule of Grading Fee Charges.
69. The Applicant shall pay a fee of \$0.68 per square feet for increases in the area of impervious surfaces created for the project per Municipal Code Chapter 15.104

GIS Update:

70. The applicant shall pay \$.05/sf of newly constructed building to the Engineering Division at the time of Single Parcel Development Permit issuance.
71. The applicant shall pay an NPDES Plan Review (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering Division in the amounts in effect when the applicant obtains a grading permit. The applicant understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.
72. The applicant shall pay an NPDES Inspection Deposit (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering Division in the amounts in effect when the applicant obtains a grading permit. The applicant understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

Community Facilities District (CFD):

73. Prior to issuance of any building permits, the applicant shall deliver written approval to the Engineering Department to annex the subject property into the Community Facilities District CFD 2005-1, which provides funding for an increase of police coverage in the area. The rate of the CFD fee is subject to the City Council Ordinance No 05-1246.

Facility Reserve Charge:

74. The applicant shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Department, for water and sewer service in the amounts in effect when the applicant

obtains a building permit. The applicant understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City. The FRC shall be paid to the Engineering Division prior to the issuance of a building permit.

Traffic Conditions and Mitigation Fees:

75. The applicant shall submit a revised internal traffic circulation plan to indicate the location and type of all onsite traffic signage and pavement markings for internal circulation. The new circulation plan shall be submitted to the City's Engineering Division for review and approval prior to the issuance of a grading permit.
76. Parking stall striping shall be added to replace the relocated fuel island in front of the main MDRF, in order to ensure adequate vehicular circulation within the parking lot. Final design of the new parking stall striping shall be subject to review and approval by the City's Community Development Department.
77. The applicant shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect when the applicant obtains a building permit. The applicant understands that the LTMF currently on file is \$1.51/sf. The applicant further understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburgh Local Transportation Mitigation Fee Program Update, copies of which are available from the City. Fees shall be paid prior to issuance of a building permit.
78. The applicant shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.102) (the "RTDIM") amount in effect when the applicant obtains a building permit. The applicant understands that the RTDIM currently on file is \$1.47/sf. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area between September 1 and September 1 of the preceding two calendar years. Fees shall be paid prior to issuance of a building permit. If no building permit is required, then the fees are payable in the amount in effect when the project commences pursuant to PMC Section 15.102.040.

Engineering Submittals:

79. If applicable, the applicant shall submit five (5) copies of the engineering plans, prepared by a registered civil engineer, to include but not be limited to the following:
 - a) A Site Plan
 - b) A Grading and Drainage Plan
 - c) A Utilities Plan
 - d) A Landscaping and Irrigation Plan
 - e) A Stormwater Control Plan and Report
 - f) An Erosion and Sedimentation Control Plan
80. The applicant shall submit a current geotechnical report that substantiates the design features incorporated into this project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and issuance of any Engineering permits.
81. The applicant shall submit an Engineer's Estimate with the first plans submittal. This estimate shall include all costs associated with the site development improvements, excluding those costs associated with the construction of the building structure itself.

General NPDES Conditions

82. The applicant shall submit an Erosion and Sedimentation Control Plan, or Stormwater Pollution Prevention Plan (SWPPP), if the project warrants a State General Construction Permit, to the Engineering Division. The erosion control / SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site during the construction phase of the project to effectively prohibit the entry of pollutants into storm water runoff and project track out.
83. Submittal of grading and/or building plans shall be consistent with the approved Stormwater Control Plan to meet C.3 obligations. The plans shall include drawings and specifications necessary to implement the permanent BMPs designed in the approved Stormwater Control Plan. Grading and/or

building permits, shall not be issued until this condition is met to the satisfaction of the Engineering Department.

84. Grading and/or building permit plans (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design featured, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants.
85. Prior to final inspection approvals by the Engineering Division, the applicant shall submit a Stormwater BMP Operation and Maintenance Plan for review and approval by the Community Development and Public Works Departments. Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans can be found on the Contra Costa Clean Water Program's web-site: www.cccleanwater.org.
86. Prior to the issuance of a new Certificate of Occupancy, the applicant shall submit the final draft of the Stormwater BMP Operation and Maintenance Plan for review and approval by the Engineering Division. The applicant shall also execute the Operations and Maintenance Agreement, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs. The Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are found on the Contra Costa County Clean Water Program website (www.cccleanwater.org) or the Stormwater C.3 Guidebook, most current edition.

Utilities

87. The applicant shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities shall be borne by the applicant.
88. The design and construction of storm drain, water, and sewer facilities shall be in accordance with PMC section 17.28.020.
89. The applicant shall provide appropriate water service, adequately sized to meet the domestic and fire protection demands for the project.
90. The applicant shall provide appropriate sanitary sewer, adequately sized to accommodate the project's wastewater demand.
91. The applicant shall abandon the existing 6" and 10" water lines that cross Kirker Creek by capping the services at the property line.

Contra Costa County Fire Protection District

92. The applicant shall comply with CCCFPD standard requirements for: a) developer fees related to building permits, a one-time assessment that funds Fire District equipment and other improvements, and b) Benefit Assessment District fees, an annual assessment that supports District staffing.
93. Prior to the issuance of building permits, the three sets of building plans and associated plan review and inspection fees must be submitted to the CCCFPD, with reference to CCCFPD project No. 110777-PL, for review and approval to ensure compliance with fire and life safety requirements.
94. Prior to the issuance of a site development or building permit, the site plans shall be revised to include adequate emergency apparatus access roadways with all-weather driving surfaces of not less than 20 feet of unobstructed width, and not less than 13 feet, six (6) inches of vertical clearance to within 150 feet of travel distance to all portions the structure. Access roadways shall have a minimum outside turning radius of 45 feet, and an inside turning radius of 25 feet, and must be capable of supporting the imposed loads of fire apparatus, i.e. 37 tons, as required by the CCCFPD.
95. Prior to the issuance of site improvement plans, the plans must identify access gates (for CCCFPD apparatus) with a minimum width of 20 feet. Access gates shall swing inward and be setback from the public right-of-way by a minimum of 30 feet. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved CCCFPD lock.
96. C&D materials and green waste piles shall be separated from adjacent piles by fire apparatus access roadways with a minimum width of 20 feet. Piles shall not exceed 25 feet in height, 150 feet in width, and 250 feet in length, or as otherwise determined by the CCCFPD.
97. The applicant shall provide two fire hydrants for the project, and hydrant locations, as determined by the CCCFPD. Fire hydrants provided on the site must be the "East Bay" type.
98. Premise address identification shall be provided prior to the issuance of a certificate of occupancy. Such numbers shall contrast with their background and be a minimum of four inches high to be readily visible from the street.

99. The applicant shall install and maintain an automatic fire sensing, suppression and alarm system at the MDRRP in accordance with recommendations from the CCCFPD and the State Fire Marshall prior to the occupancy of the truck maintenance building.
100. In accordance with the CCCFPD requirements, the following precautions shall be instituted by the operator of the facility, unless otherwise determined by the CCCFPD:
 - a) CCCFPD approved means of monitoring and measuring the temperatures within static piles shall be used to monitor and record internal pile temperatures and be made available for inspection by the CCCFPD;
 - b) Portable fire extinguishers shall be provided on all vehicles and processing equipment;
 - c) The operator shall provide for the availability of material handling equipment during any firefighting operations at the project site;
 - d) No flammable or combustible liquid storage tanks shall be stored on the site without approval and issuance of required permits from the CCCFPD;
 - e) The operator of the C&D facility shall develop a plan for monitoring, controlling and extinguishing spot fires, subject to CCCFPD review and approval; and
 - f) Smoking shall not be permitted in spaces where flammable C&D materials are stored or handled.

Mitigation Measures

101. Air Quality - MM 3.1.1 (a): The proposed project shall implement BAAQMD-recommended best management practices for the control of fugitive dust including, but not limited to, the following:
 - a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved areas of vehicle travel) shall be watered two times per day.
 - b) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- c) All vehicle speeds on on-site unpaved areas shall be limited to a maximum of 15 miles per hour.
 - d) All parking areas, equipment pads, and driveways shall be paved as soon as possible. Equipment pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - e) Where applicable, vegetative ground cover (fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible.
 - f) A publicly visible sign shall be posted at the site entrance identifying the telephone number and name of the person to contact at the construction site regarding dust complaints. The phone number of the City contact person and/or department shall also be posted to ensure compliance. All complaints, including any necessary corrective actions implemented to address the complaint, shall be documented and responded to within 48 hours. The designated City compliance monitoring staff and/or department shall be notified of all complaints received.
102. Air Quality - MM 3.1.1 (b): The following measures shall be implemented to reduce construction-generated mobile-source emissions:
- a) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by Title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
 - b) All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - c) Heavy-duty (i.e., 25 horsepower or greater) off-road construction equipment shall, at a minimum, meet Tier 3 emission standards.
103. Air Quality - MM 3.1.2 (a): The project applicant shall demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.
104. Air Quality - MM 3.1.2 (b): The operator shall provide a report on the throughput tonnage processed at the facility that would result in operational emissions of NO_x at 90 percent of the allowable threshold of 54 pounds per day and 10 tons per year (i.e., 48.6 pounds of NO_x per day or 9 tons of NO_x per year). The report shall be included as a condition of approval of the use permit and shall be completed by a

qualified air quality professional within one year of approval of the use permit for the expansion. Project-generated tonnages and estimated emissions based on the report shall be evaluated commencing at the five-year state permit review and each year thereafter as tonnage reports are submitted to the City Department of Environmental Affairs and Development Services Department. Once the throughput tonnages reach the amount determined in the report to result in 48.6 pounds of NO_x daily or 9 or more tons of NO_x annually, the operator shall prepare and submit project-generated emissions reports, as described in mitigation measure MM 3.1.2c.

105. Air Quality - MM 3.1.2 (c): Once the project receives a tonnage throughput resulting in 90 percent of assumed NO_x emissions (48.6 pounds of NO_x per day or 9 tons of NO_x per year) as indicated by annual tonnage reports submitted to the City's Department of Environmental Affairs and Development Services Department, the operator shall obtain the services of a qualified specialist, approved by the City Development Services Department in conjunction with the Department of Environmental Affairs, to prepare and submit an annual air quality report showing project-generated NO_x emissions. The annual emissions evaluation shall identify project-generated increases in emissions over those existing at the time of the approval of the use permit, any emission reduction strategies that have been implemented (i.e., use of cleaner equipment, etc.), and any emissions offsets or additional mitigation measures, as described in mitigation measure MM 3.1.2d, that will be implemented sufficient to achieve the threshold of 54 pounds of NO_x per day or 10 tons of NO_x per year. Emissions analyses shall be submitted to the City by April 1 of the following year. Upon the City's approval of the annual air quality report, documentation of any emissions offsets or additional mitigation strategies that have been implemented shall be provided to the City within 30 calendar days.
106. Air Quality - MM 3.1.2 (d): Based on the information provided in the annual report described in mitigation measure MM 3.1.2c, the proposed project shall implement on-site control measures and/or purchase emissions offsets sufficient to limit net increases (as defined) in operational NO_x emissions to no more than 54 pounds per day or 10 tons of NO_x per year. Measures shall be implemented on an ongoing basis corresponding to increases in operational activities. Measures to be implemented to reduce operational NO_x emissions may include, but are not limited to, the following:
 - a) Use of alternatively fueled vehicles and off-road equipment.
 - b) Electrification of on-site equipment.

- c) Reduction in the number of pieces of motorized equipment and/or hours of use.
 - d) Replacement/conversion of existing off-road equipment sufficient to meet, at a minimum, CARB's Tier 4i emission standards, or equivalent.
 - e) Secure emission reduction credits (ERCs) to offset NO_x emissions per BAAQMD Regulations 2-2-215, 302, and 303.
107. Hazards and Hazardous Materials - MM 3.3.2 (a): The project applicant shall either update the existing facility's Construction Worker Site Health and Safety Plan or prepare a new plan to include the entire current project site and proposed site preparation and construction activities. The completed plan shall be implemented during all project construction activities. The plan shall address the potential for workers to be exposed to contaminated soils and shall provide specific measures to be implemented to ensure worker health and safety. These measures may include site controls, use of protective clothing, soil watering, hazard awareness training for workers, and/or emergency medical response procedures.
108. Hazards and Hazardous Materials - MM 3.3.2 (b): The project applicant shall comply with all relevant requirements of the *Covenant to Restrict Use of Property, Environmental Restriction (Re: A limited portion of County of Contra Costa APN 073-200-021 UPI Pittsburg Facility Site L-A Property, DTSC site code number 520024), DOC-2010-0132574-00 recorded by the Contra Costa County Clerk-Recorder's office on July 1, 2010.*
109. Traffic - MM 3.7.1 (a): The proposed project shall contribute their fair share to implement the SR 4 widening project, which would result in improvements at the SR 4 Eastbound Ramps/Loveridge Road intersection that would increase capacity. These improvements include:
- a) Convert the existing configuration from a "T" intersection to a four-leg intersection.
 - b) Modify eastbound approach from its current configuration which provides one shared left-turn/through lane and one right-turn lane to provide two left-turn lanes and one right-turn lane.
 - c) Modify southbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two left-turn lanes and two through lanes.
 - d) Modify northbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two through lanes and one right-turn lane.

110. Traffic – MM 3.7.1 (b): The proposed project shall contribute their fair share to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection:
- a) Install a dedicated eastbound right-turn lane on Pittsburg-Antioch Highway.
 - b) Install a second westbound left-turn lane on Pittsburg-Antioch Highway.
 - c) Upgrade existing traffic signal equipment to accommodate the changed intersection lane configurations.
111. Traffic - MM 3.7.2: The project applicant shall pay the project's fair share of the cost to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection:
- a) Install an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach.
 - b) Install a dedicated left-turn lane on the northbound Loveridge Road approach.
 - c) Convert the existing shared left-turn/through lane on the northbound Loveridge Road approach to be a through-only lane.
 - d) Modify signal phasing in the north/south direction from split phase to having protected left-turns.
 - e) Upgrade existing traffic signal equipment to accommodate the recommended intersection lane configurations.
112. Biological Resources - MM 3.8.1 (a): **Burrowing Owl.** Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction survey for burrowing owls on and adjacent to the project site. Surveys shall be conducted in accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report), published March 7, 2012. Surveys shall take place no more than 30 days prior to construction and will establish the presence or absence of burrowing owl and/or habitat features and evaluate habitat use by owls. During the surveys, all burrows and burrowing owls will be identified and mapped.

If burrowing owls are found during the breeding season (February 1–August 31), the project applicant shall avoid all nest sites for the remainder of the breeding season or while the nest site is occupied by adults or young. Avoidance measures will include establishment of a 250-foot no disturbance buffer zone surrounding the nest burrow. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate

buffer size. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1–January 31), the project applicant shall avoid the owls and the burrows they are using through establishment of a 160-foot protective buffer zone surrounding the active burrow.

If avoidance is not possible, passive relocation of occupied burrows shall be implemented outside the breeding season. Owls should be excluded from burrows by installing one-way doors in burrow entrances. These doors should be in place for no less than 48 hours prior to excavation, and the project area shall be monitored daily by a qualified biologist for one week to confirm that the owl has abandoned the burrow.

113. Biological Resources - MM 3.8.1(b): **Swainson's Hawk**. Prior to any ground disturbance that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than one month prior to construction to determine if occupied Swainson's hawk nests are present within 1,000 feet of the project site.

If occupied nests are documented, project-related activities within 1,000 feet of an occupied nest site shall be prohibited to prevent nest abandonment. Project-related activities can proceed normally if a qualified biologist determines that young have fledged prior to September 15. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Furthermore, if the active nest site is shielded from view and noise from the project site by other development, topography, or other features (including off-site features), the project applicant can apply to the HCP/NCCP Implementing Entity for a waiver of this avoidance measure. Waivers must also be approved by the USFWS and the CDFW. While the nest is occupied, project-related activities outside the 1,000-foot buffer can take place.

114. Biological Resources - MM 3.8.1(c): **Golden Eagle**. Prior to any ground disturbance that occurs during the nesting season (January 1–August 31), a qualified biologist shall conduct a preconstruction survey not more than one month prior to construction to determine whether active golden eagle nests are present within 0.5 mile of the project site. If active nests are present within 0.5 mile of the project site, project-related activities within 0.5 mile of the nest are prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate

buffer size. Project-related disturbance may proceed once a qualified biological monitor determines that the nest has failed or that the young birds have fledged.

115. Biological Resources - MM 3.8.1(e): **Nesting Bird Surveys.** If clearing and/or construction activities will occur during the migratory bird nesting season (February 15–August 15), preconstruction surveys to identify active migratory bird nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, including a 200-foot buffer.

If active nest sites are identified within 200 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to migratory bird nesting activities. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 100 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 100 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.

Term of Approval:

116. This approval will expire on May 12, 2017, unless a Solid Waste Permit has been issued by the City of Pittsburg LEA or a written request for extension is filed with the Planning Division prior to the expiration date and is subsequently approved by the Planning Commission. The term of the use permit approval for this project shall be co-terminus with the design review approval for this project.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Belleci-Shipe, seconded by Commissioner Gargalikis, the foregoing resolution was passed and adopted the 26th day of May 2015, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES: Belleci-Shipe, Fardella, Fogleman, Gargalikis, Kelley

NAYES:

ABSTAIN:

ABSENT: Banales, Ohlson

I hereby certify that the above Resolution No. 10002 was adopted by the Planning Commission of the City of Pittsburg on May 26, 2015.

A handwritten signature in dark ink, appearing to read 'Kristin Pollot', is written over a horizontal line.

KRISTIN POLLOT, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION

701.03

PC

RESO

10001

KP

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Certifying the Environmental	)	
Impact Report and Adopting Findings, a	)	Resolution No. 10001
Statement of Overriding Considerations	)	
and a Mitigations Monitoring and	)	
Reporting Program, for "Mt. Diablo	)	
Resource Recovery Park, AP-10-712."	)	

The Planning Commission DOES resolve as follows:

Section 1. Background

- A. On August 9, 2010, Contra Costa Waste Services filed Use Permit and Design Review Application No. 10-712 requesting approval a use permit modification in order to bring the solid waste and recycling operations at the Recycling Center and Transfer Station (RCTS), the Mt. Diablo Recycling Facility (MDRF) and the mixed construction and demolition (Mixed C&D) recycling facility under a single entity referred to as the Mt. Diablo Resource Recovery Park (MDRRP). The proposal also included an increase in the total amount of materials processed per day at all three facilities from 2,200 tons per day (TPD), to a total of 5,500 TPD; establishment of a new commercial recycling and organic processing programs for residential and commercial food wastes; construction of a biomass gasification unit to process clean wood waste into energy for on-site use; and as a possible future phase of the project, a rail haul option for waste transportation purposes. The project site includes a total of 37 acres. The western portion of the property is in the IG (General Industrial) District and the eastern portion of the property is within the IL (Limited Industrial) District. Assessor's Parcel Numbers: 073-200-013, -014, -015, -024 and a portion of -023.
- B. The City has discretionary authority over the project and is identified as the lead agency for the project. In accordance with Section 15082 of the State CEQA Guidelines, the City prepared and released a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) on May 18, 2011. The NOP was circulated to the public, local, state and federal agencies, and other interested parties for 30 days to solicit comments on the project. The NOP and full text of responses to the NOP are presented in Appendix A of the Draft EIR. An Initial Study for the project was prepared and released for public review along with the NOP. Its conclusion supported preparation of an EIR for the project. The Initial Study is also included in Appendix A of the Draft EIR.
- C. The Initial Study for the project preliminarily analyzed the project and its potential impacts. Through this Initial Study, it was determined that the project could potentially have adverse impacts in the areas of air quality, climate change,

hazards and hazardous materials, hydrology and water quality, land use and planning, public services and utilities, transportation and circulation, and biological resources. All other areas of potential environmental impact were determined to have no potential adverse impacts under the project and were eliminated from further analysis. After releasing the NOP, a public scoping session was held on June 2, 2011, to receive additional comments. Concerns raised in response to the NOP were considered during preparation of the Draft EIR.

- D. Prior to the Draft EIR being released for public review the applicant filed a modification to their use permit application on September 9, 2014, in order to relocate an existing truck maintenance facility from its current location east of the project site, across Loveridge Road, to the southernmost portion of the MDRRP site. The relocated facility would require construction of a new 18,000 square foot building identified as the SEG truck maintenance facility, to store and maintain trucks associated with the operation. This additional component of the project was added to the Draft EIR analysis.
- E. In accordance with Public Resources Code (PRC) Section 21080(d), an EIR was prepared to analyze the potential impacts of the project. A Draft EIR for the project was released for a 45-day public and agency review on December 16, 2014, with the review period ending on January 29, 2015. The Draft EIR contains a description of the project, description of the environmental setting, identification of project impacts and mitigation measures for impacts found to be potentially significant, and an analysis of project alternatives. The Draft EIR was provided to interested public agencies and the public and was made available for review at City offices and on the City's website. The City received ten comment letters from public agencies, interest groups, and the public regarding the Draft EIR.
- F. The City received comment letters from public agencies, interest groups, and the public regarding the Draft EIR and prepared a Final Environmental Impact Report (Final EIR) dated April 2015. The Final EIR provided responses to all written comments received on the Draft EIR as required by CEQA. The Final EIR also contained minor edits to the Draft EIR. The Draft EIR and the Final EIR are incorporated herein by reference and together constitute the Final Environmental Impact Report for the Mt. Diablo Resource Recovery Park Project, pursuant to CEQA Guidelines Sections 15098 and 15132, which reflects the City's independent judgment and analysis on the potential environmental impacts of the project.
- G. The Final EIR identifies the potential for significant effects on the environment from implementation of the project, most of which can be substantially reduced through the EIR mitigation measures; therefore, approval of the project must include mitigation findings as set forth in Section 3, Part A.1, below. A Mitigation Monitoring and Reporting Program (MMRP), as required by CEQA, is attached as Exhibit D to this resolution and incorporated herein by reference. The MMRP

identifies project mitigation, designation of responsibility for mitigation implementation, and the agency responsible for the monitoring action.

- H. Significant effects related to air quality and transportation/circulation identified in the Final EIR cannot be lessened to a level of less than significant; therefore, approval of the project must include findings regarding alternatives and a Statement of Overriding Considerations as set forth in Section 3, Parts A.2 and A.3, respectively.
- I. On May 14, 2015, the applicant submitted a letter and revised site plan indicating their desire to relocate the proposed Biomass Gasification Unit to the southern portion of the site, the organics processing unit to the center of the site, and the employee parking to an area along Loveridge Road (previously designated for organics processing), in order to address concerns that had been raised by their neighbors to the north, west and east. According to a memo from the environmental consultant, PMC, dated May 15, 2015, the applicant initiated changes would not result in any new environmental impacts not already addressed in the EIR, and therefore no further analysis would be required in order to incorporate the proposed changes.
- J. On April 28, 2015, the Planning Commission held a public meeting and continued the project to May 26, 2015.
- K. On or prior to May 15, 2015, notice of the May 26, 2015, public hearing to consider this application was posted at City Hall, the project site and on the city's website; was delivered to the Pittsburg Library; and was mailed via first class mail or email to the property owner, applicant and all other owners of property within 300 feet of the subject site, to utility companies and other agencies anticipated to provide service to the project, and to all interested parties and individuals and organizations that requested such notice, in accordance with PMC sections 18.14.010 and 18.36.350, Government Code section 65091 and State PRC Sections 21092 and 21092.2.
- L. In accordance with CEQA Guidelines section 15088(b), written responses to public agency comments were provided to those public agencies by April 17, 2015, at least ten days prior to the date of the planned certification of the EIR.
- M. Documents and other materials constituting the record of the proceedings upon which the City's decision and its findings are based, are located at the City of Pittsburg Planning Division, located at 65 Civic Avenue in Pittsburg, in the custody of the Manager of Planning.

Section 2. Certification of the EIR

- A. The Planning Commission certifies that the Final EIR for this project consists of the Draft EIR, dated December 2014, and the Introduction, Comments and

Responses, and Changes to the Draft EIR, dated April 2015.

- B. Based on the evidence and oral and written testimony presented at the public hearings, and based on all the information contained in the Planning Division's files on the project, including but not limited to the Final EIR for the project and the Planning Commission staff report entitled "Mt. Diablo Resource Recovery Park Project," dated May 26, 2015, the Planning Commission does certify, in accordance with Section 15090 of the State CEQA Guidelines, that:
1. The Final EIR for the project was prepared in compliance with Public Resources Code Section 21000 et seq. and State CEQA Guidelines Section 15000 et seq.; and
 2. The Final EIR was presented to the Planning Commission of the City of Pittsburg, and the Planning Commission has reviewed and considered the information contained in the Final EIR prior to approving the project; and
 3. The Final EIR reflects the independent judgment and analysis of the Planning Commission of the City of Pittsburg; and
 4. The Final EIR adequately describes the project, its environmental impacts, reasonable alternatives, and appropriate mitigation measures.

Section 3. Adoption of Findings, Statement of Overriding Considerations, and Mitigation, Monitoring and Reporting Program

- A. The Planning Commission adopts the following with respect to the project:
1. Mitigation Findings Pursuant to CEQA Guidelines Section 15091, as set forth Exhibit "A" to this resolution and incorporated herein by reference.
 2. Findings Concerning Alternatives, as set forth in Exhibit "B" to this resolution and incorporated herein by reference.
 3. Statement of Overriding Considerations, as set forth in Exhibit "C" to this resolution and incorporated herein by reference.
 4. Mitigation Monitoring Reporting Program, attached as Exhibit "D" to this resolution and incorporated herein by reference.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Fardella, seconded by Commissioner Gargalikis, the foregoing resolution was passed and adopted the 26th day of May 2015, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES: Belleci-Shipe, Fardella, Fogleman, Gargalikis, Kelley

NAYES:

ABSTAIN:

ABSENT: Banales, Ohlson

I hereby certify that the above Resolution No. 10001 was adopted by the Planning Commission of the City of Pittsburg on May 26, 2015.



KRISTIN POLLOT, ATCP, SECRETARY
PITTSBURG PLANNING COMMISSION

Exhibit "A"

Mitigation Findings Pursuant to CEQA Guidelines Section 15091

With respect to potentially significant impacts of the project, the Planning Commission makes each of the findings set forth below.

Air Quality

Impact 3.1.1. Short-Term Construction Emissions of Criteria Air Pollutants and Precursors. Construction-related emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, expose sensitive receptors to substantial pollutant concentrations, and/or conflict with air quality planning efforts.

Mitigation Measure 3.1.1a. The proposed project shall implement BAAQMD-recommended best management practices for the control of fugitive dust including, but not limited to, the following:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved areas of vehicle travel) shall be watered two times per day.
2. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
3. All vehicle speeds on on-site unpaved areas shall be limited to a maximum of 15 miles per hour.
4. All parking areas, equipment pads, and driveways shall be paved as soon as possible. Equipment pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
5. Where applicable, vegetative ground cover (fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible.
6. A publicly visible sign shall be posted at the site entrance identifying the telephone number and name of the person to contact at the construction site regarding dust complaints. The phone number of the City contact person and/or department shall also be posted to ensure compliance. All complaints, including any necessary corrective actions implemented to address the complaint, shall be documented and responded to within 48 hours. The designated City compliance monitoring staff and/or department shall be notified of all complaints received.

Mitigation Measure 3.1.1b. The following measures shall be implemented to reduce construction-generated mobile-source emissions:

1. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by Title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
2. All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
3. Heavy-duty (i.e., 25 horsepower or greater) off-road construction equipment shall, at a minimum, meet Tier 3 emission standards.

Mitigation Measure 3.1.1c. To the extent possible, construction of the proposed maintenance building shall utilize pre-coated building materials and low-VOC-content architectural coatings.

Finding: Although the mitigation measure would reduce daily construction-related emissions of reactive organic gases and nitrogen oxide, emissions would not be reduced below applicable Bay Area Air Quality Management District (BAAQMD) significance thresholds. Therefore, even with implementation of the mitigation measure, the impact would remain significant and unavoidable (Draft EIR pages 3.1-23 through -26). No other mitigation measures were recommended to the City during the public comment period for the Draft EIR. The applicant has agreed to all mitigation measures included in the Draft EIR. Specific benefits of the project outweigh these significant impacts, as further set forth in the Statement of Overriding Considerations in Exhibit C, below.

Impact 3.1.2. Long-Term Operational Emissions of Criteria Air Pollutants and Precursors. Long-term operational emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, expose sensitive receptors to substantial pollutant concentrations, and/or conflict with air quality planning efforts.

Mitigation Measure 3.1.2a. The project applicant will be required to demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.

Mitigation Measure 3.1.2b. The operator shall provide a report on the throughput tonnage processed at the facility that would result in operational emissions of NO_x at 90 percent of the allowable threshold of 54 pounds per day and 10 tons per year (i.e., 48.6 pounds of NO_x per day or 9 tons of NO_x per year). The report shall be included as a condition of approval of the use permit and shall be completed by a qualified air quality professional within one year of approval of the use permit for the expansion. Project-generated tonnages and estimated emissions based on the report shall be evaluated commencing at the five-year state permit review and each year thereafter as tonnage reports are submitted to the City Department of Environmental Affairs and Development Services Department. Once the throughput tonnages reach the amount determined in the report to result in 48.6 pounds of NO_x daily or 9 or more tons of NO_x annually, the operator shall prepare and submit project-generated emissions reports, as described in mitigation measure MM 3.1.2c.

Mitigation Measure 3.1.2c. Once the project receives a tonnage throughput resulting in 90 percent of assumed NO_x emissions (48.6 pounds of NO_x per day or 9 tons of NO_x per year) as indicated by annual tonnage reports submitted to the City's Department of Environmental Affairs and Development Services Department, the operator shall obtain the services of a qualified specialist, approved by the City Development Services Department in conjunction with the Department of Environmental Affairs, to prepare and submit an annual air quality report showing project-generated NO_x emissions. The annual emissions evaluation shall identify project-generated increases in emissions over those existing at the time of the approval of the use permit, any emission reduction strategies that have been implemented (i.e., use of cleaner equipment, etc.), and any emissions offsets or additional mitigation measures, as described in mitigation measure MM 3.1.2d, that will be implemented sufficient to achieve the threshold of 54 pounds of NO_x per day or 10 tons of NO_x per year. Emissions analyses shall be submitted to the

City by April 1 of the following year. Upon the City's approval of the annual air quality report, documentation of any emissions offsets or additional mitigation strategies that have been implemented shall be provided to the City within 30 calendar days.

Mitigation Measure 3.1.2d. Based on the information provided in the annual report described in mitigation measure MM 3.1.2c, the proposed project shall implement on-site control measures and/or purchase emissions offsets sufficient to limit net increases (as defined) in operational NO_x emissions to no more than 54 pounds per day or 10 tons of NO_x per year. Measures shall be implemented on an ongoing basis corresponding to increases in operational activities. Measures to be implemented to reduce operational NO_x emissions may include, but are not limited to, the following:

- Use of alternatively fueled vehicles and off-road equipment.
- Electrification of on-site equipment.
- Reduction in the number of pieces of motorized equipment and/or hours of use.
- Replacement/conversion of existing off-road equipment sufficient to meet, at a minimum, CARB's Tier 4i emission standards, or equivalent.
- Secure emission reduction credits (ERCs) to offset NO_x emissions per BAAQMD Regulations 2-2-215, 302, and 303.

Finding: The above feasible mitigation measures will avoid or substantially lessen the significant environmental impact described to a less than significant level by reducing operational emissions of criteria air pollutants and precursors to below the applicable BAAQMD threshold (Draft EIR pages 3.1-26 through -30).

Impact 3.1.4. Exposure of Sensitive Receptors to Substantial Concentrations of Toxic Air Contaminants. Implementation of the project could result in incremental increases in risk or hazards at nearby sensitive receptors in the long term that would exceed applicable significant thresholds.

Mitigation Measure 3.1.2a. The project applicant will be required to demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.

Finding: The above feasible mitigation measure will avoid or substantially lessen the significant environmental impact described to a less than significant level by reducing the incremental increases in cancer risk at the maximally impacted receptor to less than 1 in one million, below the BAAQMD's threshold of significant of 10 in one million (Draft EIR pages 3.1-32 through -33).

Impact 3.1.6. Cumulatively Considerable Net Increase of Criteria Air Pollutants and Precursors. The proposed project, in combination with emission sources in the San Francisco Bay Area Air Basin, would result in a cumulatively considerable net increase of criteria air pollutants and precursors.

Mitigation Measure 3.1.1a. The proposed project shall implement BAAQMD-recommended best management practices for the control of fugitive dust including, but not limited to, the following:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved areas of vehicle travel) shall be watered two times per day.

2. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
3. All vehicle speeds on on-site unpaved areas shall be limited to a maximum of 15 miles per hour.
4. All parking areas, equipment pads, and driveways shall be paved as soon as possible. Equipment pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
5. Where applicable, vegetative ground cover (fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible.
6. A publicly visible sign shall be posted at the site entrance identifying the telephone number and name of the person to contact at the construction site regarding dust complaints. The phone number of the City contact person and/or department shall also be posted to ensure compliance. All complaints, including any necessary corrective actions implemented to address the complaint, shall be documented and responded to within 48 hours. The designated City compliance monitoring staff and/or department shall be notified of all complaints received.

Mitigation Measure 3.1.1b. The following measures shall be implemented to reduce construction-generated mobile-source emissions:

1. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by Title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
2. All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
3. Heavy-duty (i.e., 25 horsepower or greater) off-road construction equipment shall, at a minimum, meet Tier 3 emission standards.

Mitigation Measure 3.1.1c. To the extent possible, construction of the proposed maintenance building shall utilize pre-coated building materials and low-VOC-content architectural coatings.

Mitigation Measure 3.1.2a. The project applicant will be required to demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.

Mitigation Measure 3.1.2d. Based on the information provided in the annual report described in mitigation measure MM 3.1.2c, the proposed project shall implement on-site control measures and/or purchase emissions offsets sufficient to limit net increases (as defined) in operational NO_x emissions to no more than 54 pounds per day or 10 tons of NO_x per year. Measures shall be implemented on an ongoing basis corresponding to increases in operational activities. Measures to be implemented to reduce operational NO_x emissions may include, but are not limited to, the following:

- Use of alternatively fueled vehicles and off-road equipment.
- Electrification of on-site equipment.
- Reduction in the number of pieces of motorized equipment and/or hours of use.
- Replacement/conversion of existing off-road equipment sufficient to meet, at a minimum, CARB's Tier 4i emission standards, or equivalent.

- Secure emission reduction credits (ERCs) to offset NO_x emissions per BAAQMD Regulations 2-2-215, 302, and 303.

Finding: The above feasible mitigation measures will avoid or substantially lessen the significant environmental impact described to a less than significant level by reducing operational emissions of criteria air pollutants and precursors to below the applicable BAAQMD threshold (Draft EIR pages 3.1-34 through -35).

Impact 3.1.7. Cumulatively Considerable Contribution to Localized Concentrations of Toxic Air Contaminants. The project, in combination with nearby emission sources, could result in predicted risks or hazards that would exceed applicable significance thresholds at nearby sensitive receptors.

Mitigation Measure 3.1.2a. The project applicant will be required to demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.

Finding: The above feasible mitigation measure will avoid or substantially lessen the significant environmental impact described to a less than cumulatively considerable level by reducing the incremental increases in cancer risk at the maximally impacted receptor (MIR) to less than 1 in one million, below the BAAQMD's threshold of significance of 10 in one million (Draft EIR pages 3.1-35 through -36).

Hazards and Hazardous Materials

Impact 3.3.2. Exposure of Persons to Hazardous Materials During Project Construction. Construction workers could be exposed to hazardous materials during site preparation. However, compliance with existing applicable worker health and safety laws and regulations would minimize potential for exposure.

Mitigation Measure 3.3.2a. The project applicant shall either update the existing facility's Construction Worker Site Health and Safety Plan or prepare a new plan to include the entire current project site and proposed site preparation and construction activities. The completed plan shall be implemented during all project construction activities. The plan shall address the potential for workers to be exposed to contaminated soils and shall provide specific measures to be implemented to ensure worker health and safety. These measures may include site controls, use of protective clothing, soil watering, hazard awareness training for workers, and/or emergency medical response procedures.

Mitigation Measure 3.3.2b. The project applicant shall comply with all relevant requirements of the *Covenant to Restrict Use of Property, Environmental Restriction (Re: A limited portion of County of Contra Costa APN 073-200-021 UPI Pittsburg Facility Site LA Property, DTSC site code number 520024), DOC-2010-0132574-00*, recorded by the Contra Costa County Clerk-Recorder's office on July 1, 2010.

Finding: The above feasible mitigation measures will avoid or substantially lessen the significant environmental impact described to a less than significant level by requiring implementation of specific measures to ensure worker health and safety and by requiring compliance with existing land use restrictions for the site (Draft EIR pages 3.3-14 through -15).

Transportation and Circulation

Impact 3.7.1. Exceedance of LOS Thresholds at Study Intersections. Implementation of the proposed project would result in the degradation of operations at two study intersections.

Mitigation Measure 3.7.1a. The proposed project shall contribute their fair share to implement the SR 4 widening project, which would result in improvements at the SR 4 Eastbound Ramps/Loveridge Road intersection that would increase capacity. These improvements include:

- Convert the existing configuration from a "T" intersection to a four-leg intersection.
- Modify eastbound approach from its current configuration which provides one shared left-turn/through lane and one right-turn lane to provide two left-turn lanes and one right-turn lane.
- Modify southbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two left-turn lanes and two through lanes.
- Modify northbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two through lanes and one right-turn lane.

Finding: The above feasible mitigation measure will avoid or substantially lessen the significant environmental impact described to a less than significant level by requiring the applicant to provide funding for improvements to the affected intersection which would improve the level of service to an acceptable level (Draft EIR pages 3.7-20 through -27).

Mitigation Measure 3.7.1b. The proposed project shall contribute their fair share to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection:

- Install a dedicated eastbound right-turn lane on Pittsburg-Antioch Highway.
- Install a second westbound left-turn lane on Pittsburg-Antioch Highway.
- Upgrade existing traffic signal equipment to accommodate the changed intersection lane configurations.

Finding: Although the above mitigation measure would provide partial funding for improvements to increase capacity at the affected intersection, funding for the full improvement is not certain, and it is unlikely that the improvements will be in place before the project is completed. Therefore, even with implementation of the mitigation measure, the impact would remain significant and unavoidable. Specific benefits of the project outweigh this significant impact, as further set forth in the Statement of Overriding Considerations in Exhibit C, below (Draft EIR pages 3.7-20 through -29).

Impact 3.7.2. Cumulative Traffic Impacts. Operations at the Pittsburg-Antioch Highway/Loveridge Road intersection are projected to degrade with the addition of project traffic.

Mitigation Measure 3.7.2. The project applicant shall pay the project's fair share of the cost to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection:

- Install an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach.
- Install a dedicated left-turn lane on the northbound Loveridge Road approach.
- Convert the existing shared left-turn/through lane on the northbound Loveridge Road approach to be a through-only lane.
- Modify signal phasing in the north/south direction from split phase to having protected left-turns.
- Upgrade existing traffic signal equipment to accommodate the recommended intersection lane configurations.

Finding: Although the above mitigation measure would provide improvement operations at the intersection to acceptable service levels, widening along Loveridge Road to accommodate an additional northbound lane is constrained due to proximity to the railroad crossing. Therefore, improvements to this portion of Loveridge Road would likely be infeasible, the project's contribution to the impact under maximum permitted conditions would be cumulatively considerable, and the impact would remain significant and unavoidable. No other mitigation measures were recommended to the City during the public comment period for the Draft EIR. The applicant has agreed to all mitigation measures included in the Draft EIR. Specific benefits of the project outweigh this significant impact, as further set forth in the Statement of Overriding Considerations in Exhibit C, below (Draft EIR pages 3.7-30 through -35).

Biological Resources

Impact 3.8.1. Substantial Adverse Effects to Special-Status Species. Implementation of project-related activities could result in substantial adverse effects, either directly or through habitat modifications, to special-status species.

Mitigation Measure 3.8.1a. Burrowing Owl. Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction survey for burrowing owls on and adjacent to the project site. Surveys shall be conducted in accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report), published March 7, 2012. Surveys shall take place no more than 30 days prior to construction and will establish the presence or absence of burrowing owl and/or habitat features and evaluate habitat use by owls. During the surveys, all burrows and burrowing owls will be identified and mapped.

If burrowing owls are found during the breeding season (February 1–August 31), the project applicant shall avoid all nest sites for the remainder of the breeding season or while the nest site is occupied by adults or young. Avoidance measures will include establishment of a 250-foot no disturbance buffer zone surrounding the nest burrow. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1–January 31), the project applicant shall avoid the owls and the burrows they are using through establishment of a 160-foot protective buffer zone surrounding the active burrow.

If avoidance is not possible, passive relocation of occupied burrows shall be implemented outside the breeding season. Owls should be excluded from burrows by installing one-way doors in burrow entrances. These doors should be in place for no less than 48 hours prior to excavation, and the project area shall be monitored daily by a qualified biologist for one week to confirm that the owl has abandoned the burrow.

Mitigation Measure 3.8.1b. Swainson's Hawk. Prior to any ground disturbance that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than one month prior to construction to determine if occupied Swainson's hawk nests are present within 1,000 feet of the project site.

If occupied nests are documented, project-related activities within 1,000 feet of an occupied nest site shall be prohibited to prevent nest abandonment. Project-related activities can proceed normally if a qualified biologist determines that young have fledged prior to September 15. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Furthermore, if the active nest site is shielded from view and noise from the project site by other development, topography, or other features (including off-site features), the project applicant can apply to the HCP/NCCP Implementing Entity for a waiver of this avoidance measure. Waivers must also be approved by the USFWS and the CDFW. While the nest is occupied, project-related activities outside the 1,000-foot buffer can take place.

Mitigation Measure 3.8.1c. Golden Eagle. Prior to any ground disturbance that occurs during the nesting season (January 1–August 31), a qualified biologist shall conduct a preconstruction survey not more than one month prior to construction to determine whether active golden eagle nests are present within 0.5 mile of the project site. If active nests are present within 0.5 mile of the project site, project-related activities within 0.5 mile of the nest are prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Project-related disturbance may proceed once a qualified biological monitor determines that the nest has failed or that the young birds have fledged.

Mitigation Measure 3.8.1d. Non-Covered Raptor Surveys. If clearing and/or construction activities will occur during the raptor nesting season (January 15–August 15), preconstruction surveys to identify active raptor nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area and a 500-foot buffer (if feasible).

If active nest sites are identified within 500 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to nesting raptors. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 250 feet of any active nest sites until the nest is deemed inactive by a

qualified biologist. Activities permitted within and the size (i.e., 250 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.

Mitigation Measure 3.8.1e. Nesting Bird Surveys. If clearing and/or construction activities will occur during the migratory bird nesting season (February 15–August 15), preconstruction surveys to identify active migratory bird nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, including a 200-foot buffer.

If active nest sites are identified within 200 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to migratory bird nesting activities. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 100 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 100 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.

Finding: The above feasible mitigation measures will avoid or substantially lessen the significant environmental impact described to a less than significant level by ensuring no birds are present or providing for measures to reduce the potential disturbance to nesting or fledgling birds to ensure impacts are reduced to a less than significant level (Draft EIR pages 3.8-29 through -32).

Impact 3.8.5. Conflict with Policies, Ordinances, or Plans. The proposed project conflict with policies, ordinances, or plans, including the East Contra Costa County HCP/NCCP.

Mitigation Measure 3.8.1a. Burrowing Owl. Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction survey for burrowing owls on and adjacent to the project site. Surveys shall be conducted in accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report), published March 7, 2012. Surveys shall take place no more than 30 days prior to construction and will establish the presence or absence of burrowing owl and/or habitat features and evaluate habitat use by owls. During the surveys, all burrows and burrowing owls will be identified and mapped.

If burrowing owls are found during the breeding season (February 1–August 31), the project applicant shall avoid all nest sites for the remainder of the breeding season or while the nest site is occupied by adults or young. Avoidance measures will include establishment of a 250-foot no disturbance buffer zone surrounding the nest burrow. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1–January 31), the project applicant shall avoid the owls and the burrows they are using through establishment of a 160-foot protective buffer zone surrounding the active burrow.

If avoidance is not possible, passive relocation of occupied burrows shall be implemented outside the breeding season. Owls should be excluded from burrows by installing one-way doors in burrow entrances. These doors should be in place for no less than 48 hours prior to excavation, and the project area shall be monitored daily by a qualified biologist for one week to confirm that the owl has abandoned the burrow.

Mitigation Measure 3.8.1b. Swainson's Hawk. Prior to any ground disturbance that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than one month prior to construction to determine if occupied Swainson's hawk nests are present within 1,000 feet of the project site.

If occupied nests are documented, project-related activities within 1,000 feet of an occupied nest site shall be prohibited to prevent nest abandonment. Project-related activities can proceed normally if a qualified biologist determines that young have fledged prior to September 15. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Furthermore, if the active nest site is shielded from view and noise from the project site by other development, topography, or other features (including off-site features), the project applicant can apply to the HCP/NCCP Implementing Entity for a waiver of this avoidance measure. Waivers must also be approved by the USFWS and the CDFW. While the nest is occupied, project-related activities outside the 1,000-foot buffer can take place.

Mitigation Measure 3.8.1c. Golden Eagle. Prior to any ground disturbance that occurs during the nesting season (January 1–August 31), a qualified biologist shall conduct a preconstruction survey not more than one month prior to construction to determine whether active golden eagle nests are present within 0.5 mile of the project site. If active nests are present within 0.5 mile of the project site, project-related activities within 0.5 mile of the nest are prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Project-related disturbance may proceed once a qualified biological monitor determines that the nest has failed or that the young birds have fledged.

Mitigation Measure 3.8.1d. Non-Covered Raptor Surveys. If clearing and/or construction activities will occur during the raptor nesting season (January 15–August 15), preconstruction surveys to identify active raptor nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area and a 500-foot buffer (if feasible).

If active nest sites are identified within 500 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to nesting raptors. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will

be imposed within 250 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 250 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.

Mitigation Measure 3.8.1e. Nesting Bird Surveys. If clearing and/or construction activities will occur during the migratory bird nesting season (February 15–August 15), preconstruction surveys to identify active migratory bird nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, including a 200-foot buffer.

If active nest sites are identified within 200 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to migratory bird nesting activities. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 100 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 100 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.

Finding: The above feasible mitigation measures will avoid or substantially lessen the significant environmental impact described to a less than significant level by ensuring no birds are present or providing for measures to reduce the potential disturbance to nesting or fledgling birds. These measures would reduce the project's contribution to impacts to special-status species and sensitive habitats, thereby reducing the proposed project's contribution to the cumulative impact to less than cumulatively considerable (Draft EIR pages 3.8-34 through -35).

Findings Concerning Alternatives

CEQA Guidelines Section 15126.6(a) specifies that the EIR identify alternatives to the project that "would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant environmental effects of the project." "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. In addition, consistent with PRC Section 21002, a project should not be approved if feasible alternatives would substantially lessen the project's significant effects. Significant unavoidable impacts were identified for the project related to air quality and transportation/circulation. The alternatives suggested would have reduced impacts related to air quality and transportation/circulation based on the reduced operational expansion. The following findings determine that the benefits of the project, as proposed, outweigh the impacts and that none of the alternatives would meet the project's goals to increase facility capacities and expand hours of operation to better serve customers and to meet projected solid waste generation rates and to assist the City in reducing greenhouse gas emissions.

Alternative 1: No Project Alternative

The No Project Alternative is described on page 5.0-4 of the Draft EIR and is analyzed on pages 5.0-8 through -14. Under this alternative, the existing Mt. Diablo Recycling Center and Transfer Station would continue to operate under its current permitted capacities and no physical improvements would be made at the project site. This alternative also assumes that no revisions would be made to the facility's current Solid Waste Facility Permit issued by the California Department of Resources Recycling and Recovery (CalRecycle). The facility is currently permitted to process a throughput of 2,200 tons per day (TPD). The facility currently processes less than its permitted capacity, approximately 1,181 TPD. This alternative assumes that the facility would ultimately increase operations to the permitted levels (a 125 percent increase from existing operations), with a proportionate increase in the number of truck and vehicle trips entering and leaving the site. The current permitted capacity is less than the total capacity requested for the proposed project, which is 5,500 TPD.

Finding: This alternative is infeasible and rejected for the following reasons:

1. The Planning Commission finds that the No Project Alternative is rejected as an alternative because it would not meet any of the objectives identified for the project. Specifically, this alternative would not assist in the further reduction of greenhouse gas emissions and would not respond to any of the requirements of Assembly Bill (AB) 32, as it would not result in the generation of renewable energy, would not increase the solid waste diversion rates of the cities and counties it serves beyond that currently permitted, and would not add a business and multi-family residential recycling program.
2. This alternative would not respond to projected population growth and the associated increased solid waste generation in the facility's service area, expand hours of operation at the facility to better serve customers, or consolidate facilities under one permit.

Alternative 2: Biomass and Solar Alternative

The Biomass and Solar Alternative is described on page 5.0-4 and is analyzed on pages 5.0-8 through -14. This alternative assumes that the facility's permitted capacities would not be increased and no new programs would be added to the Mt. Diablo Recycling Facility, Transfer/Processing Facility, Mixed Construction and Demolition (C&D) Processing Facility, or Organics Processing Facility, with the exception of the 40 tons per day increase in clean wood chips to fuel the biomass plant. This alternative assumes that only the construction of the Biomass Gasification Unit on approximately 3.5 acres of expansion land and installation of the solar panels would move forward. Because the facility's capacities would not be substantially increased, no revisions to the facility's Solid Waste Facility Permit would be requested and the proposed addition of sort lines, bays, and other equipment would not be required.

Finding: This alternative is infeasible and rejected for the following reasons:

1. The Planning Commission finds that the Biomass and Solar Alternative is rejected as an alternative because it would not meet several of the objectives identified for the project. This alternative would assist in the further reduction of greenhouse gas emissions through solar and biogas electricity generation; however, it would not achieve the same avoided emissions of greenhouse gases that would be realized under the proposed project related to the avoided landfill methane emissions and the emissions avoided by the use of recycled materials. While this alternative would respond to some of the requirements of AB 32 by installing and operating alternative energy systems on-site, it would not increase the solid waste diversion rates of the cities and counties it serves and would not add a business and multi-family residential recycling program. In addition, this alternative would not respond to projected population growth and increased solid waste generation in the facility's service area, would not expand hours of operation at the facility to better serve customers, and would not consolidate facilities under one permit.

Alternative 3: Limited Expansion Alternative

The Limited Expansion Alternative is described on page 5.0-4 and is analyzed on pages 5.0-8 through -14. This alternative assumes that there would be increases at the Mt. Diablo Recycling Facility, Transfer/Processing Facility, Mixed Construction and Demolition (C&D) Processing Facility, or Organics Processing Facility, but the permit would seek an expansion to only 55 percent of the requested permit level of the proposed project. Therefore, the operating condition of the facility under this alternative (operating at 55 percent of the maximum permitted level under the proposed project) would be 3,050 tons per day (TPD), compared to 5,500 TPD for the proposed project.

Finding: This alternative is infeasible and rejected for the following reasons:

1. The Planning Commission specifically finds that the Limited Expansion Alternative is rejected as an alternative because it would not meet some of the objectives identified for the project. Because this alternative limits the throughput at the facility to a level that is consistent with the current level of throughput relative to the facility's existing permitted capacity, this alternative may not be consistent with the objective related to significantly expanding the facility's capacities and hours of operation

to meet projected population growth and better serve customers and to meet projected solid waste generation rates until the year 2035.

2. It is likely that if the existing facility is not expanded, then another facility would have to be constructed or expanded, resulting in additional environmental impacts in order to accommodate future State-mandated waste diversion goals.

Statement of Overriding Conditions

The project will result in significant and unavoidable individual impacts in the area of air quality and significant and unavoidable individual and cumulative impacts in the area of transportation.

After review of the entire administrative record, including the Final EIR, the Planning Commission staff report, and oral and written testimony and evidence presented at public hearings on the project, the Planning Commission finds that specific economic, legal, social, technological, and other anticipated benefits of the project outweigh the unavoidable adverse impact, and therefore justify the approval of the Mt. Diablo Resource Recovery Park Project. The project would eliminate or substantially lessen all significant effects on the environment, where feasible, and the Planning Commission finds that the remaining significant unavoidable impacts of the project are acceptable because the benefits outweigh the impacts. The Planning Commission finds that each of the overriding considerations set forth below constitute a separate and independent ground for such a finding. The project will result in the following substantial benefits, which justify the project:

1. The project would assist the City of Pittsburg and Contra Costa County in reducing greenhouse gas emissions and complying with the measures of the adopted AB 32 Scoping Plan by 2020 by generating renewable energy, increasing solid waste diversion rates, and expanding programs to provide recycling to businesses and multi-family residences.
2. The project would assist the City of Pittsburg and Contra Costa County in maintaining compliance with AB 939 mandates requiring 50 percent diversion of solid waste from landfills and preparing to accommodate future AB 939 goals and mandates, such as assisting in the statewide recycling goal of a 75 percent recycling rate by 2020, consistent with AB 341.
3. The project would assist the City of Pittsburg and Contra Costa County in implementing the mandatory commercial recycling program required by AB 341.

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

The California Environmental Quality Act (CEQA) Guidelines, Section 15091(d), requires public agencies, as part of the certification of an environmental impact report, to adopt a mitigation monitoring and reporting program to ensure that changes made to the project as conditions of project approval to mitigate or avoid significant environmental effects are implemented. The Mitigation Monitoring and Reporting Program (MMRP) contained herein is intended to satisfy the requirements of CEQA as they relate to the Mt. Diablo Resource Recovery Park Project (project) in the City of Pittsburg (City). The MMRP is intended to be used by City staff and mitigation monitoring personnel during implementation of the project.

The MMRP will provide for monitoring of construction activities as necessary, in-the-field identification and resolution of environmental concerns, and reporting to City staff. The MMRP will consist of the components described below.

COMPLIANCE CHECKLIST

The table below contains a compliance-monitoring checklist that identifies the newly adopted mitigation measures, identification of agencies responsible for enforcement and monitoring, and timing of implementation.

MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION MONITORING PLAN

MM Number	Mitigation Measure	Timing/Implementation	Enforcement/Monitoring	Verification (date and signature)
MM 3.1.1	a. The proposed project shall implement BAAQMD-recommended best management practices for the control of fugitive dust including, but not limited to, the following: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved areas of vehicle travel) shall be watered two times per day. 2. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 3. All vehicle speeds on on-site unpaved areas shall be limited to a maximum of 15 miles per hour. 4. All parking areas, equipment pads, and driveways shall be paved as soon as possible. Equipment pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 5. Where applicable, vegetative ground cover (fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible. 6. A publicly visible sign shall be posted at the site entrance identifying the telephone number and name of the person to contact at the construction site regarding dust complaints. The phone number of the City contact person and/or department shall also be posted to ensure compliance. All complaints, including any necessary	Measures shall be added as conditions of approval for all development permits	City of Pittsburg Development Services Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	corrective actions implemented to address the complaint, shall be documented and responded to within 48 hours. The designated City compliance monitoring staff and/or department shall be notified of all complaints received. b. The following measures shall be implemented to reduce construction-generated mobile-source emissions: 1. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by Title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points. 2. All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 3. Heavy-duty (i.e., 25 horsepower or greater) off-road construction equipment shall, at a minimum, meet Tier 3 emission standards. c. To the extent possible, construction of the proposed maintenance building shall utilize pre-coated building materials and low-VOC-content architectural coatings.			
MM 3.1.2a	The project applicant shall demonstrate that all heavy-duty off-road equipment (i.e., 25 hp or greater) used at the project site meets, at a minimum, CARB's Tier 4i emission standards.	Prior to operation of new facilities	City of Pittsburg Development Services Department and Department of Environmental Affairs	

MITIGATION MONITORING AND REPORTING PROGRAM

MM 3.1.2b	The operator shall provide a report on the throughput tonnage processed at the facility that would result in operational emissions of NO _x at 90 percent of the allowable threshold of 54 pounds per day and 10 tons per year (i.e., 48.6 pounds of NO _x per day or 9 tons of NO _x per year). The report shall be included as a condition of approval of the use permit and shall be completed by a qualified air quality professional within one year of approval of the use permit for the expansion. Project-generated tonnages and estimated emissions based on the report shall be evaluated commencing at the five-year state permit review and each year thereafter as tonnage reports are submitted to the City Department of Environmental Affairs and Development Services Department. Once the throughput tonnages reach the amount determined in the report to result in 48.6 pounds of NO _x daily or 9 or more tons of NO _x annually, the operator shall prepare and submit project-generated emissions reports, as described in mitigation measure MM 3.1.2c.	Completion of the report shall be a condition of approval of the use permit and shall be completed prior to issuance of the Solid Waste Facility Permit	City of Pittsburgh Development Services Department and Department of Environmental Affairs	
MM 3.1.2c	Once the project receives a tonnage throughput resulting in 90 percent of assumed NO _x emissions (48.6 pounds of NO _x per day or 9 tons of NO _x per year) as indicated by annual tonnage reports submitted to the City's Department of Environmental Affairs and Development Services Department, the operator shall obtain the services of a qualified specialist, approved by the City Development Services Department in conjunction with the Department of Environmental Affairs, to prepare and submit an annual air quality report showing project-generated NO _x emissions. The annual emissions evaluation shall identify project-generated increases in emissions over those existing at the time of the approval of the use permit, any emission reduction strategies that have been implemented (i.e., use of cleaner equipment, etc.), and any emissions offsets or additional mitigation measures, as described in mitigation measure MM 3.1.2d, that will be implemented sufficient to achieve the threshold of 54 pounds of NO _x per day or 10 tons of NO _x per year. Emissions analyses shall be submitted to the City by April 1 of the following year. Upon the City's approval of the annual air quality report, documentation of	Annually as described	City of Pittsburgh Development Services Department and Department of Environmental Affairs	

MITIGATION MONITORING AND REPORTING PROGRAM

	any emissions offsets or additional mitigation strategies that have been implemented shall be provided to the City within 30 calendar days.			
MM 3.1.2d	Based on the information provided in the annual report described in mitigation measure MM 3.1.2c, the proposed project shall implement on-site control measures and/or purchase emissions offsets sufficient to limit net increases (as defined) in operational NO_x emissions to no more than 54 pounds per day or 10 tons of NO_x per year. Measures shall be implemented on an ongoing basis corresponding to increases in operational activities. Measures to be implemented to reduce operational NO_x emissions may include, but are not limited to, the following: • Use of alternatively fueled vehicles and off-road equipment. • Electrification of on-site equipment. • Reduction in the number of pieces of motorized equipment and/or hours of use. • Replacement/conversion of existing off-road equipment sufficient to meet, at a minimum, CARB's Tier 4i emission standards, or equivalent. Secure emission reduction credits (ERCs) to offset NO_x emissions per BAAQMD Regulations 2-2-215, 302, and 303.	Annually as described	City of Pittsburgh Development Services Department and Department of Environmental Affairs	
MM 3.3.2a	The project applicant shall either update the existing facility's Construction Worker Site Health and Safety Plan or prepare a new plan to include the entire current project site and proposed site preparation and construction activities. The completed plan shall be implemented during all project construction activities. The plan shall address the potential for workers to be exposed to contaminated soils and shall provide specific measures to be implemented to ensure worker health and safety. These measures may include site controls, use of protective clothing,	Prior to issuance of grading permits for the 18.5 acre expanded site.	City of Pittsburgh Development Services Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	soil watering, hazard awareness training for workers, and/or emergency medical response procedures.			
MM 3.3.2b	The project applicant shall comply with all relevant requirements of the <i>Covenant to Restrict Use of Property, Environmental Restriction (Re: A limited portion of County of Contra Costa APN 073-200-021 UPI Pittsburg Facility Site L-A Property, DTSC site code number 520024), DOC-2010-0132574-00 recorded by the Contra Costa County Clerk-Recorder's office on July 1, 2010.</i>	During Site Preparation and Construction	City of Pittsburg Development Services Department	
MM 3.7.1a	The proposed project shall contribute their fair share to implement the SR 4 widening project, which would result in improvements at the SR 4 Eastbound Ramps/Loveridge Road intersection that would increase capacity. These improvements include: • Convert the existing configuration from a "T" intersection to a four-leg intersection. • Modify eastbound approach from its current configuration which provides one shared left-turn/through lane and one right-turn lane to provide two left-turn lanes and one right-turn lane. • Modify southbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two left-turn lanes and two through lanes. • Modify northbound approach from its current configuration which provides one through lane and one shared through/right-turn lane to provide two through lanes and one right-turn lane.	Payment of fees shall be included as a condition of approval of a Conditional Use Permit	City of Pittsburg Development Services Department	
MM 3.7.1b	The proposed project shall contribute their fair share to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection:	Payment of fees shall be included as a condition of	City of Pittsburg Development Services Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	• Install a dedicated eastbound right-turn lane on Pittsburg-Antioch Highway. • Install a second westbound left-turn lane on Pittsburg-Antioch Highway. • Upgrade existing traffic signal equipment to accommodate the changed intersection lane configurations.	approval of a Conditional Use Permit		
MM 3.7.2	The project applicant shall pay the project's fair share of the cost to implement the following measures at the Pittsburg-Antioch Highway/Loveridge Road intersection: • Install an additional left-turn lane on the westbound Pittsburg-Antioch Highway approach. • Install a dedicated left-turn lane on the northbound Loveridge Road approach. • Convert the existing shared left-turn/through lane on the northbound Loveridge Road approach to be a through-only lane. • Modify signal phasing in the north/south direction from split phase to having protected left-turns. • Upgrade existing traffic signal equipment to accommodate the recommended intersection lane configurations.	Payment of fees shall be included as a condition of approval of a Conditional Use Permit	City of Pittsburg Development Services Department	
MM 3.8.1a	Burrowing Owl. Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction survey for burrowing owls on and adjacent to the project site. Surveys shall be conducted in accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report), published March 7, 2012. Surveys shall take place no more than 30 days prior to construction and will establish the presence or absence of burrowing owl and/or habitat features and evaluate habitat use	Prior to and during construction activities	City of Pittsburg Planning Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	by owls. During the surveys, all burrows and burrowing owls will be identified and mapped. If burrowing owls are found during the breeding season (February 1–August 31), the project applicant shall avoid all nest sites for the remainder of the breeding season or while the nest site is occupied by adults or young. Avoidance measures will include establishment of a 250-foot no disturbance buffer zone surrounding the nest burrow. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1–January 31), the project applicant shall avoid the owls and the burrows they are using through establishment of a 160-foot protective buffer zone surrounding the active burrow. If avoidance is not possible, passive relocation of occupied burrows shall be implemented outside the breeding season. Owls should be excluded from burrows by installing one-way doors in burrow entrances. These doors should be in place for no less than 48 hours prior to excavation, and the project area shall be monitored daily by a qualified biologist for one week to confirm that the owl has abandoned the burrow.			
MM 3.8.1b	Swainson's Hawk. Prior to any ground disturbance that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than one month prior to construction to determine if occupied Swainson's hawk nests are present within 1,000 feet of the project site. If occupied nests are documented, project-related activities	Prior to and during construction activities	City of Pittsburgh Planning Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	within 1,000 feet of an occupied nest site shall be prohibited to prevent nest abandonment. Project-related activities can proceed normally if a qualified biologist determines that young have fledged prior to September 15. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Furthermore, if the active nest site is shielded from view and noise from the project site by other development, topography, or other features (including off-site features), the project applicant can apply to the HCP/NCCP Implementing Entity for a waiver of this avoidance measure. Waivers must also be approved by the USFWS and the CDFW. While the nest is occupied, project-related activities outside the 1,000-foot buffer can take place.			
MM 3.8.1c	Golden Eagle. Prior to any ground disturbance that occurs during the nesting season (January 1–August 31), a qualified biologist shall conduct a preconstruction survey not more than one month prior to construction to determine whether active golden eagle nests are present within 0.5 mile of the project site. If active nests are present within 0.5 mile of the project site, project-related activities within 0.5 mile of the nest are prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity indicate that a smaller buffer could be used, the HCP/NCCP Implementing Entity will coordinate with the CDFW and the USFWS to determine the appropriate buffer size. Project-related disturbance may proceed once a qualified biological monitor determines that the nest has failed or that the young birds have fledged.	Prior to and during construction activities	City of Pittsburgh Planning Department	
MM 3.8.1d	Non-Covered Raptor Surveys. If clearing and/or construction activities will occur during the raptor nesting season (January 15–August 15), preconstruction surveys to identify active raptor nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by	Prior to and during construction activities	City of Pittsburgh Planning Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area and a 500-foot buffer (if feasible). If active nest sites are identified within 500 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to nesting raptors. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 250 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 250 feet) of LOPs may be adjusted through consultation with the CDFW and/or the East Contra Costa County HCP/NCCP Implementing Entity.			
MM 3.8.1e	Nesting Bird Surveys. If clearing and/or construction activities will occur during the migratory bird nesting season (February 15–August 15), preconstruction surveys to identify active migratory bird nests shall be conducted by a qualified biologist within 30 days of construction initiation. Focused surveys must be performed by a qualified biologist for the purpose of determining presence/absence of active nest sites within the proposed impact area, including a 200-foot buffer. If active nest sites are identified within 200 feet of project activities, the project applicant shall impose a limited operating period (LOP) for all active nest sites prior to commencement of any project construction activities to avoid construction-related disturbances to migratory bird nesting activities. An LOP constitutes a period during which project-related activities (i.e., vegetation removal, earth moving, and construction) will not occur and will be imposed within 100 feet of any active nest sites until the nest is deemed inactive by a qualified biologist. Activities permitted within and the size (i.e., 100 feet) of LOPs may be adjusted through consultation with the CDFW and/or	Prior to and during construction activities	City of Pittsburg Planning Department	

MITIGATION MONITORING AND REPORTING PROGRAM

	the East Contra Costa County HCP/NCCP Implementing Entity.			
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Attachment 12:

2015 EIR and 1st Addendum

available online at: www.pittsburgca.gov/MDRR



City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **PLANNING COMMISSION** of the City of Pittsburg will conduct an online public hearing on:

DATE: August 24, 2021

TIME: 7:00 p.m.

PLACE: Zoom Teleconference via Streaming Media on the City's homepage:

www.pittsburgca.gov (see public advisory on last page)

Concerning the following matter:

Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)

This is a public hearing on a request for a recommendation for City Council approval of: 1) an amendment to the existing use permit (originally approved in 2018) for operational enhancements at the existing Recycle Center Transfer Station/Mt. Diablo Resource Recovery Park; 2) design review approval of plans to construct sixteen new structures totaling 448,900 square feet of new building area for a total of 570,580 square feet of development; and 3) approval of a Development Agreement. The Commission is also being asked to consider the 2nd Addendum to the Final Environmental Impact Report (FEIR) prepared for the project. The FEIR is available at www.pittsburgca.gov/MDRR. The Project is located at 1300 Loveridge Road in the IG (General Industrial) and IL-O (Limited Industrial with a Limited Overlay) districts. Assessor's Parcel Nos. 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028, and 073-200-029.

PROJECT PLANNER: Joan Lamphier, (925) 252-4920 or planning@ci.pittsburg.ca.us

Why am I receiving this notice?

You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

Where can I get more information about this project?

The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements.

What can I do if I have comments on the project?

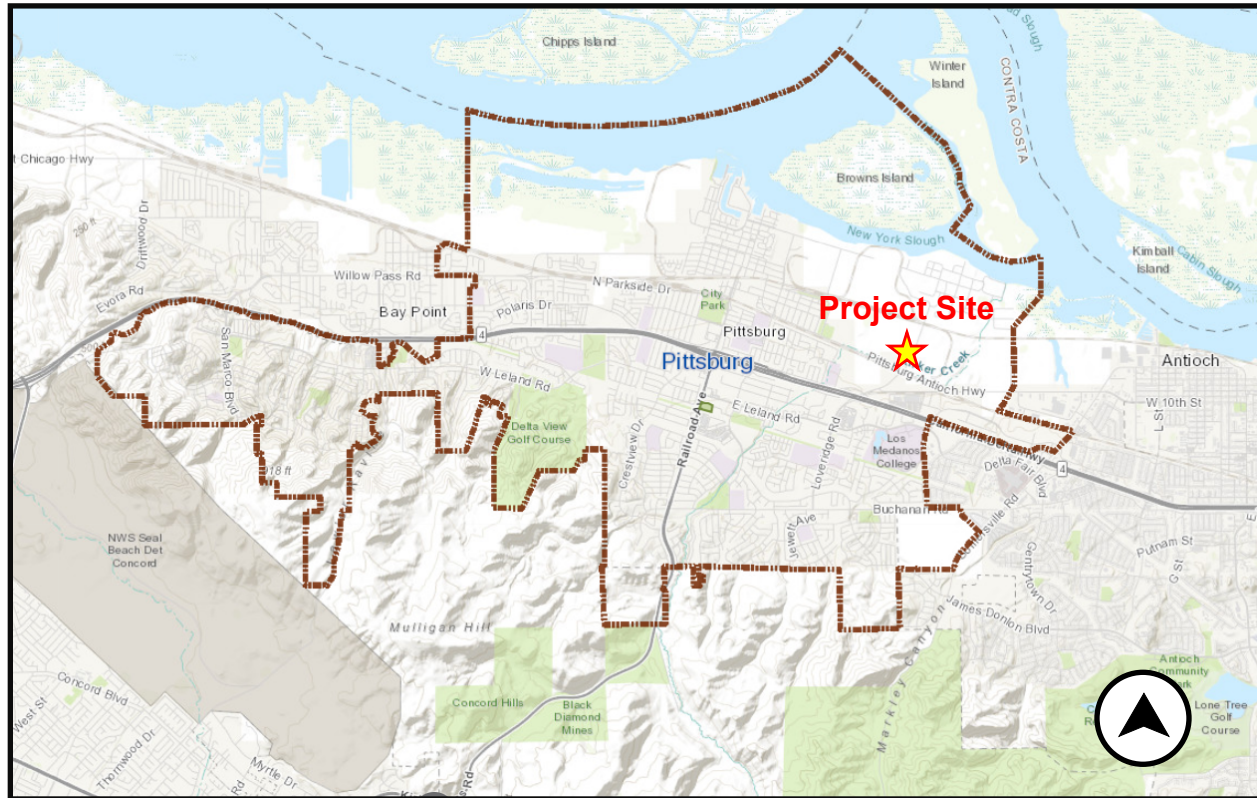
Comments or objections to the project can be made by writing or through oral testimony during the public hearing. Written comments citing the project name may be emailed to meetingcomments@ci.pittsburg.ca.us or may be mailed to: Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. You may also register your comments or objections by attending the virtual public hearing on the date and time listed above (see public advisory on last page for details on how to register a phone-in comment).

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.

*Para información en
español:
(925) 252-4920*

JORDAN DAVIS, ACTING SECRETARY
PITTSBURG PLANNING COMMISSION

Project Title: Mt. Diablo Resource Recovery Park Enhancements Project, AP-21-1553 (UP, DR, DA)
Location: 1300 Loveridge Road, Assessor's Parcel Nos. 073-200-013, 073-200-014, 073-200-015, 073-200-026, 073-200-027, 073-200-028, and 073-200-029.



PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the Planning Commission will be conducted electronically through Zoom and broadcast live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Planning Commissioners will be participating electronically and will not be physically present in the Council Chamber.

Live comments will be allowed by members of the public via teleconferencing during Zoom meetings and written comments received after 3:00 p.m. on the day of the meeting will be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or Non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the "Agendas & Live Meetings" link on the City's website at www.pittsburgca.gov) you can phone in to Zoom. If you log in before the event has started you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- The City requests speakers begin their comments by providing their name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.

**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT
August 24, 2021**

**ITEM: Consideration of a Resolution Approving Design Review of the
Pittsburg Renal Center, AP-21-1552 (DR)**

ORIGINATED BY: Mark Pagone, Pagone + Associates, 13627 S. 32nd Place,
Phoenix, AZ 85044

SUBJECT: This is a request for design review approval of plans to construct a new 11,225 square foot commercial shell building for future development of a dialysis clinic, along with site and landscaping improvements, on vacant land located along the north side of North Park Boulevard, in the CC (Community Commercial) District. Assessor's Parcel No. 088-151-045.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 10174, approving Design Review Application No. AP-21-1552, subject to conditions.

BACKGROUND:

On February 26, 2021, Mark Pagone applied for design review to construct a new 11,225 square foot commercial shell building along with site and landscaping improvements for Pittsburg Renal Center. Pittsburg Renal Center would be a dialysis clinic, which falls under the use classification of "Medical Services Office," which is a permitted use at the site.

The applicant has entered into an agreement with Sierra Pacific Properties, Inc. to purchase the approximately 1.49-acre project site for construction of the medical facility.

PROJECT DESCRIPTION:

Existing Conditions: The project site is an approximately 1.49-acre portion of a larger 6.18-acre parcel located on the western end of North Park Boulevard, east of Loveridge Road, west of Pace Boulevard, north of State Route 4, and south of California Avenue and the Union Pacific railroad tracks.

The project site is unimproved, with the exception of curb and gutter improvements along the northern side of North Park Boulevard, and an approximately 175-foot driveway that connects the future project site to North Park Boulevard. The site has been disturbed through grading activities, and accumulates a considerable amount of trash from adjacent properties due to winds in the area.

See Attachments 3 for site photos.

Surrounding Land Uses:

North: Union Pacific Railroad, PSC ARB, Inc.
West: WOW Smiles Dentistry, Big O Tires, Sonic Drive-In
South: Additional vacant land, State Route 4
East: North Park Plaza Shopping Center (DD's Discounts, Island Pacific Seafood Market, Ramos Furniture, Home Depot, Winco Foods)

See Attachment 4 for a map of surrounding uses.

Proposed Project: The Pittsburg Renal Center is a medical services office use, which is a permitted use in the CC District. The business would operate between the hours of 6:00 a.m. and 6:00 p.m. daily. The business plans to staff approximately 15 employees.

This project consists of new site improvements to construct a new 11,225 square foot single-story shell building, sidewalks, parking lot, and landscaping improvements. The parking lot will include 56 parking spaces, including four (4) electric vehicle charging stations and six (6) ADA accessible spaces. Landscaping upgrades include planting of 27 trees, along with a variety of colorful shrubs, vines, and ground cover.

Access to the project will utilize a connection to an existing driveway from North Park Boulevard. Construction staging will take place on the 0.79-acre construction laydown areas on APNs 088-151-045 and 088151-042. The proposed project construction will not be phased. However, a separate building permit will be required for interior tenant improvements.

See Attachment 2 for project plans.

GENERAL PLAN/CODE COMPLIANCE:

General Plan: The project site is in the 'Loveridge Subarea' of the General Plan and has a land use designation of 'Regional Commercial.' In this subarea, large industrial uses and vacant sites constitute a majority of Loveridge, adjacent to the Loveridge Road/State Route 4 interchange. Between the BNSF railroad tracks and State Route 4, heavy industry and business commercial parks are planned. Land dedicated to regional commercial (big-box) retailers is concentrated along Century Boulevard.

The proposed project would be consistent with the General Plan, more specifically, Goal 2-G-3, which calls for concentrated commercial development; Goal 2-G-6, which calls for reuse and revitalization of underutilized sites; and Goal 11-G-10, which calls for buffer landscaping. The new use would utilize a vacant parcel and would provide improvements to the area.

As further shown in Attachment 7, the proposed project is consistent with all applicable General Plan goals and policies.

Zoning: The project site is located within the CC (Community Commercial) District; where a medical services office is a permitted use. Pursuant to PMC section 18.52.100, all projects require design review. The schedule set out in PMC Table 18.52.115 prescribes development regulations for the CC District. As shown in Attachment 5 of this report, the proposed project meets or exceeds the CC District property development regulations, which include height, FAR, lot coverage, lot area, lot width, setbacks, landscape coverage, and parking for both cars and bicycles.

Design Guidelines: The proposed project is subject to the City's adopted Development Review Design Guidelines (DRDG), adopted by Planning Commission through Resolution No. 9864. As shown in Attachment 6, the proposed project is consistent with the applicable DRDG sections, specifically those that call for: 1) parking areas be screened from view from any public right-of-way (DRDG IV.a); 2) continuous horizontal rooflines should not exceed 50 feet in length (DRDG IV.f); 3) a free-standing structure within an existing industrial center be architecturally compatible with adjacent development (DRDG IV.i, IV.p); 4) design choices should incorporate or prepare for electric vehicle charging (DRDG VI.D.4); and 5) Secure bicycle parking facilities should be provided (DRDG VI.D.9).

Required Findings: Design review approval for the project can be granted by the Planning Commission only after the Commission makes a determination that the proposed project is consistent with PMC section 18.36.220 (B), which is summarized below:

- A. the structures conform with good taste, good design and in general contribute to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
- B. the structures will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
- C. the exterior design and appearance of the structures are not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
- D. the structures are in harmony with proposed developments on land in the general area; and
- E. the applications conform with the criteria set forth in any applicable city-adopted design guidelines.

Environmental: The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 32, "In-Fill Development Projects," of the state CEQA Guidelines, section 15332. The project qualifies for this CEQA exemption because, as described in the staff report, it would: a) be consistent with the City's general plan and zoning; b) occur within city limits on a project site of no

more than five acres substantially surrounded by urban uses; c) be built on a site having no value as habitat for endangered, rare or threatened species; d) result in no significant impacts to traffic, noise, air quality, or water quality; and e) built on a site that is adequately served by utilities and public services.

HCP/NCCP: In 2007, the City Council adopted Ordinance No. 07-1293 requiring new development projects with certain land cover types to comply with the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). Projects subject to, and meeting the requirements of the HCP/NCCP, may be authorized an incidental 'take' of species listed under the federal Endangered Species Act (ESA) and Natural Community Conservation Planning Act. Under the ESA, 'take' means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

The project site has a ruderal land cover type, which is subject to the requirements of the HCP/NCCP, and as such, the applicant has prepared a draft Planning Survey Report (PSR) as required under the HCP/NCCP (see Attachment 8). The PSR identifies several standard mitigation measures intended to avoid and minimize impacts to the western burrowing owl and Swainson's hawk, and Golden Eagle, which the HCP/NCCP assumes present in the project area, but were not observed on site during field surveys. The required mitigation measures have been incorporated as proposed conditions of approval. Upon approval by the Planning Commission, 'take' authorization for the site would be issued by the City of Pittsburg as the HCP/NCCP implementing agency. The applicant will pay HCP/NCCP fees, which will be used by the East Contra Costa Habitat Conservancy to fund mitigation projects that offset losses of species and habitat covered by the HCP/NCCP. The avoidance and mitigation measures are incorporated as recommended conditions of approval for the proposed project.

Public Notice: Although not required by the PMC, on or prior to August 14, 2021, notice of the August 24, 2021, public meeting to consider design review of the proposed project was posted at City Hall and at or near the proposed project site; and on the 'Public Notices' section of the city's website and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, to local service agencies expected to provide services to the site, and to individuals who had previously filed written request for such notice. The notice was also posted on www.nextdoor.com ("Nextdoor") and was sent directly to all subscribed residents in the "Pittsburg Antioch", "Diamond Hillside", and "East Leland" neighborhoods.

ANALYSIS:

As shown in Attachment 7, the proposed project is consistent with applicable goals and policies contained within the General Plan. Most notably, the proposed project is consistent with Land Use Element Goals 2-G-1 and 2-G-6, which encourage the City to maintain a compact urban form within the City's projected municipal boundary and use vacant infill land and underutilized sites.

The proposed project would improve the neighborhood by developing an unattractive, empty lot with a well-designed building and fully landscaped grounds. The building's design, materials, and colors would be compatible with other commercial buildings in the area, including the 'North Park Plaza' shopping center located just east of the project site and the Sonic restaurant to the west. The project would also conform to all applicable criteria set forth in the City's adopted DRDGs, if conditions of approval are adopted requiring the project to: a) screen all utility box transformers, backflow preventers, meters, and junction boxes from public view; b) break up any continuous roof line expanses exceeding 50 feet in length; c) install downspouts behind building walls; d) incorporate a cool roof on the building and pre-wire the building roof for solar panels; and e) provide at least four electric vehicle spaces with fully-operational electric vehicle supply equipment.

Staff believes that the Planning Commission can make the required findings to approve the design review request, with the inclusion of several conditions of approval, including key conditions noted above, as well as the following:

1. Site Maintenance. The entire parcel shall be kept clean and free of all litter, debris, and refuse. (Condition No. 3)
2. Landscape Maintenance. The applicant shall be responsible for maintaining landscaping in accordance with the approved landscape plan. Amendments or modifications to the approved landscape plan shall be submitted to the city planner for approval. (Condition No. 5)

ACTION REQUIRED:

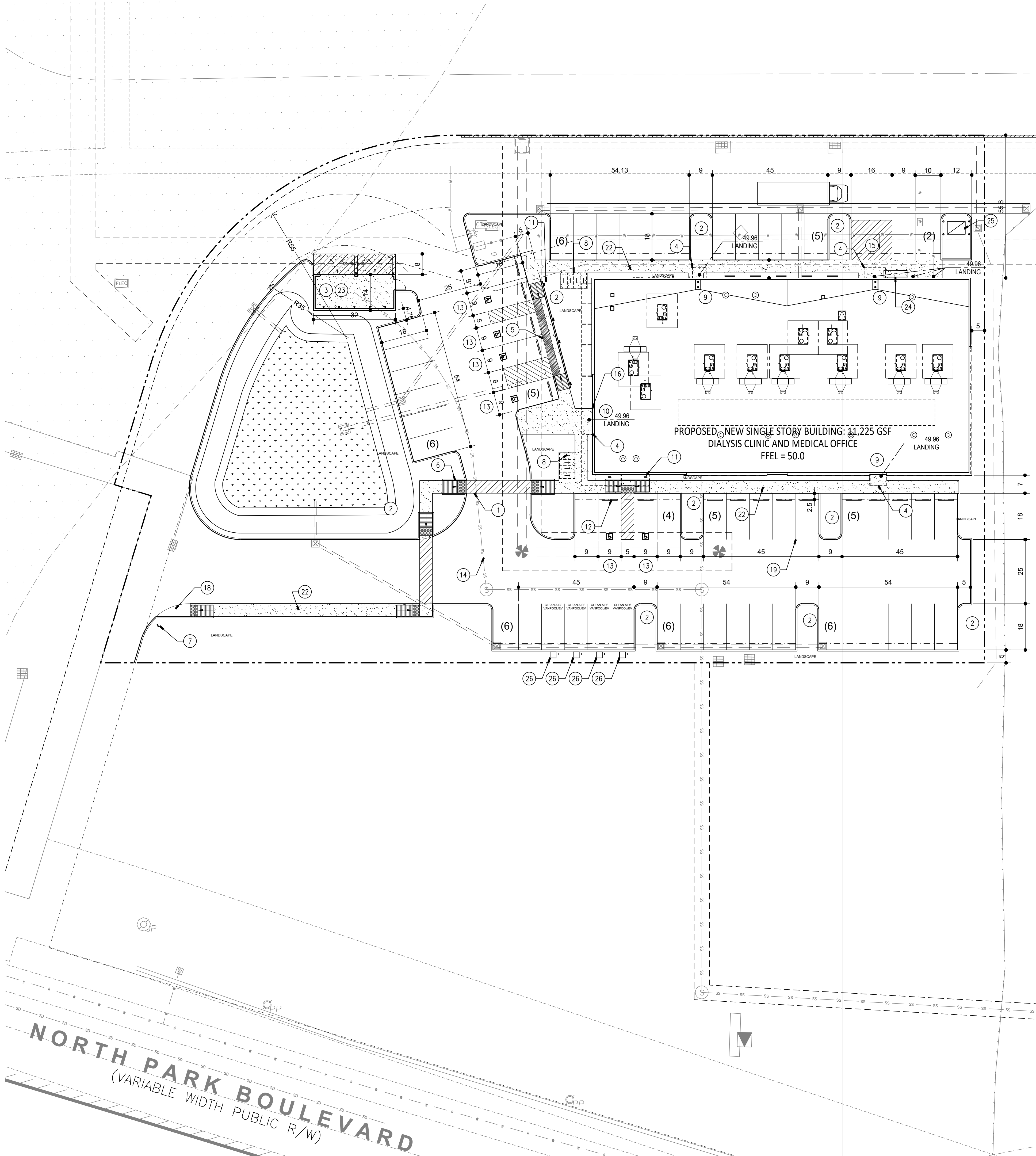
Move to adopt Resolution No. 10174, approving Design Review Application No. 21-1552, subject to conditions.

ATTACHMENTS:

1. Proposed Resolution No. 10174
2. Project Plans, dated July 21, 2021
3. Site Photos
4. Map of Surrounding Land Uses
5. Property Development Regulations Table
6. Development Review Design Guidelines
7. Applicable General Plan Goals and Policies
8. Planning Survey Report
9. Public Meeting Notice

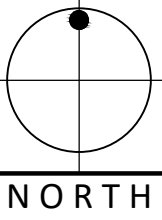
Prepared by: Celina Palmer, Assistant Planner

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ARCHITECTURAL SITE PLAN

1" = 20'-0"



PROJECT INFORMATION:

PROJECT: PITTSBURG RC	ARCHITECT/APPLICANT: Pagone + Associates, LLC 13627 S 32nd Place Phoenix, AZ 85044 phone: 480.814.8100 fax: 480.814.8108 contact: Mark Pagone
OWNER: PITTSBURG RC/PCI	
ADDRESS: (480) 828-3378	
contact: Adrian Rodriguez	

DESIGN NARRATIVE:

PROPOSED:
ADD NEW BUILDING TO AN EXISTING SITE, IMPROVE SITE TO SUPPORT NEW BUILDING (LANDSCAPE, SOLID WASTE DISPOSAL, UTILITIES, AND RETENTION).
PROPOSED:
NEW DIALYSIS CLINIC BUILDING ON AN EXISTING SITE.

PROJECT DATA:

ZONING:
CC (COMMUNITY COMMERCIAL)
PARCEL NUMBER:
PER CIVIL
LEGAL DESCRIPTION:
PER CIVIL
ADDRESS:
TBD
BUILDING HEIGHT:
SINGLE STORY LESS THAN 30'-0" (PROPOSED)
TYPE OF CONSTRUCTION:
PROPOSED CONSTRUCTION TYPE II-B WITH AFES
FIRE SPRINKLERS & FIRE ALARM:
PROPOSED: ADDING NEW AUTOMATIC FIRE EXTINGUISHING SYSTEM, NEW FACP AND FIRE ALARM SYSTEM PER NFPA-72
OCCUPANCY/USE:
PROPOSED: 1-2.1' OCCUPANCY
(FUTURE DIALYSIS CLINIC TENANT IMPROVEMENTS UNDER SEPARATE PERMIT)
USE: MEDICAL SERVICES (PERMITTED USE UNDER 18.52.010)

CONDITION OF APPROVAL:
IF RECLAIMED WATER IS AVAILABLE - IRRIGATION SYSTEM SHALL USE AS MUCH RECLAIMED WATER AS FEASIBLE AND PRACTICAL. LANDSCAPE WATER FIXTURES SHALL BE PURPLE AND WHITE SIGNAGE SHALL CLEARLY MARK AREAS THAT ARE IRRIGATED WITH RECLAIMED WATER.

PARKING CALCULATIONS:

SITE STATISTICS AND PARKING DATA:			
Site area (square feet)	64,869		
Site coverage	17.30%		
Floor area ratio (FAR):	0.173		
Gross building area (square feet)	11,225		
PARKING ANALYSIS:			
	Area	Ratio	
PARKING REQUIRED:			
Clinic:			
Parking (per CCR exceeds ordinance)	11,225	1/200	56
Required accessible parking (Inclusive)		10%	6
Required electrical vehicle charging (Inclusive)			4
PARKING PROVIDED:			
Standard			50
Compact			0
Accessible			6
Total provided:			56

KEYED NOTES:

1. ACCESSIBLE ROUTE.
2. LANDSCAPE AREA.
3. TRASH AREA. ALL TRASH BINS SHALL BE COVERED.
4. NEW OVERHANG/CANOPY, REFER TO EXTERIOR ELEVATIONS.
5. PROVIDE 36" WIDE DETECTABLE WARNING AT ZERO CURB LINE.
6. PARALLEL CURB RAMP.
7. UNAUTHORIZED PARKING SIGN.
8. (6) SECURE BICYCLE PARKING AREAS, AND (2) BIKE RACKS = TOTAL (8) ON SITE.
9. EGRESS POINT.
10. PRIMARY ENTRANCE.
11. NEW ACCESSIBLE PARKING SIGNAGE AT EVERY ACCESSIBLE PARKING SPACE.
12. NEW CONCRETE WHEEL STOP.
13. NEW ACCESSIBLE OR VAN ACCESSIBLE SPACE.
14. ASPHALTIC PAVEMENT, REFER TO CIVIL AND GEOTECH.
15. NEW LOADING (CURB) RAMP.
16. NEW KNOX BOX.
17. SETBACK AND/OR EASEMENT SHOWN DASHED, REFER TO CIVIL.
18. PEDESTRIAN ACCESS.
19. NEW PARKING STRIPING, TYPICAL THROUGHOUT.
20. (VERIFY WITH CIVIL) FIRE HYDRANT TO REMAIN.
21. EXISTING PROPERTY LINE.
22. SIDEWALK, MINIMUM 4 1/2" THICK CONCRETE SIDEWALK PER 5/101, CIVIL AND GEOTECHNICAL REPORT. PROVIDE JOINTS AT 5' O.C. MAX WITH EXPANSION JOINTS AT 15' O.C. MAX INCLUSIVE.
23. TRASH ENCLOSURE PER CITY OF PITTSBURG DESIGN GUIDELINES.
24. SERVICE ENTRANCE SECTION.
25. TRANSFORMER.
26. ELECTRIC VEHICLE CHARGING STATION (4) TOTAL.

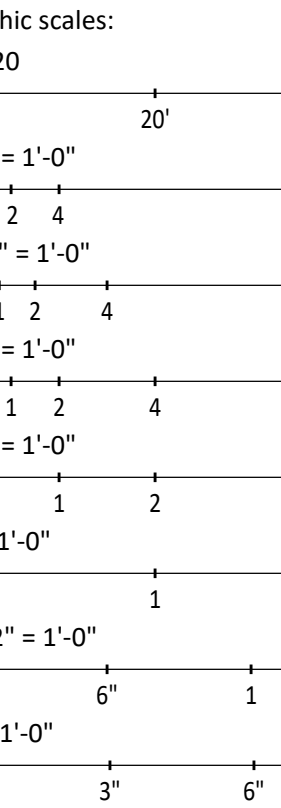
SYMBOL LEGEND:

--- ACCESSIBLE ROUTE OF TRAVEL



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map@pagoneassoc.com

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North Park Boulevard
Pittsburg CA



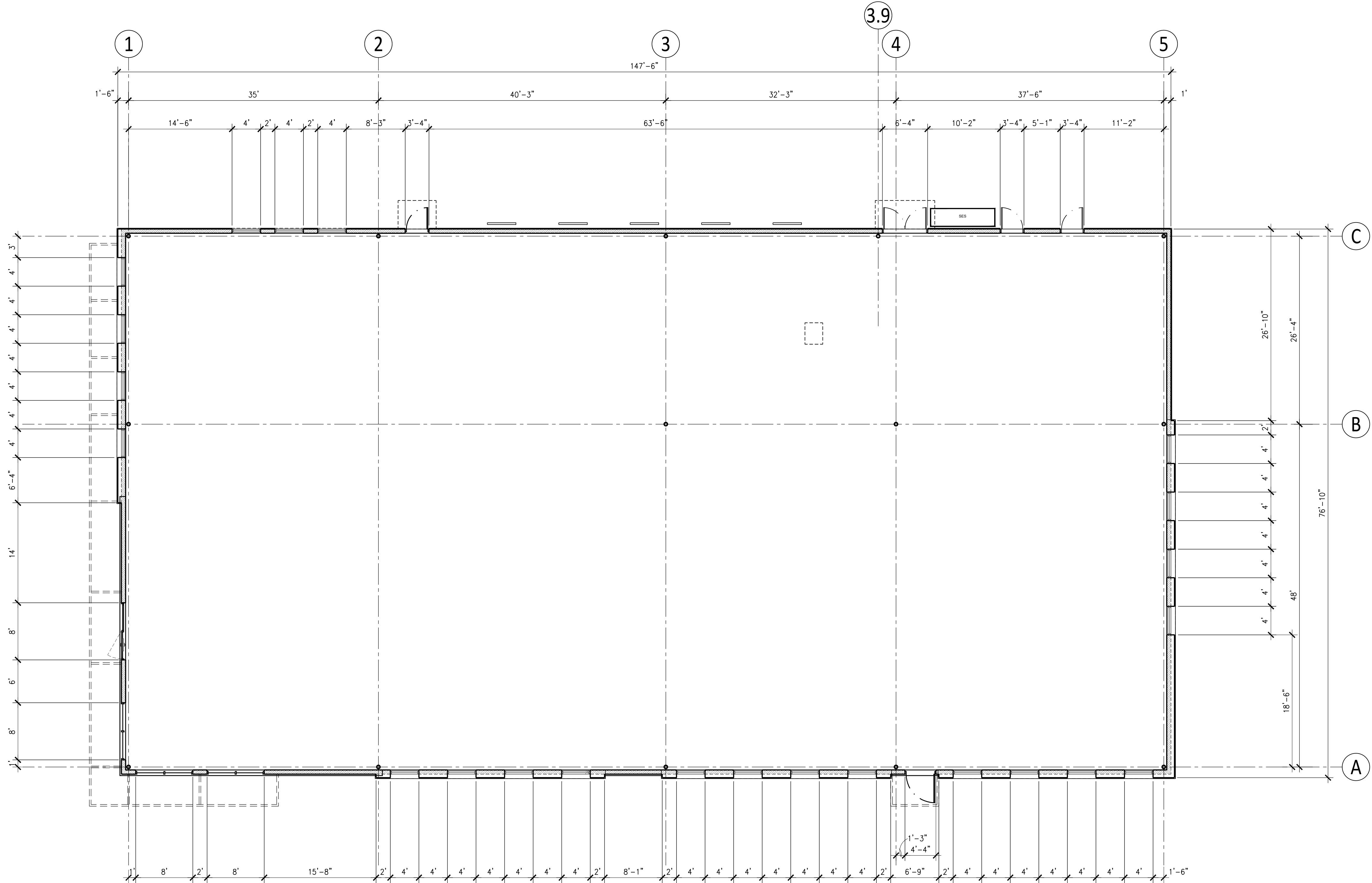
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REVIEWED: MAP
DATE: 7/19/2021
PROJECT: 20010
REVISION:

A100
ARCHITECTURAL
SITE PLAN

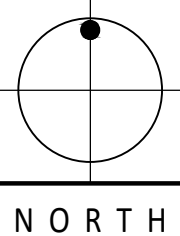
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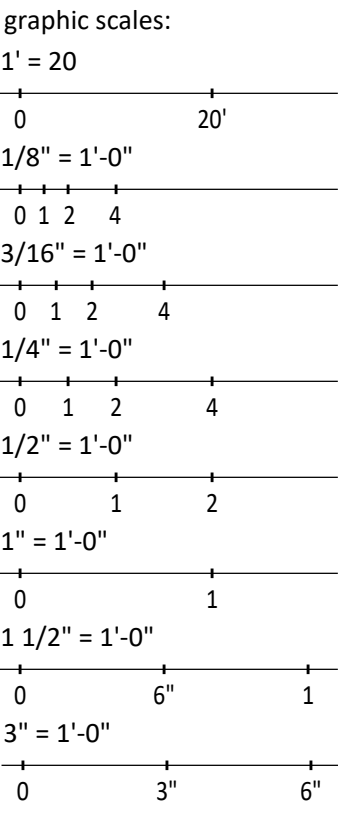


FLOOR PLAN
SCALE: 1/8"=1'-0"



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Pittsburg CA



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MANAGER: MAP
REVIEWED: MAP
DATE: 07/14/2021
PROJECT: 20010
REVISION:

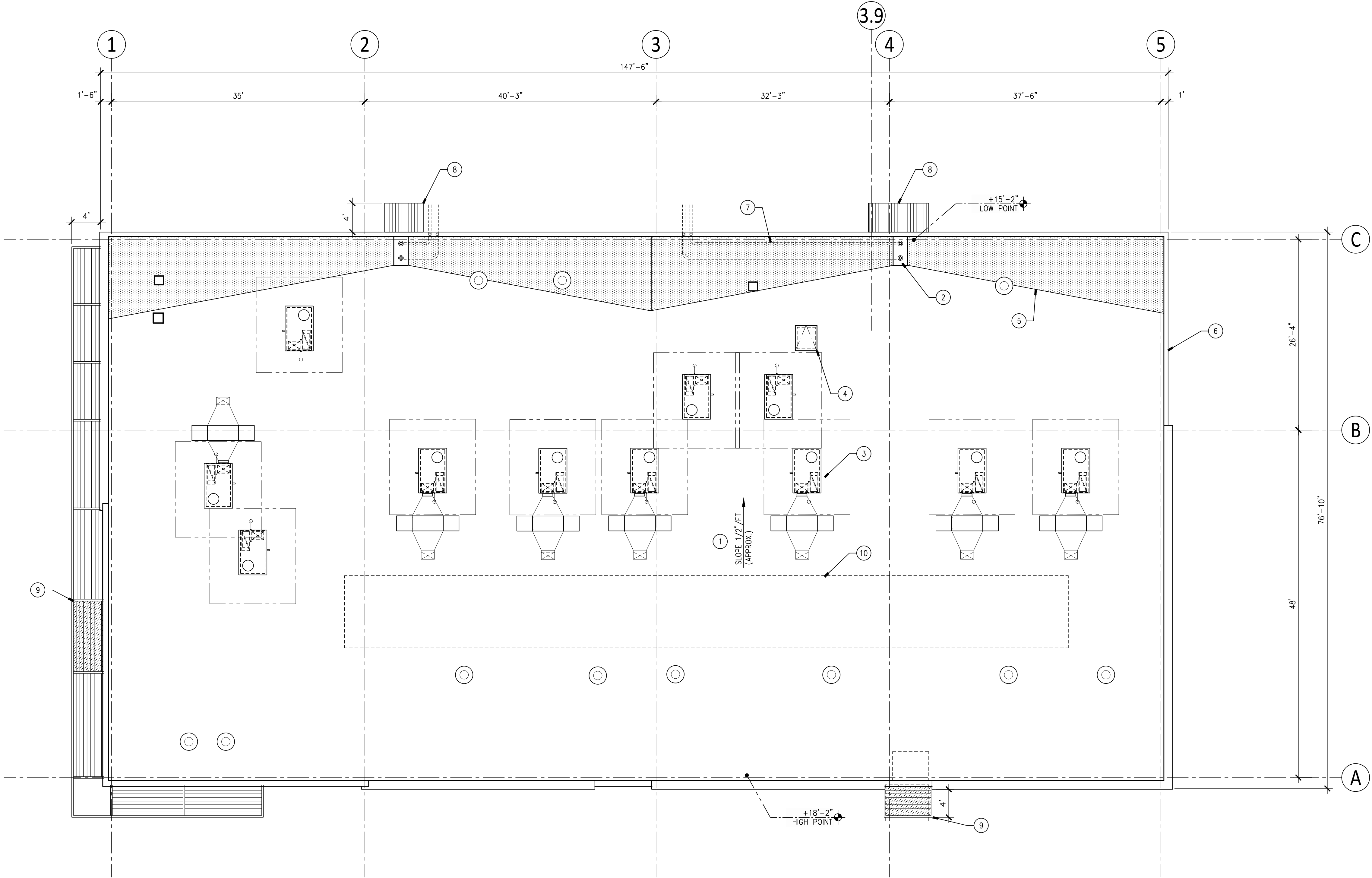
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FLOOR
PLAN

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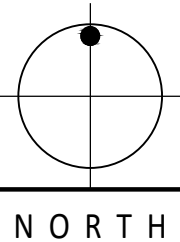


KEYED NOTES:

- FULLY ADHERED SINGLE PLY ROOF SYSTEM, CLASS 'B' MIN. WITH COOL ROOF COATING (.63 OR HIGHER SOLAR REFLECTANCE) OVER (R-38) RIGID INSULATION
SPECIFICATION:
CRRC NO. 0662-0008
MANUFACTURER: JOHNS MANVILLE
MODEL: JM TPO .060
DESCRIPTION: SINGLE PLY THERMOPLASTIC AND THERMOSET ROOFING
COLOR: BRIGHT WHITE
SOLAR REFLECTANCE INITIAL: .79
SOLAR REFLECTANCE 3 YR: .68
- ROOF DRAIN AND OVERFLOW DRAIN.
- FULLY SCREENED MECHANICAL UNIT ON ADJUSTABLE EQUIPMENT CURB.
- ROOF HATCH (BLUQQ 30X36 WITH LADDER UP SAFETY POST).
- ROOF CRICKET WITH TAPERED FOAM
- PRE-FINISHED METAL COPING OVER PARAPET, SEE EXTERIOR ELEVATIONS.
- ROOF DRAIN LEADER BELOW ROOF DECK.
- PRE-MANUFACTURED AWNING BELOW, SEE EXTERIOR ELEVATIONS
- FIXED PAINTED STEEL TRELLIS, SEE EXTERIOR ELEVATIONS. SHADED AREA INDICATED SOLID PORTION TO ACHIEVE 4'-0" WEATHER PROTECTION AT EGRESS AREAS.
- SOLAR READY AREA OF ROOF TO BE PRE-WRED.

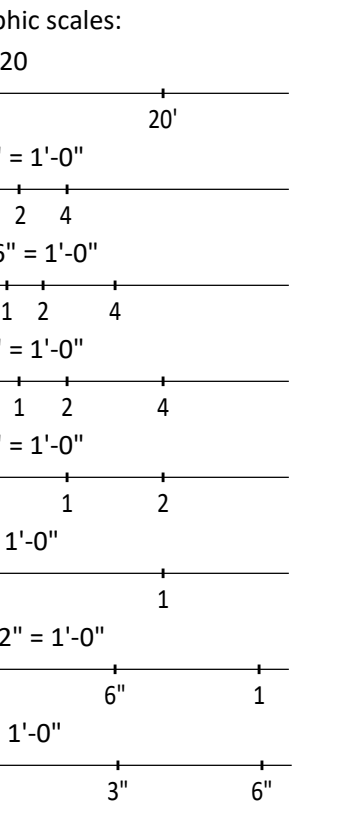
ROOF PLAN

SCALE: 1/8"=1'-0"



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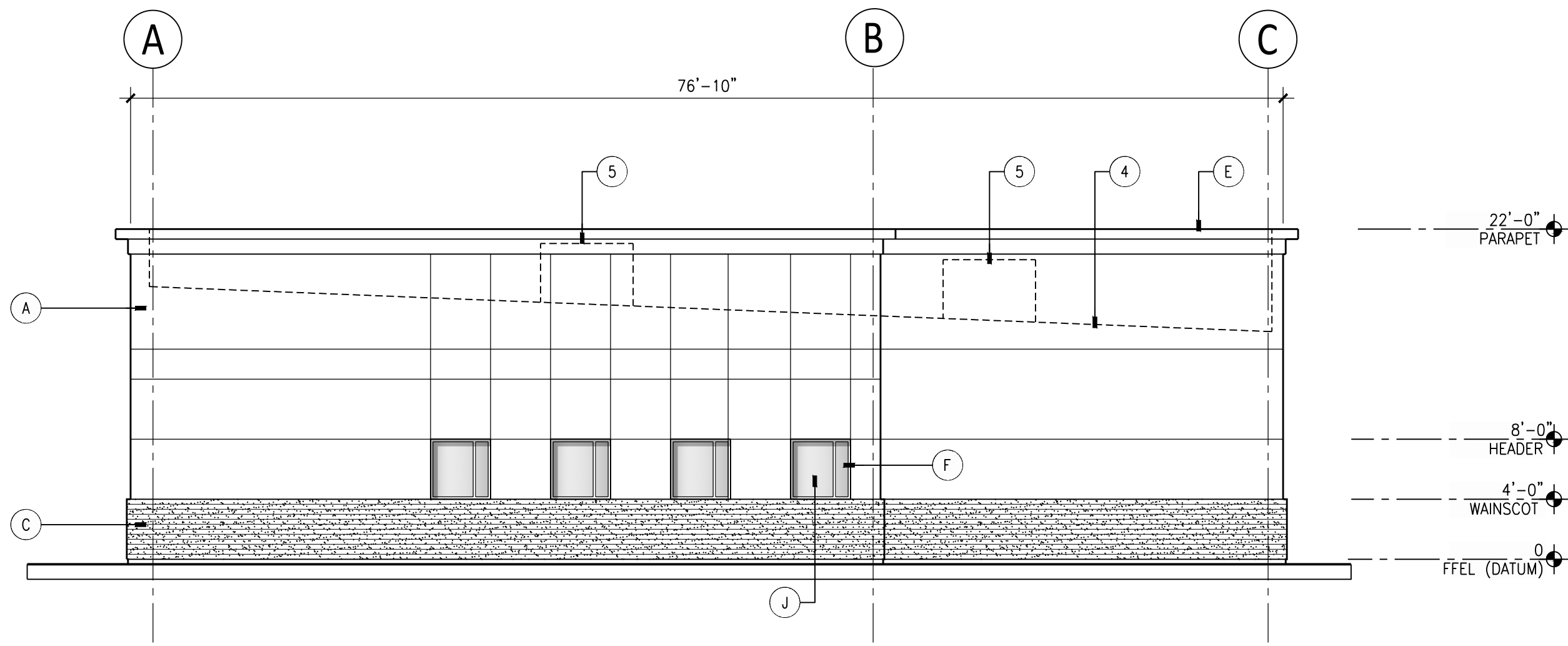
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MANAGER: MAP
REVIEWED: MAP
DATE: 7/14/2021
PROJECT: 20010
REVISION:

A260

ROOF
PLAN

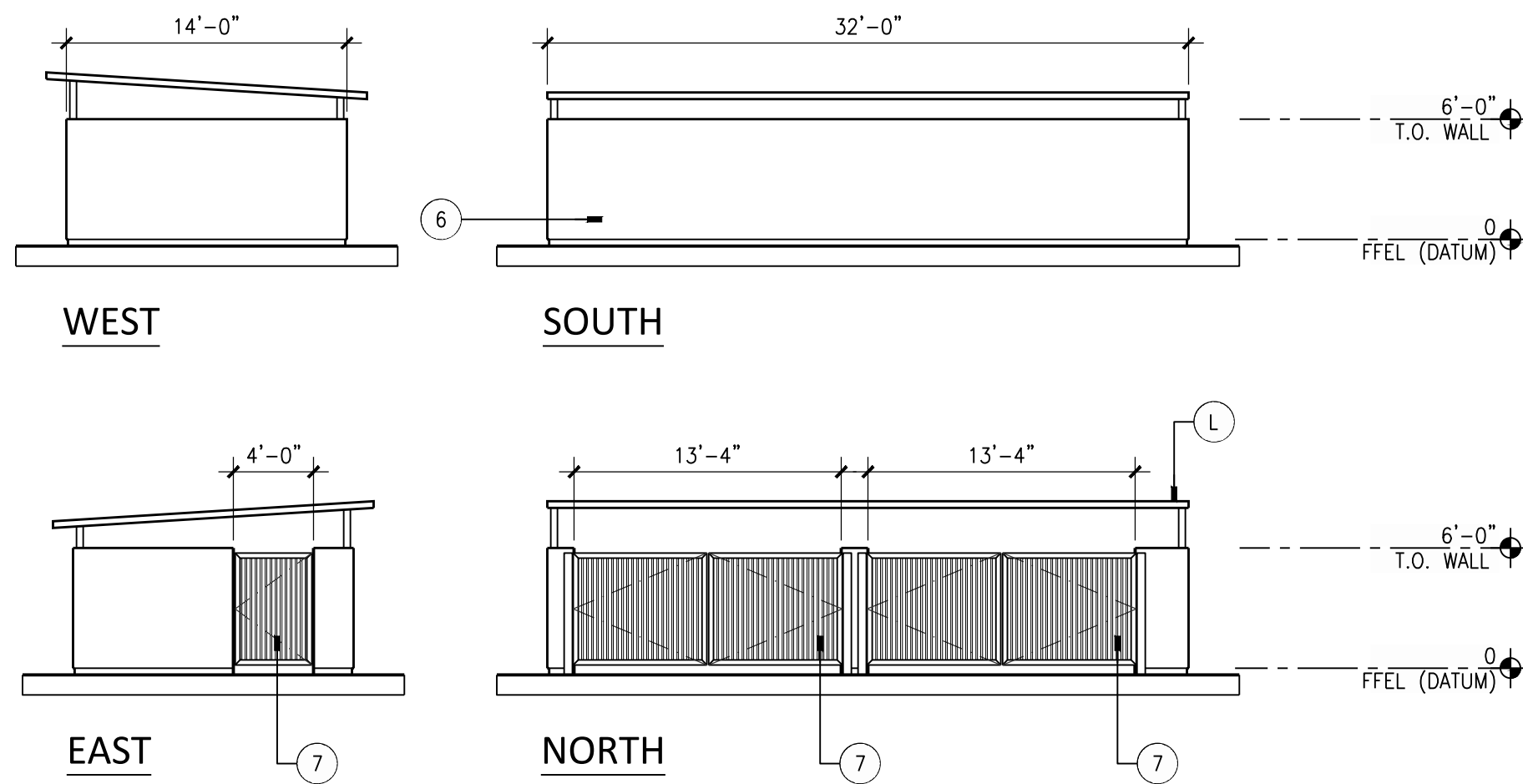
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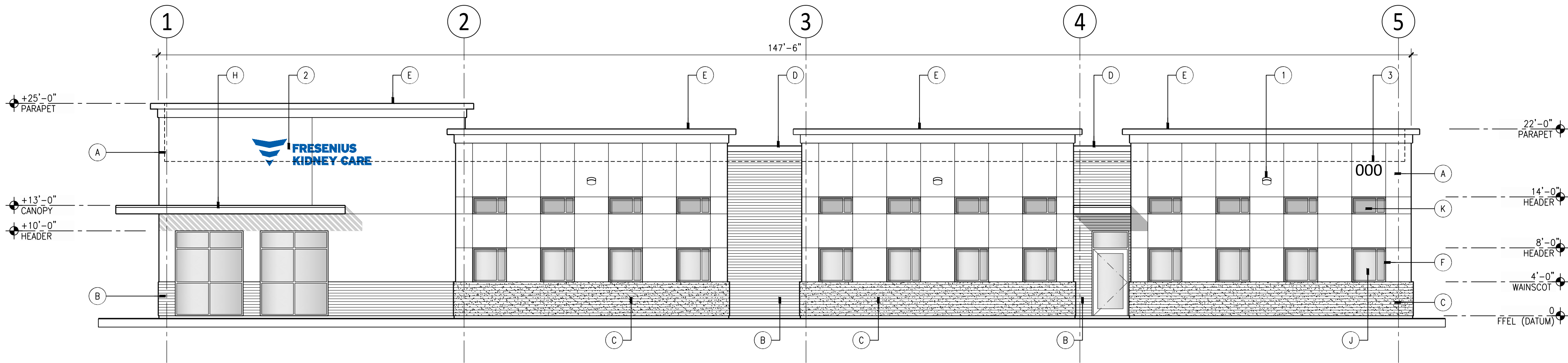
4 EAST BUILDING ELEVATION

SCALE: 1/8"=1'-0"



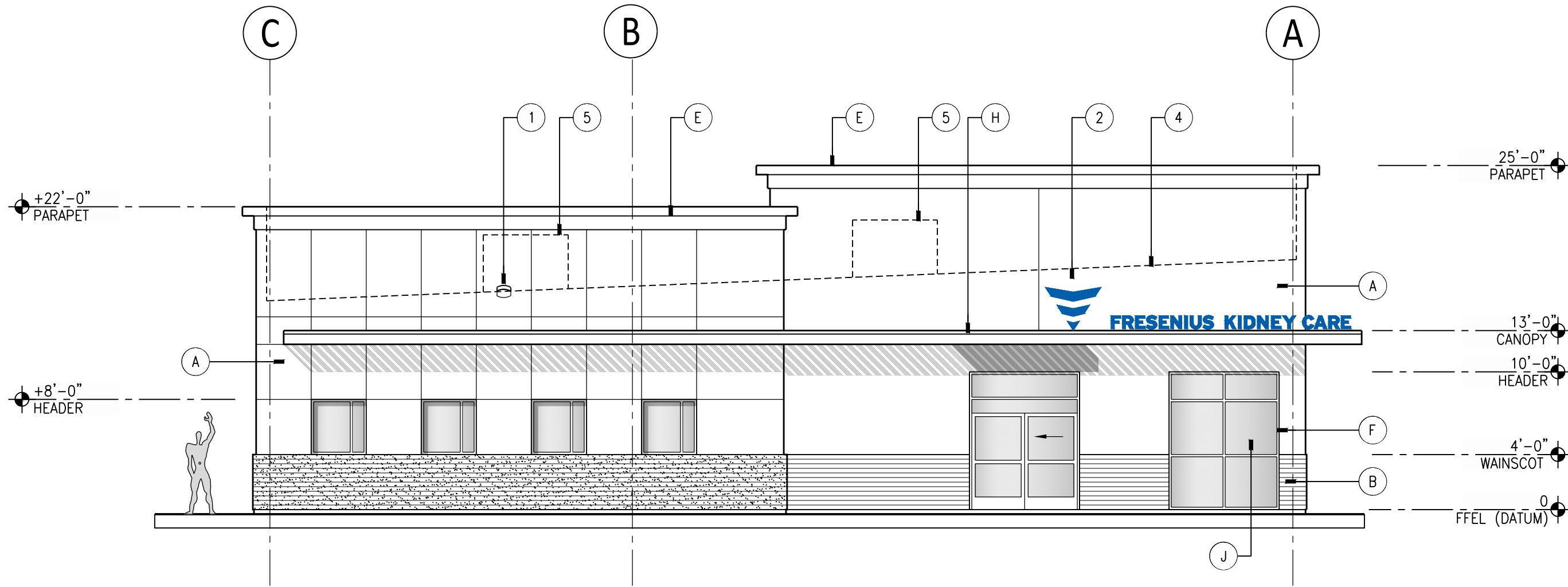
5 TRASH ENCLOSURE ELEVATIONS

SCALE: 1/8"=1'-0"



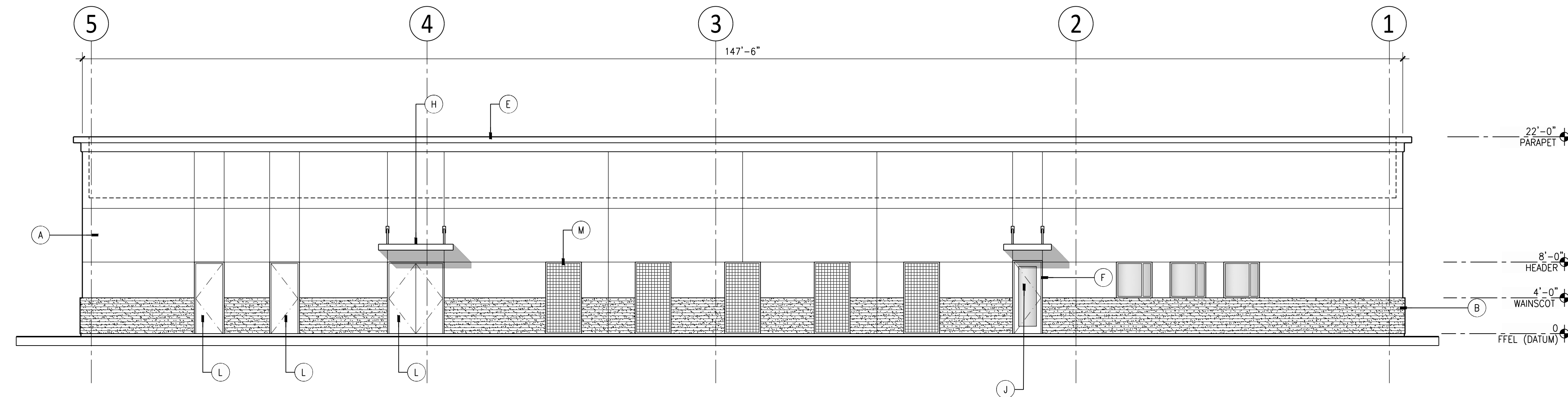
3 SOUTH BUILDING ELEVATION

SCALE: 1/8"=1'-0"



2 WEST BUILDING ELEVATION

SCALE: 1/8"=1'-0"



1 NORTH BUILDING ELEVATION

SCALE: 1/8"=1'-0"

KEYED NOTES:

1. EXTERIOR BUILDING LIGHT FIXTURE, SIMILAR TO ACCENT PAINT COLOR.
2. ILLUMINATED BUILDING SIGNAGE UNDER SEPARATE PERMIT, GENERAL CONTRACTOR TO COORDINATE ELECTRICAL.
3. 18" HIGH DARK BRONZE REVERSE PAN CHANNEL INTERNALLY ILLUMINATED ADDRESS LETTERS WITH MINIMUM 1" STROKE (TO CONTRAST WITH BACKGROUND), COORDINATE WITH ELECTRICAL.
4. ROOF LINE BEYOND.
5. FULLY SCREENED MECHANICAL UNIT BEYOND.
6. TRASH ENCLOSURE WALL TEXTURE AND FINISH TO MATCH EIFS FIELD 'A'.
7. MASONRY WALL TO BE FINISHED IN STUCCO TOP COAT TO MATCH EIFS TOP COAT.

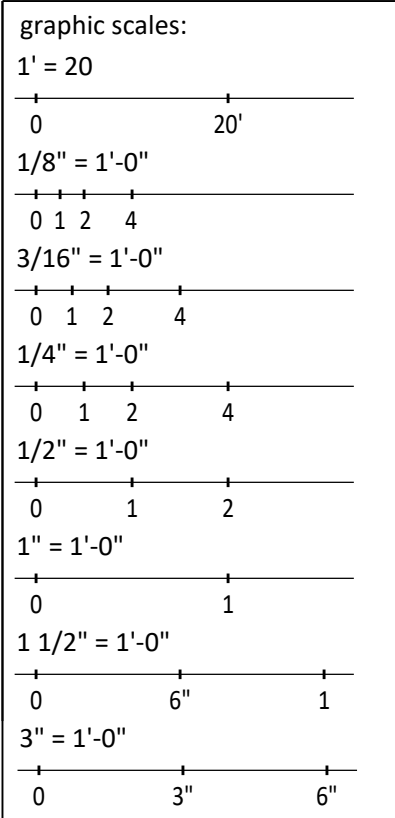
COLOR AND MATERIAL PALETTE:

- | | |
|--|--|
| | A. EIFS FIELD:
MANUFACTURER: STO THERM CI
STYLE: FINE SAND FINISH
COLOR: SW7064 PASSIVE |
| | B. BRICK VENEER:
MANUFACTURER: INTERSTATE BRICK
STYLE: NORMAN THIN BRICK (4X12 NOMINAL)
COLOR: MIDNIGHT BLACK
GROUT: LATICRETE #34 SANDSTONE |
| | C. BRICK VENEER:
MANUFACTURER: INTERSTATE BRICK
STYLE: NORMAN THIN BRICK (4X12 NOMINAL)
COLOR: ARTIC WHITE, PEWTER, PLATINUM (BLEND)
GROUT: LATICRETE #90 LIGHT PEWTER |
| | D. METAL COPING
COLOR: TO MATCH #40 DARK BRONZE |
| | E. METAL COPING AND TRIM
COLOR: SW7064 PASSIVE |
| | F. STOREFRONT WINDOW SYSTEM
MANUFACTURER: KANNEER 451 VGT
COLOR: #40 DARK BRONZE ANODIZED |
| | G. PRE-FINISHED METAL AWNING
MANUFACTURER: MAPES
COLOR: TO MATCH #40 DARK BRONZE |
| | H. STEEL FRAMED FIXED OVERHANG TRELLIS
COLOR: MATCH AWNING |
| | J. GLAZING
MANUFACTURER: GUARDIAN
COLOR: SNX 62/27 ON CLEAR |
| | K. SPANDREL GLAZING
MANUFACTURER: GUARDIAN
COLOR: SNX 62/27 ON CLEAR (SPANDREL) |
| | L. HM DOORS AND FRAMES
ACCENT COLOR: SW6165 CONNECTED GRAY |
| | M. METAL TRELLIS WITH CLIMBING VINES
MANUFACTURER: GREENSCREEN 'WALL' |



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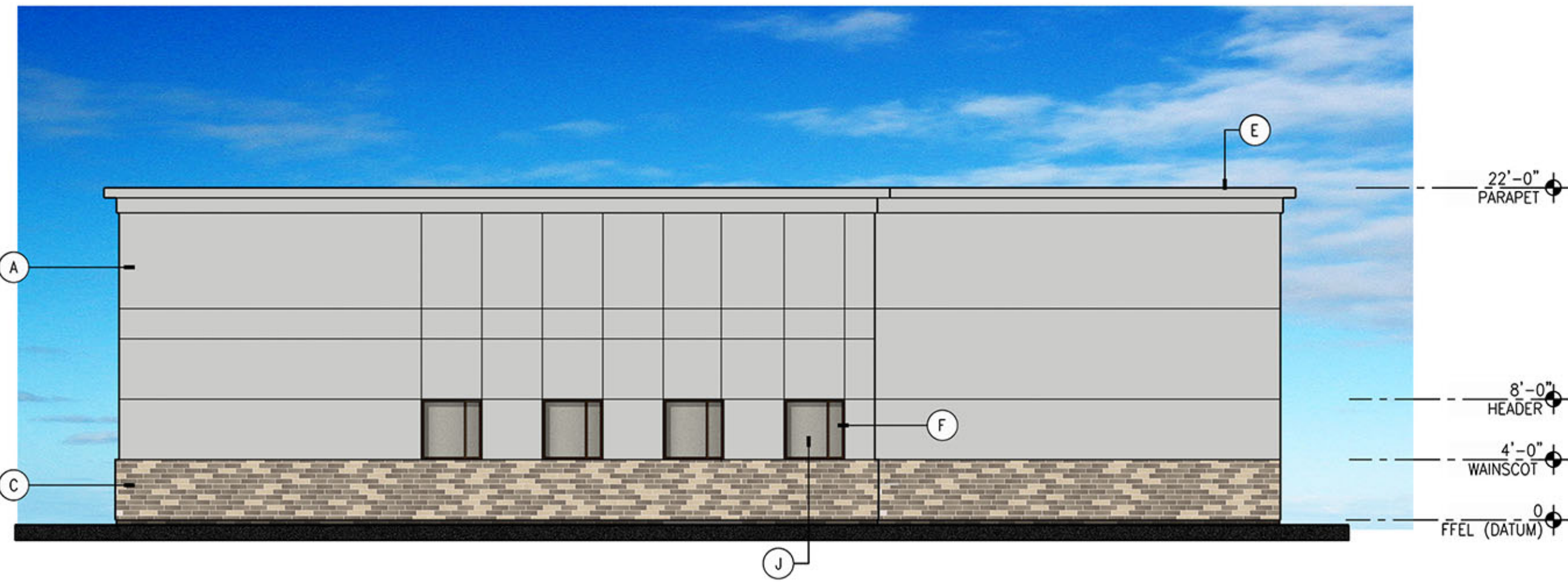
Shell building:
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North Park Boulevard
Pittsburg CA



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MANAGER: MAP
REVIEWED: MAP
DATE: 7/14/2021
PROJECT: 20010
REVISION:

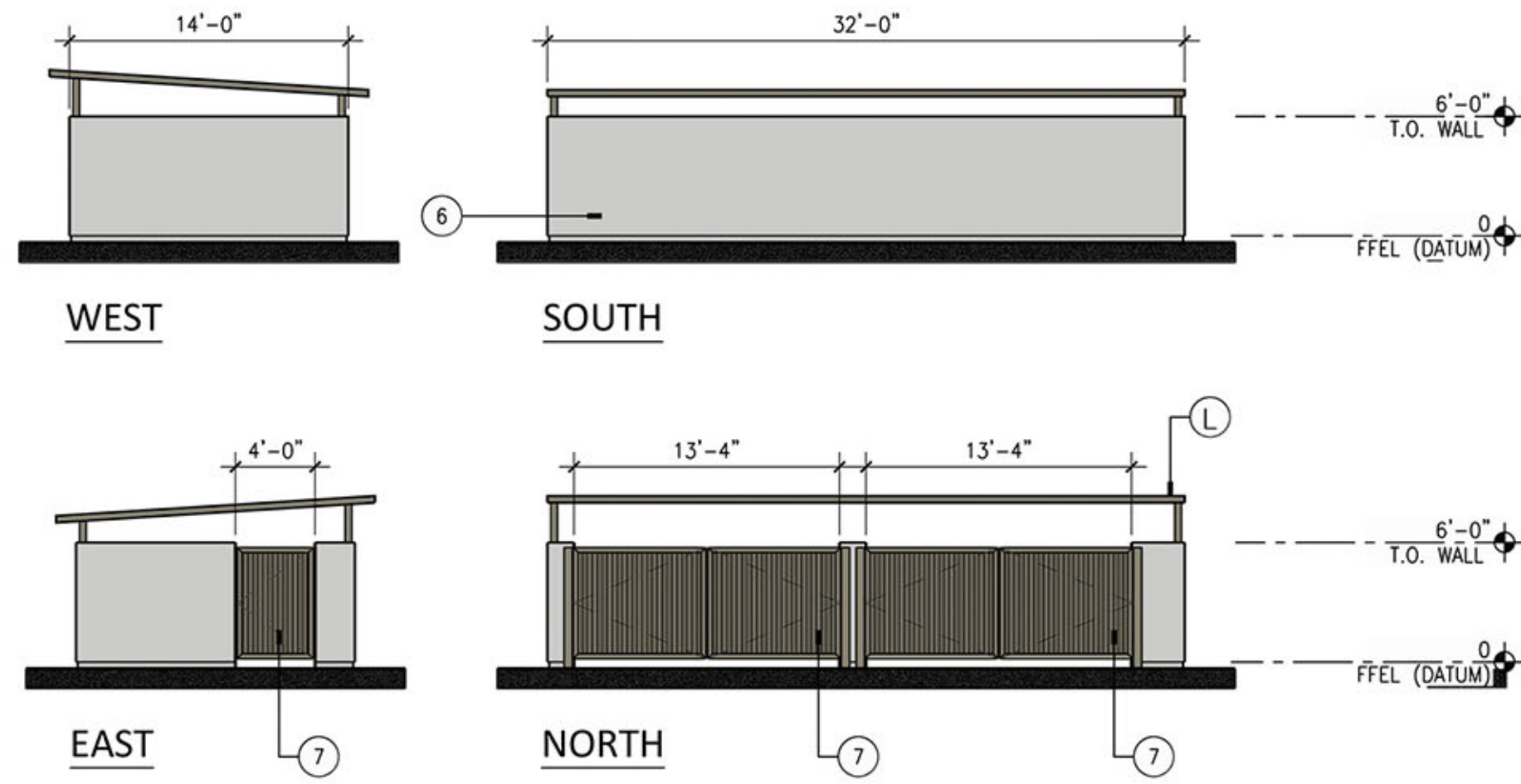
A300
EXTERIOR
ELEVATIONS

PLANNING REVIEW



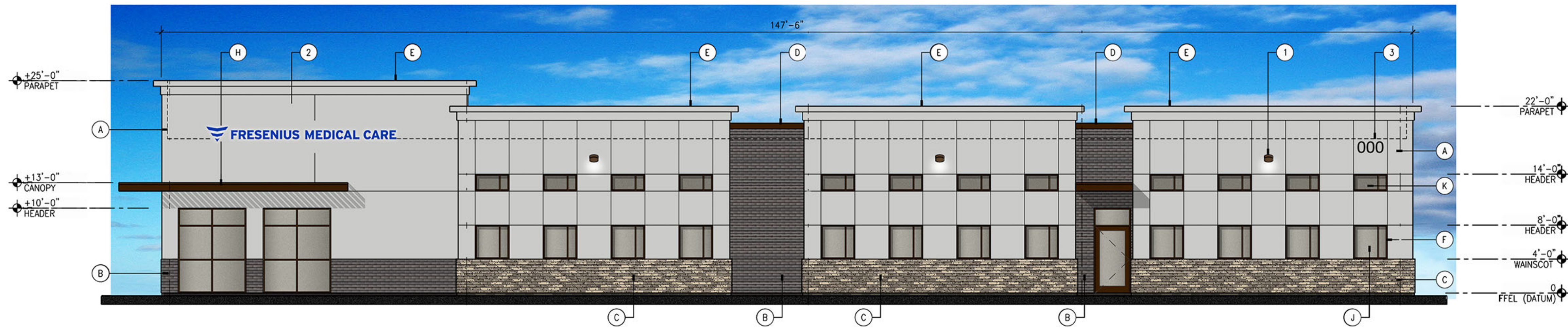
4 EAST BUILDING ELEVATION

SCALE: 1/8"=1'-0"



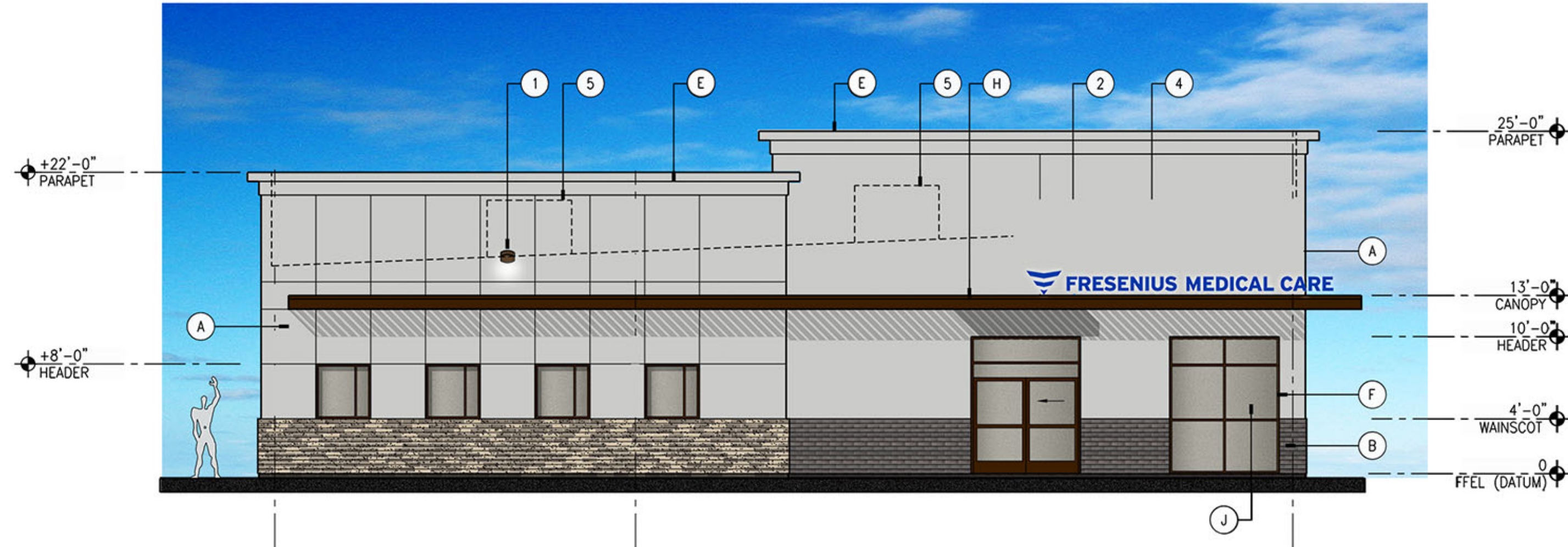
5 TRASH ENCLOSURE ELEVATIONS

SCALE: 1/8"=1'-0"



3 SOUTH BUILDING ELEVATION

SCALE: 1/8"=1'-0"



2 WEST BUILDING ELEVATION

SCALE: 1/8"=1'-0"



1 NORTH BUILDING ELEVATION

SCALE: 1/8"=1'-0"

KEYED NOTES:

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7. STEEL ANGLE FRAMED GATE WITH VERTICAL METAL DECK INFILL PAINTED TO MATCH HM DOORS AND FRAMES 'L'.

PAGONE + ASSOCIATES
ARCHITECTURE

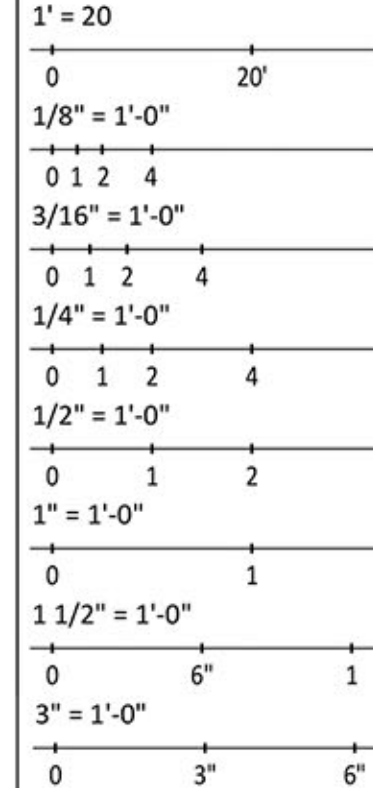
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COLOR AND MATERIAL PALETTE:

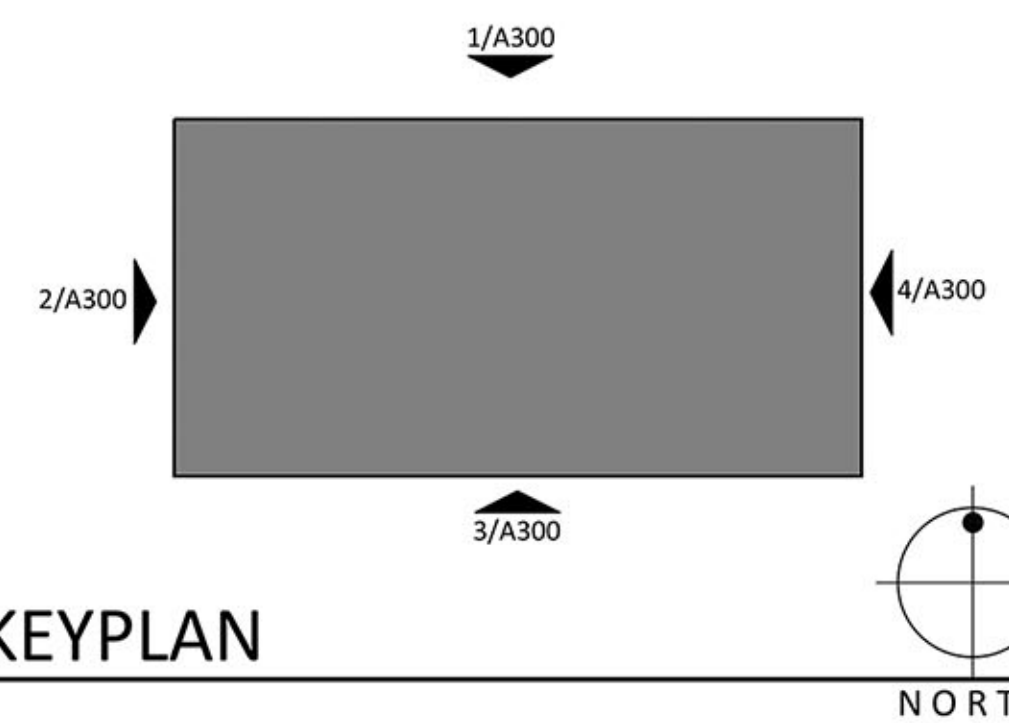
- A. EIFS FIELD:
MANUFACTURER: STO THERM CI
STYLE: FINE SAND FINISH
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COLOR: TO MATCH #40 DARK BRONZE
- H. STEEL FRAMED FIXED OVERHANG ELEMENT
COLOR: MATCH AWNING
- J. GLAZING
MANUFACTURER: GUARDIAN
COLOR: SN 68 ON ULTRA CLEAR
- K. SPANDREL GLAZING
MANUFACTURER: GUARDIAN
COLOR: SN 68 ON GRAY (SPANDREL)
- L. HM DOORS AND FRAMES
COLOR: SW6165 CONNECTED GRAY
- M. METAL TRELLIS WITH CLIMBING VINES
MANUFACTURER: GREENSCREEN 'WALL'

graphic scales:



DRAWN: RAP
MANAGER: MAP
REVIEWED: MAP
DATE: REVISED 7/15/21
PROJECT: 20010
REVISION:

KEYPLAN



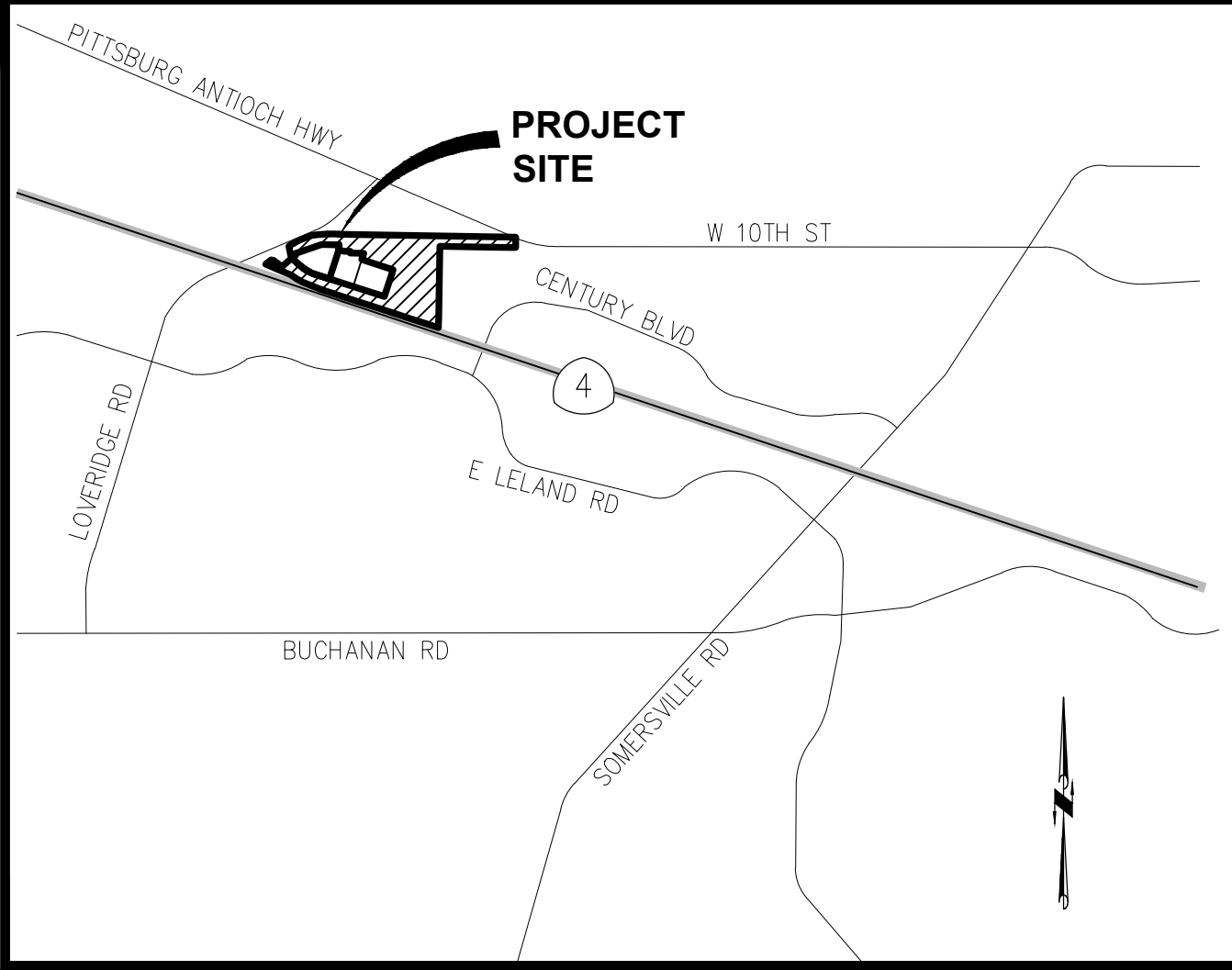
PLANNING REVIEW

A300
EXTERIOR
ELEVATIONS

FILE: \\192.168.1.31\projects\220\220005.00\Engineering\Drawings\Grading\01-C3-Grading.dwg PLOT DATE: 7/16/2021 5:38 PM BY: Mason Chin

SHELL BUILDING: PITTSBURG RC

NORTH PARK BOULEVARD, PITTSBURG



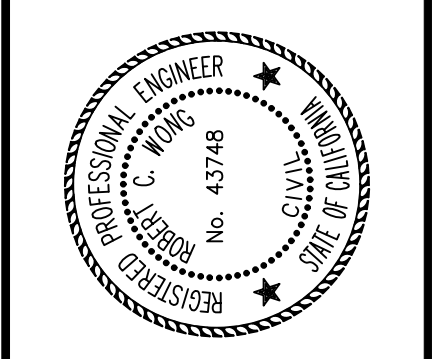
VICINITY MAP
NOT TO SCALE



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1390 S. Main St. - Ste. 310
Walnut Creek, CA 94596
Telephone: (925) 476-2300
Fax: (925) 476-2350

Civil Engineers
Traffic Engineers
Surveyors

No.	BY	DATE	REVISIONS

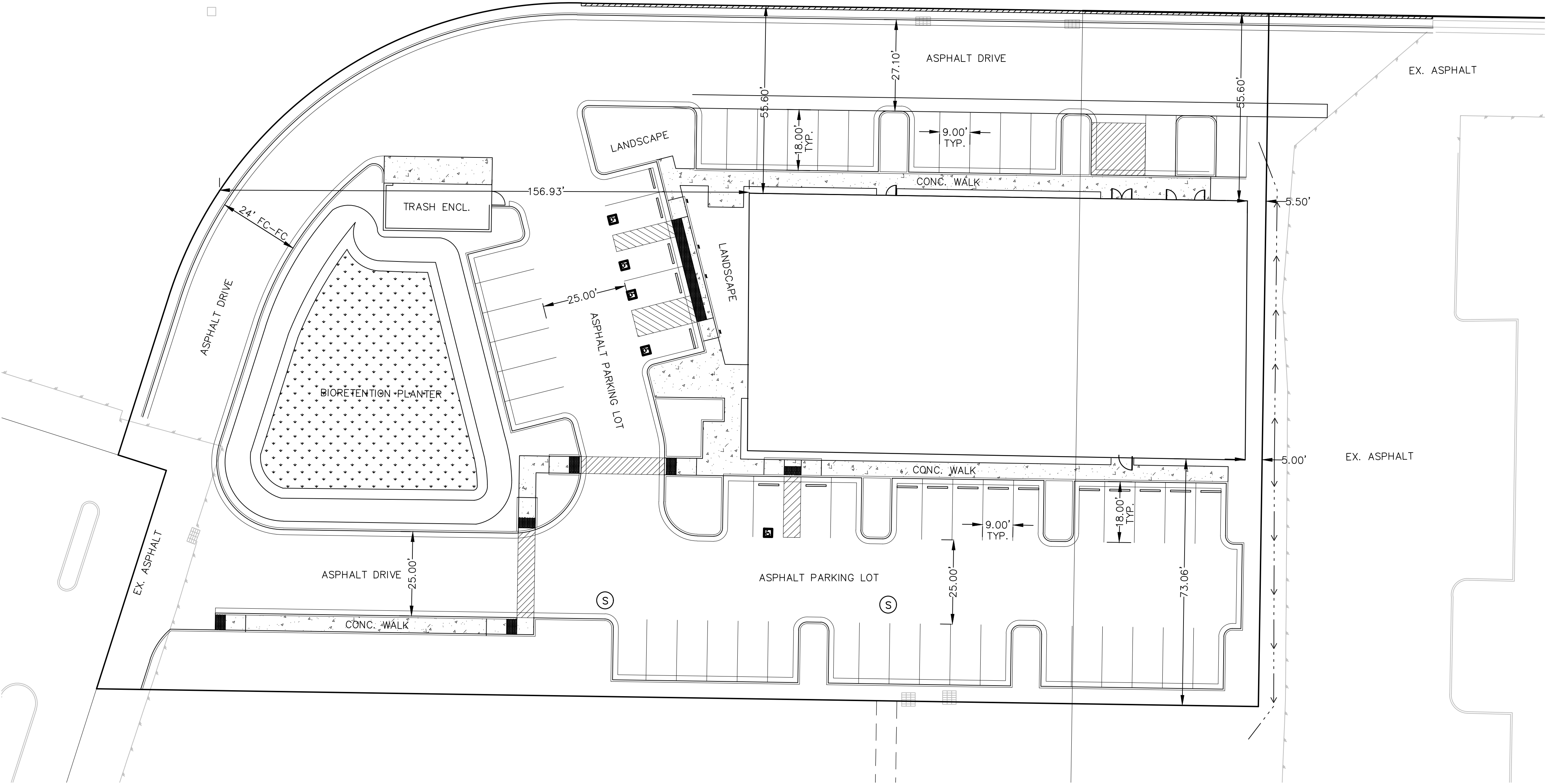


TITLE SHEET
SHELL BUILDING: PITTSBURG RC
NORTH PARK BOULEVARD

PITTSBURG CONTRA COSTA COUNTY CALIFORNIA

JOB NO: 220005
SCALE: 1"=20'
DATE: 7/16/2021
DESIGN: MC
DRAWN: MC
APPROVED: MC

DRAWING NUMBER
C1
1 OF 4

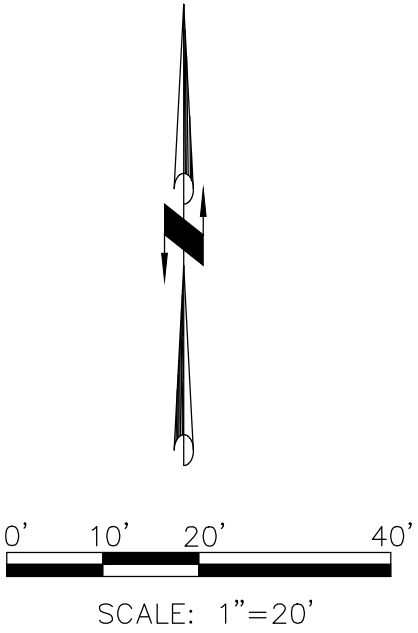


INDEX:

- C1 TITLE SHEET
- C2 GRADING PLAN
- C3 STORMWATER CONTROL PLAN
- C4 TOPOGRAPHIC SURVEY

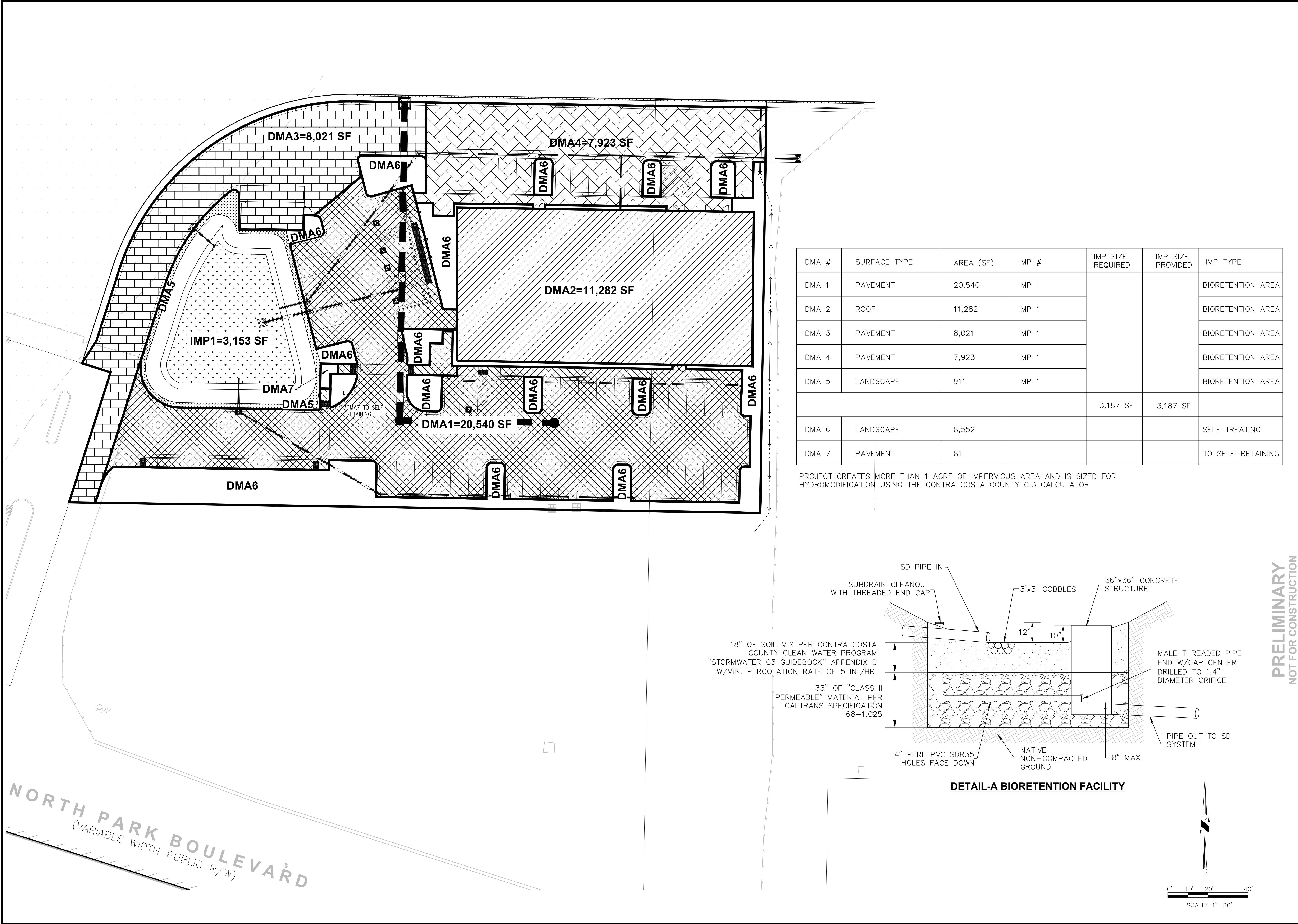
LEGEND

- PROPERTY LINE
- LOT LINE
- EASEMENT LINE
- STORM DRAIN LINE
- SS SANITARY SEWER LINE
- W WATER LINE
- JT JOINT TRENCH
- FW FIRE WATER
- CATCH BASIN
- SANITARY SEWER MANHOLE
- STORM DRAIN MANHOLE
- POWER POLE
- JOINT POLE
- WATER VALVE
- FIRE HYDRANT



PRELIMINARY
NOT FOR CONSTRUCTION

FILE: \\192.168.1.31\projects\220\220005.00\Engineering\Drawings\Grading\01-C3-Grading.dwg PLOT DATE: 7/16/2021 6:04 PM BY: Mason Chin



DMA #	SURFACE TYPE	AREA (SF)	IMP #	IMP SIZE REQUIRED	IMP SIZE PROVIDED	IMP TYPE
DMA 1	PAVEMENT	20,540	IMP 1	3,187 SF	3,187 SF	BIORETENTION AREA
DMA 2	ROOF	11,282	IMP 1			BIORETENTION AREA
DMA 3	PAVEMENT	8,021	IMP 1			BIORETENTION AREA
DMA 4	PAVEMENT	7,923	IMP 1			BIORETENTION AREA
DMA 5	LANDSCAPE	911	IMP 1			BIORETENTION AREA
DMA 6	LANDSCAPE	8,552	-			SELF TREATING
DMA 7	PAVEMENT	81	-			TO SELF-RETAINING

PROJECT CREATES MORE THAN 1 ACRE OF IMPERVIOUS AREA AND IS SIZED FOR HYDROMODIFICATION USING THE CONTRA COSTA COUNTY C.3 CALCULATOR

Aliquot Associates, Inc.
1390 S. Main St. - Ste. 310
Walnut Creek, CA 94596
Telephone: (925) 476-2300
Fax: (925) 476-2350

Civil Engineers
Traffic Engineers
Surveyors

No.	BY	DATE	REVISIONS

PROFESSIONAL ENGINEER
C. MASON
No. 43748
STATE OF CALIFORNIA

STORMWATER CONTROL PLAN
SHELL BUILDING: PITTSBURG RC
NORTH PARK BOULEVARD

CALIFORNIA
CONTRA COSTA COUNTY
PITTSBURG

JOB NO: 220005	SCALE: 1"=20'	DATE: 7/16/2021	DESIGN: MC	DRAWN: MC	APPROVED: MC
----------------	---------------	-----------------	------------	-----------	--------------

DRAWING NUMBER

C3

3 OF 4

SURVEYOR'S NOTES:

- (1.) ALL DISTANCES SHOWN HEREON ARE GROUND DISTANCES, AND ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.
- (2.) THE COMBINED BOUNDARIES AS SHOWN HEREON CONTAIN A TOTAL AREA OF 1.49± ACRES, MORE OR LESS.
- (3.) THIS ALTA/NSPS LAND TITLE SURVEY REPRESENTS A FIELD SURVEY PERFORMED BY ALIQUOT ASSOCIATES, INC. IN DECEMBER, 2020.
- (4.) THE PROPERTIES AS SHOWN HEREON ARE THE SAME AS THE PROPERTIES DESCRIBED IN THE FIDELITY NATIONAL TITLE INSURANCE COMPANY PRELIMINARY TITLE REPORTS ORDER NO.: N0025318/30040119-991-991-1MP, DATED: 10/01/2020.
- (5.) ACCORDING TO PRELIMINARY TITLE REPORT THERE ARE 18 RECORDED EASEMENTS ON THE PREMISES.
- (6.) THE AREA DESIGNATED ACCESS, UTILITY & MAINTENANCE EASEMENT IS A "PRIVATE NON-EXCLUSIVE EASEMENT DESIGNATED FOR EXCLUSIVE USE OF THE OWNERS OF RECORD PARCELS A, B, C & D OF MINOR SUBDIVISION MS 681-92".

REFERENCES:

- (1) "PARCEL MAP NO. 7704"
BOOK 69 OF PARCEL MAPS, AT PAGE 6-7
- (2) "SUBDIVISION MS 679-83"
BOOK 111 OF PARCEL MAPS, AT PAGE 16-17
- (3) RECORD OF SURVEY
BOOK 101 OF RECORD OF SURVEYS, AT PAGE 13
- (4) "MINOR SUBDIVISION MS 681-92"
BOOK 172 OF PARCEL MAPS, AT PAGE 17-23
- (5) "MINOR SUBDIVISION MS 677-97"
BOOK 172 OF PARCEL MAPS, AT PAGE 24-27
- (6) "RECORD OF SURVEY NO.3887"
BOOK 154 OF RECORD OF SURVEYS, AT PAGE 41-52
- (7) GRANT DEED
DOCUMENT No. 2017-134551

BASIS OF BEARINGS:

THE BEARING OF NORTH 71°31'12" WEST AS DETERMINED BETWEEN TWO FOUND MONUMENTS ALONG THE NORTH RIGHT-OF-WAY LINE OF STATE ROUTE No. 4, AS SHOWN UPON THAT CERTAIN RECORD OF SURVEY MAP No. 3887, FILED FOR RECORD IN BOOK 154 OF LICENSED SURVEYORS MAPS, AT PAGE 41, OFFICIAL RECORDS OF CONTRA COSTA COUNTY WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS SURVEY.

THE BEARINGS AND DISTANCES AS SHOWN HEREON ARE BASED UPON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, (NAD 83) ZONE 3.

BENCHMARK:

THE ELEVATION REFERENCE FOR THIS SURVEY IS A CONTRA COSTA COUNTY BENCHMARK, JS1885, DESCRIBED AS "BRONZE DISK STAMPED "C 563 1957" 1.3 MILES EAST ALONG THE SOUTHERN PACIFIC COMPANY RAILROAD FROM THE PITTSBURG STATION, 0.2 MILES EAST OF LOVERIDGE ROAD, AT A WOODEN BRIDGE 50.27 FEET OVER A SMALL CREEK, IN THE TOP OF THE NORTH END OF THE EAST CONCRETE ABUTMENT, 71.5 FEET SOUTH OF THE CENTERLINE OF THE ANTOCH PITTSBURG HIGHWAY.

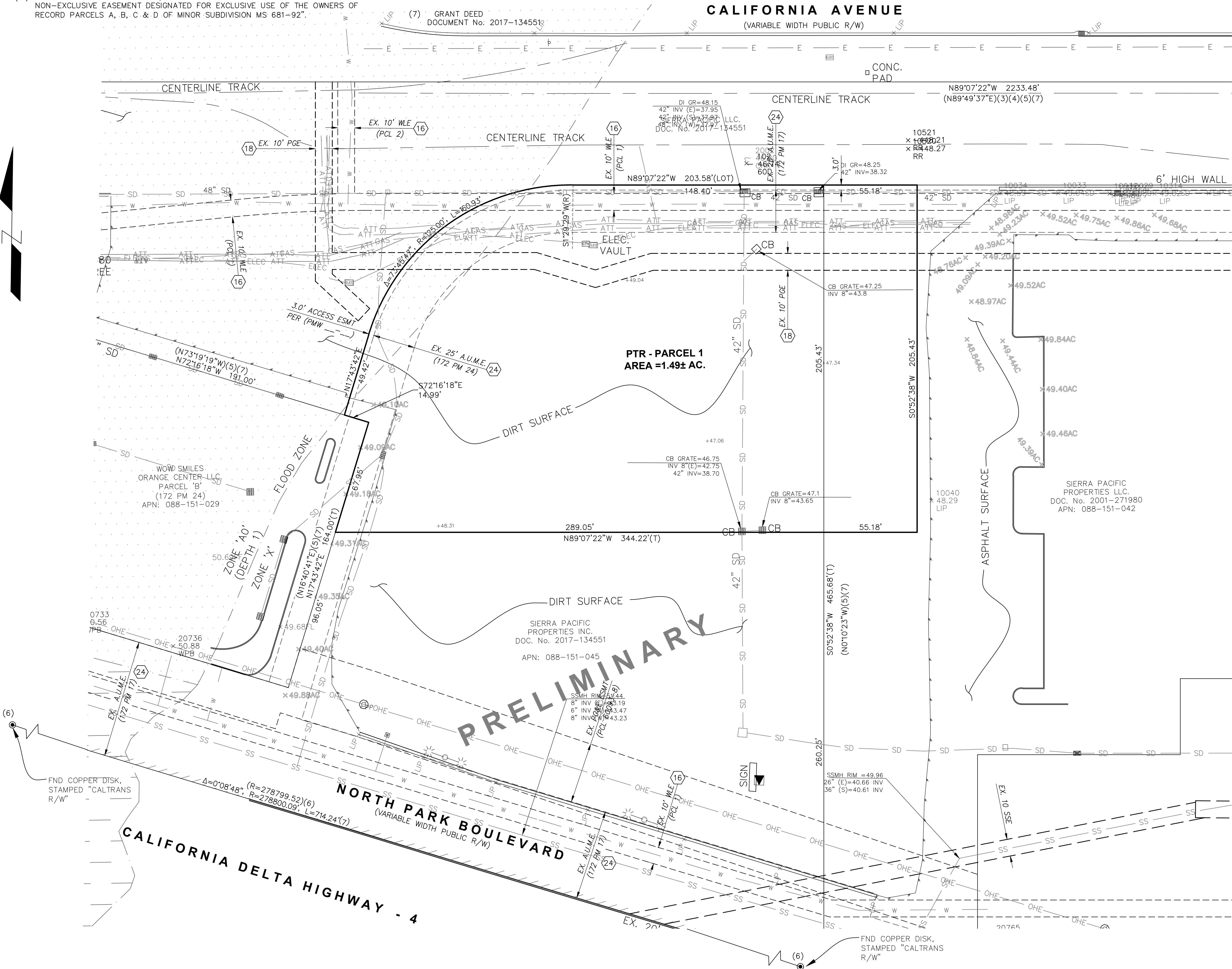
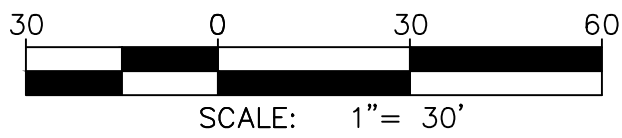
ELEV = 37.4 FEET (NAVD 88 DATUM)

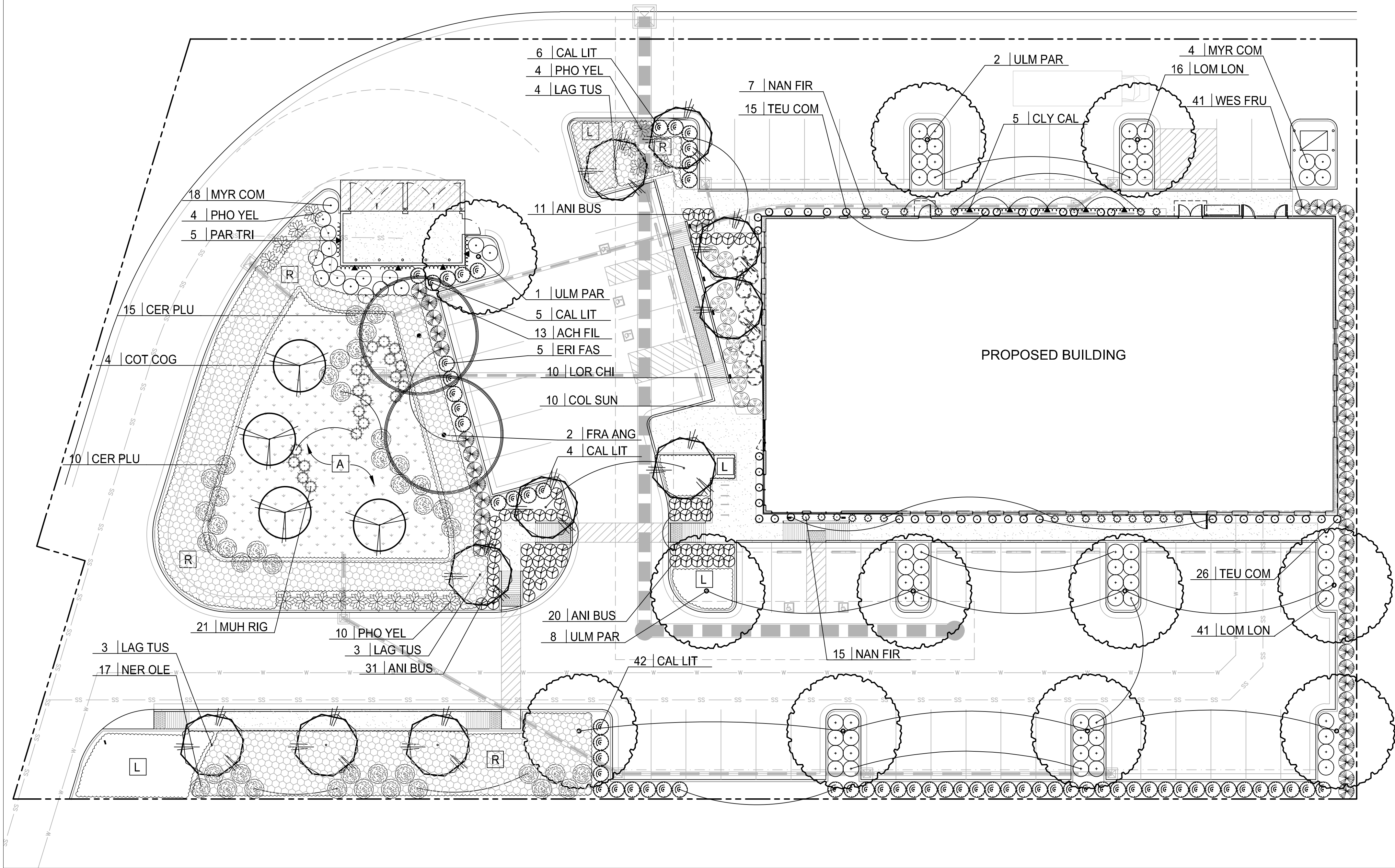
UTILITY NOTE:

THE UTILITY LINES SHOWN ON THIS DRAWING ARE DERIVED FROM SURFACE OBSERVATION AND RECORD DRAWINGS. THE LOCATIONS ARE APPROXIMATE ONLY. ACTUAL LOCATION AND SIZE, TOGETHER WITH PRESENCE OF ANY ADDITIONAL UTILITY LINES NOT SHOWN ON THIS DRAWING SHALL BE VERIFIED IN THE FIELD BY THE CONTRACTOR PRIOR TO ANY EXCAVATION.

LEGEND:

AC	ASPHALT CONCRETE
A.U.M.E	ACCESS UTILITY AND MAINTENANCE EASEMENT
APN	ASSESSORS PARCEL NUMBER
BLDG	BUILDING
BSW	BACK OF SIDEWALK
BP	BLUE PAINT (PORTABLE WATER)
C/CONC.	CONCRETE
CB	CATCH BASIN
DWY	DRIVEWAY
EX.	EXISTING
ESMT	EASEMENT
EP	EDGE OF PAVEMENT
PCL	PARCEL
PGE	PACIFIC GAS AND ELECTRIC
PM	PARCEL MAP
RRE	RAILROAD EASEMENT
RP	RED PAINT(ELECTRIC POWER LINE)
SDE	STORM DRAIN EASEMENT
SSE	SANITARY SEWER EASEMENT
TFC	TOP OF CURB
WLE	WATERLINE EASEMENT
YP	YELLOW PAINT (GAS)
CB	COMMUNICATION BOX
TRANS	TRANSFORMER
EB	ELECTRIC BOX
EMH	ELECTRIC MANHOLE
GV	GAS VALVE
WM	WATER METER
WV	WATER VALVE
FH	FIRE HYDRANT
FDC	FIRE DEPARTMENT CONNECTION
LS	LIGHT STANDARD
LPL	LIGHT PULLBOX
CD	FOUND 30mm COPPER DISK STAMPED "CALTRANS R/W"
JP	JOINT POLE
PP	POWER POLE
GW	GUY WIRE
SG	SIGN
SSMH	SANITARY SEWER MANHOLE--(SSMH)
SDMH	STORM DRAIN MANHOLE--(SDMH)
DI	STORM DRAIN INLET--(DI)
BL	BOUNDARY LINE
APL	ADJACENT PROPERTY LINES
ML	MONUMENT LINE
EL	EASEMENT LINE (AS NOTED)
EP	EDGE OF PAVEMENT
GL	EXISTING GAS LINE
EL	EXISTING ELECTRIC LINE
FO	EXISTING FIBER OPTICS LINE
WL	EXISTING WATER LINE
SD	EXISTING STORM DRAIN LINE(AS NOTED)
OHE	EXISTING OVERHEAD ELECTRIC LINE
SSL	EXISTING SANITARY SEWER LINE
BLD	EXISTING BUILDING
AP	ACCESS PROHIBITED (154 RS 41)
CS	EXISTING CONCRETE SURFACE
RW	EXISTING RETAINING WALL
EP	EXCEPTION PER PRELIMINARY TITLE REPORT
AO	ZONE 'AO' PER FLOOD MAP(06013C0138G)
AH	ZONE 'AH' PER FLOOD MAP(06013C0138G)
X	ZONE 'X' PER FLOOD MAP(06013C0138G)





PLANT MATERIALS LIST				
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	WUCOLS WATER USE
TREES:				
LAG TUS	LAGERSTROEMIA 'TUSCARORA'	CRAPE MYRTLE	15 GA	LOW
*COT COG	COTINUS COGGYGIA	SMOKE TREE	15 GA	LOW
*FRA ANG	FRAXINUS ANGUSTIFOLIA	RAYWOOD ASH	15 GA	MED
ULM PAR	ULMUS PARVIFOLIA 'TRUE GREEN'	CHINESE ELM	15 GA	MED
SHRUBS:				
*ACH FIL	ACHILLEA FILIPENDULINA	FERNLEAF YARROW	5 GA	LOW
ANI BUS	ANIGOZANHOS 'BUSH BABY'	KANGAROO PAW	5 GA	LOW
CAL LIT	CALLISTEMON VIMINALIS 'LITTLE JOHN'	DWARF BOTTLEBRUSH	5 GA	LOW
*CER PLU	CERATOSTIGMA PLUMBAGINOIDES	PLUMBAGO	5 GA	LOW
COL SUN	COLEONEMA P. 'SUNSET GOLD'	PINK BREATH-OF-HEAVEN	5 GA	MED
*ERI FAS	ERIOGONUM FASCICULATUM	FLAT TOP BUCKWHEAT	5 GA	LOW
LOM LON	LOMANDRA LONGIFOLIA 'SEA BREEZE'	MAT RUSH	5 GA	LOW
LOR CHI	LOROPELTATUM CHINENSIS	CHINESE FRINGE FLOWER	5 GA	MED
*MUH RIG	MUHLENBERGIA RIGENS	DEER GRASS	5 GA	LOW
MYR COM	MYRTUS COMMUNIS	TRUE MYRTLE	5 GA	LOW
NAN FIR	NANDIAN 'FIRE POWER'	HEAVENLY BAMBOO	1 GA	LOW
NER OLE	NERIUM OLEANDER 'PETITE SALMON'	DWARF OLEANDER	5 GA	LOW
PHO YEL	PHORMIUM 'YELLOW WAVE'	NEW ZEALAND FLAX	5 GA	LOW
TEU COM	TEUCRIUM FRUTICANS 'COMPACTUM'	DWARF GERMANDER	5 GA	LOW
WES FUR	WESTRINGIA FRUTICOSA	COAST ROSEMARY	5 GA	LOW

VINES:				
CLY CAL	CLYTOSTOMA CALLESTEGIOIDES	LAVENDER TRUMPET VINE	15 GA	MED
PAR TRI	PARTHENOCISSUS TRICUSPIDATA	BOSTON IVY	5 GA	LOW

GROUND COVERS:				
A	*ARCTOSTAPHYLOS HOOKERI	MONTEREY MANZANITA	1 GA@ 36" O.C.	LOW
L	LANTANA MONTEVIDENSIS	LANTANA	1 GA@ 30" O.C.	LOW
R	*ROSMARINUS PROSTRATUS	ROSEMARY	1 GA@ 36" O.C.	LOW

(*) INDICATES CONTRA COSTA COUNTY APPROVED BIORETENTION PLANTING

WATER EFFICIENT LANDSCAPE WORKSHEET

REFERENCE EVAPOTRANSPIRATION (ET_o): 45.4

HYDROZONE / PLANTING DESCRIPTION	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY (IE)	ETAF (PF / IE)	LANDSCAPE AREA (sq. ft.)	ETAF x AREA	ESTIMATED TOTAL WATER USE (ETWU)
REGULAR LANDSCAPE AREAS:							
LOW WATER USE	0.3	DRIP	0.81	0.3703703	13380	4955.554614	139489.0
LOW WATER USE	0.3	BUBBLER	0.81	0.3703703	1030	381.481409	10737.9
MEDIUM WATER USE	0.5	BUBBLER	0.81	0.6172839	864	533.3332896	15012.3
TOTALS:					15274	5870	
SPECIAL LANDSCAPE AREAS:							
REC. AREA				0	0	0	0
WATER FEATURE 1				0	0	0	0
WATER FEATURE 2				0	0	0	0
TOTALS:					0	0	
ETWU TOTAL:							165,239
MAXIMUM ALLOWED WATER ALLOWANCE (MAWA):							193,470

ETAF CALCULATIONS:

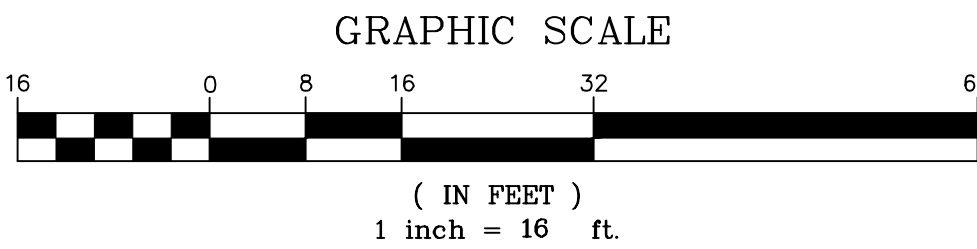
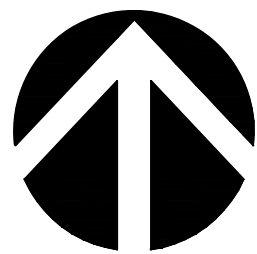
REGULAR LANDSCAPE AREAS:	
TOTAL ETAF x AREA	5,870
TOTAL LANDSCAPE AREA	15,274
AVERAGE ETAF	0.38

ALL LANDSCAPE AREAS:	
TOTAL ETAF x AREA	5,870
TOTAL LANDSCAPE AREA	15,274
SITEWIDE ETAF	0.38

NOTE: AVERAGE ETAF FOR REGULAR LANDSCAPE AREAS MUST BE 0.55 OR BELOW FOR RESIDENTIAL AREAS, AND 0.45 OR BELOW FOR NON-RESIDENTIAL AREAS.

GENERAL NOTES:

- ALL PLANTING SHALL BE WATERED BY FULLY AUTOMATIC, WATER-CONSERVING IRRIGATION SYSTEM.
- ALL PLANTING AREAS SHALL RECEIVE A 3" LAYER OF FIRBARK MULCH DRESSING.



REFER TO SHEET L2 FOR PLANT IMAGES

REVISIONS

RW Stover & Associates, Inc.

Landscape Architecture

1600 Walnut Creek, CA 94596

Ph: 925.933.2383

LANDSCAPE ARCHITECT

2017

Signature

2017

PITTSBURG RC
NORTH PARK BLVD
PITTSBURG, CALIFORNIA

PRELIMINARY
PLAN

DESIGNED: RS

DRAWN: KD

CHECKED:

JOB NO:

DATE
7-19-21

SCALE
NOTED

SHEET
L1
OF SHEETS

TREES:

PLANT IMAGES



LAGERSTROEMIA 'TUSCARORA'
(CRAPE MYRTLE)



COTINUS COGGYGIA
(SMOKE TREE)

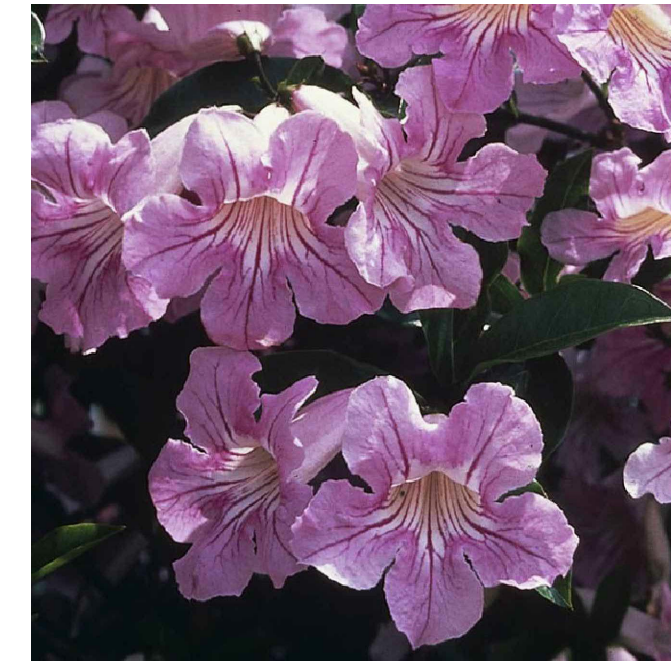


FRAXINUS ANGUSTFOLIA
(RAYWOOD ASH)



ULMUS PARVIFOLIA 'TRUE GREEN'
(CHINESE ELM)

VINES:



CLYTOSTOMA CALLESTEGIOIDES
(LAVENDER TRUMPET VINE)



PARTHENOCISSUS TRICUSPIDATA
(BOSTON IVY)

SHRUBS:



ACHILLEA FILIPENDULINA
(FERNLEAF YARROW)



ANIGOZANHOS 'BUSH BABY'
(KANGAROO PAW)



CALLISTEMON VIMINALIS 'LITTLE JOHN'
(DWARF BOTTLEBRUSH)



CERATOSTIGMA PLUMBAGINOIDES
(PLUMBAGO)



COLEONEMA P. 'SUNSET GOLD'
(PINK BREATH-OF-HEAVEN)



ERIOGONUM FASCICULATUM
(FLAT TOP BUCKWHEAT)



LOMANDRA LONGIFOLIA 'SEA BREEZE'
(MAT RUSH)



LOROPELTATUM CHINENSIS
(CHINESE FRINGE FLOWER)



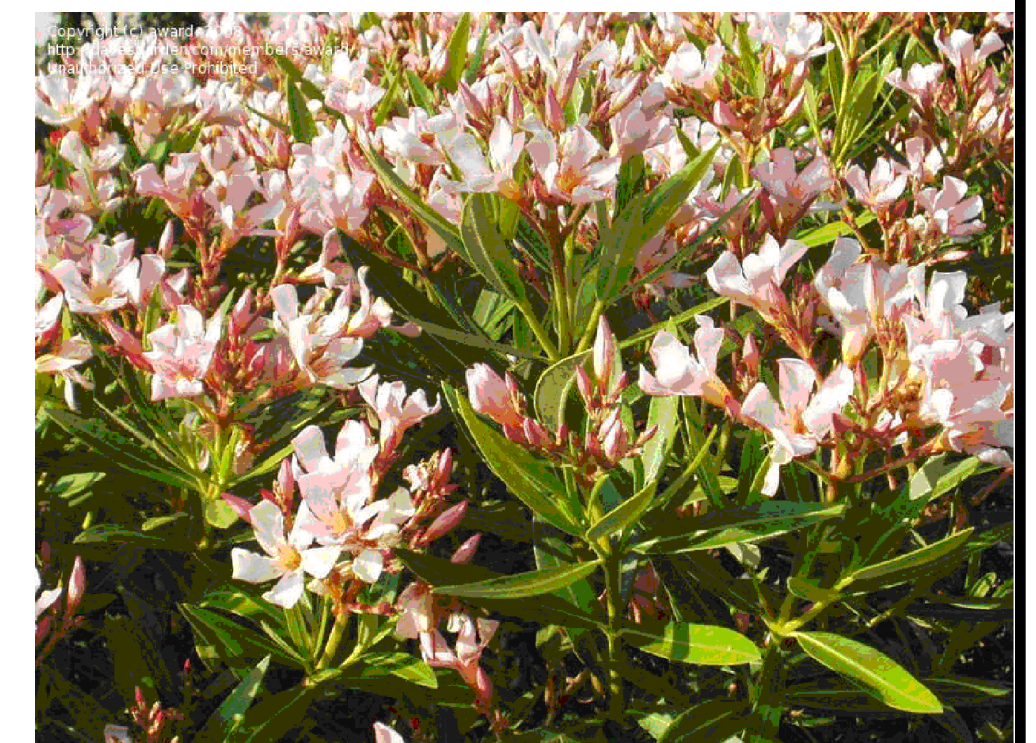
MUHLENBERGIA RIGENS
(DEER GRASS)



MYRTUS COMMUNIS
(TRUE MYRTLE)



NANDIAN 'FIRE POWER'
(HEAVENLY BAMBOO)



NERIUM OLEANDER 'PETITE SALMON'
(DWARF OLEANDER)



PHORMIUM 'YELLOW WAVE'
(NEW ZEALAND FLAX)



TEUCRIUM FRUTICANS 'COMPACTUM'
(DWARF GERMANDER)

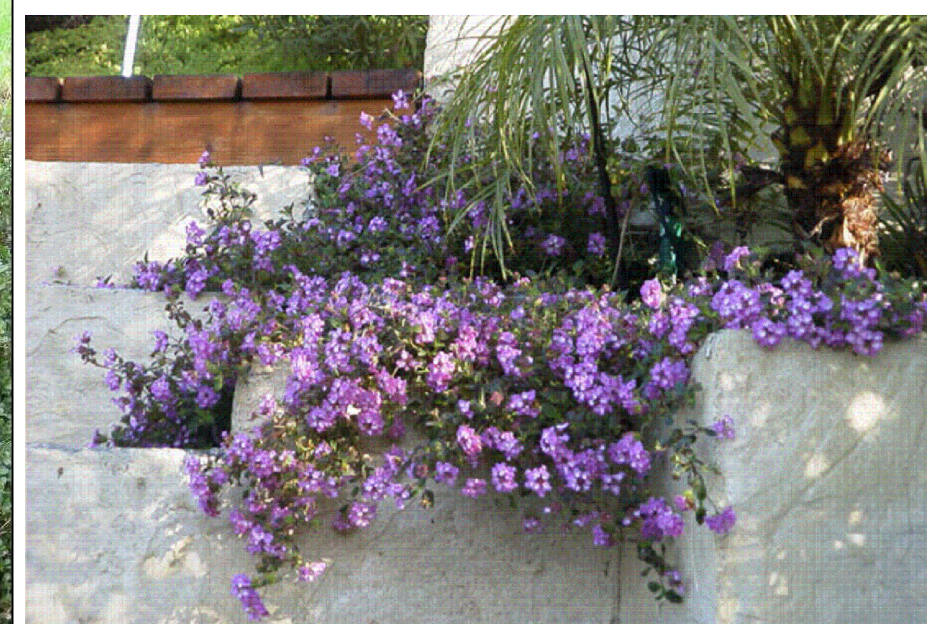


WESTRINGIA FRUTICOSA
(COAST ROSEMARY)

GROUNDCOVERS:



ARCTOSTAPHYLOS HOOKERI
(MONTEREY MANZANITA)



LANтана MONTEVIDENSIS
(TRAILING LANTANA)



ROSMARINUS PROSTRATUS
(ROSEMARY)

REVISIONS

RW Stover & Associates, Inc.
Landscape Architecture
14000 S. Bascom Avenue, Suite 4
Walnut Creek, CA 94596
PH: 925.933.2383

PITTSBURG RC
NORTH PARK BLVD
PITTSBURG, CALIFORNIA

PLANT IMAGES

DESIGNED: RS	DRAWN: KD
CHECKED:	JOB NO:
DATE 7-19-21	
SCALE NOTED	

SHEET
L2
OF SHEETS

Attachment 3
Site Photos

Pittsburg Renal Center, AP-21-1552 (DR)











Attachment 4
Map of Surrounding Land Uses
Pittsburg Renal Center, AP-21-1552 (DR)



Attachment 5
Property Development Regulations Table
Pittsburg Renal Center, AP-21-1552 (DR)

Development Regulations: <i>CC (Community Commercial) District</i>	Required:	Proposed:
Minimum lot area (SF):	5,000 SF	64,869 SF
Minimum lot width (ft):	50 ft	289.05 ft
Minimum Yards:	-	-
Front:	15 ft	73.06 ft.
Side:	-	5 ft.
Rear:	-	55.6 ft.
Maximum height of structures (ft):	60 ft	25 ft
Maximum lot coverage:	50%	17.3%
Maximum FAR:	0.5	0.173
Minimum site landscaping:	10%	23.5%
Parking Required for Medical Services Office:	45 spaces (1 per 250 sq. ft. of gross floor area)	56 spaces

Attachment 6
Development Review Design Guidelines
Pittsburg Renal Center, AP-21-1552 (DR)

Design Review Guideline	Meets Guideline?
IV.a: Parking areas should be screened from view from any public right-of-way (beaming or hedge-type plant material). Parking areas should be broken up (landscape islands, projections, etc.) to eliminate vast areas of parking especially along street frontages.	Yes. The on-site parking is proposed to be surrounded with landscaping along the front and side property lines.
IV.b: Provisions should be made for permanent shopping cart corrals in retail shopping centers.	Not applicable. This guideline is intended to apply to retail shopping centers.
IV.c: Existing trees on site should be incorporated into the project site design, unless waived by the City Planner or Planning Commission.	Not applicable. There are no existing trees on site; additional trees will be planted.
IV.d: Developer should elect, at least, one of the schemes provided in Appendix #1 for screening all utility box transformers, backflow preventers, meters and junction boxes.	Conditionally. A condition of approval states, All air conditioning units, utility boxes, transformers, backflow preventers, meters, and junction boxes shall be substantially screened from public view using a block or retaining wall screen, wood/architectural screen, or dense landscaping screen. Final utility screening methods shall be included on the construction drawings and shall be subject to review and approval by the Planning Division prior to issuance of a building permit.
IV.e: Projects with many buildings (greater than three) should have a variety of building sizes and masses.	Not applicable. There is only one structure proposed on site, in addition to the trash enclosure.

IV.f: Continuous horizontal roof lines should be broken up whenever possible. An expanse should not exceed 50 (fifty) feet in length unless architecture or size dictate a greater expanse.	Conditionally. The proposed structure provides breaks in the roofline along the southern and western building elevations. A condition of approval states, the building design shall be modified to break up any continuous horizontal roof line exceeding 50 feet in length, The modifications shall be incorporated into the construction drawings for the project and shall be reviewed and approved by the Planning Division prior to the issuance of a building permit.
IV.g: Building entries should be designed as a focal point. They should be designed to set the theme or be the primary feature of the building or commercial center.	Yes. The building doors will be painted an accent color to the building and will provide metal awnings above to create a focal point.
IV.h: Building elevations (example: rear of shopping centers) visible from public right-of-ways should be addressed in design review and treated appropriately.	Yes. The brick veneer accent will be continued around the entire building. There will be climbing vines and lattice along the north building elevation.
IV.i: A free-standing structure within an existing commercial or industrial center should be architecturally compatible with the center, including but not limited to materials, colors and architectural elements.	Yes. The proposed structure's materials and colors (earth tones) are in keeping with the character of the area.
IV.j: All roof mounted equipment should be screened completely from view from all public right-of-ways. A site-line study may be necessary to determine appropriate screening method.	Not applicable. None on site.
IV.k: All Structures, including, but not limited to, "tilt-up" type structures, should have structural reliefs and articulated entries (Encourage the creation of shadow lines).	Yes. The building has articulated entries through trim surrounding the doors and windows and canopies over entrances.
IV.l: Exterior fire escapes, stairs and other appurtenances should be designed or treated as integral parts of the building façade.	Conditionally. A condition of approval states, all gutters and downspouts shall be placed behind exterior walls. Final gutter and/or downspout placement shall be identified on the construction drawings and shall be subject

IV.m: Downspouts should be designed into the façade of the building unless architecturally treated.	to review and approval by the Planning Division prior to issuance of a building permit.
IV.n: Add murals, lattice or some other spaceframe type treatment to blank walls visible from public view.	Yes. Lattice and climbing vines are provided along the northern building elevation.
IV.o: Prototype or “theme” architecture is discouraged.	Not applicable. No themed architecture is proposed.
IV.p: New or remodeled buildings should be designed to be compatible in design, color and materials with adjacent development.	Yes. The proposed structure’s features are in keeping with the character of the area, in design, color, and materials.
IV.q: The street-oriented elevations shall be designed so as not to present the appearance of a rear elevation (i.e., no loading doors or large blank walls, absence of architectural features found on other elevations, and limited landscaping as typically found on interior property lines).	Yes. The brick veneer on the structure will be continued around the entire building and lattice and climbing vines will be provided on the northern building elevation.
IV.r: Trash enclosures should include area for collection of recyclables (example: space for two 90-gallon containers minimum, See Appendix #2 Trash Enclosure Design Standards).	Yes. The proposed project includes the construction of a trash enclosure on site, consistent with the City of Pittsburgh Trash Enclosure Design Standards.
Green Building Design Guideline	Meets Guideline?
VI.D.1: Roofs should be designed to integrate renewable energy generation systems and provide a cool urban environment.	Conditionally. A proposed condition of approval requires the applicant to paint the entire roofing surface behind the building parapets to be painted white to create a ‘cool roof’ and to pre-wire the building roof for solar panels. Further, the building height will not cause obstructions in solar access for neighboring buildings.
VI.D.2: Parking lot impacts should be minimized.	Yes. The proposed project would include the planting of new trees within the landscaped area that would partially shade the parking area.

VI.D.3: Hardscapes should be constructed with permeable surfaces (e.g. pervious concrete, porous asphalt, unit pavers, and granular materials). Permeable paving consisting of porous above-ground materials, a 6- inch porous sub-base, and a base layer that is designed to ensure proper drainage away from the building and neighboring properties. Alternatively, impermeable surfaces may be used if they direct all runoff toward an appropriate permanent infiltration feature (e.g. vegetated swale, on-site rain garden, or rainwater cistern).	Conditionally. A proposed condition of approval requires the applicant to comply with all C3 regulations.
VI.D.4: Design choices should incorporate or prepare for electric vehicle charging or used vegetable oil fueling infrastructure.	Yes. The applicant will be providing four (4) electric vehicle charging stations in the parking lot.
VI.D.5: Fuel cell technology should be considered for application where (1) space or cost prohibits non-emitting on-site generation (such as solar, wind or geothermal), AND either (2) the heat resulting from fuel combustion is utilized for water or space heating, and/or (3) the fuel cells would be used primarily during peak utility hours.	Conditionally. A proposed condition of approval requires the building roof be pre-wired to create a solar ready surface.
VI.D.6: Reclaimed (purple pipeline) water should be used for as much non-potable water uses as feasible and practical. Landscaping water fixtures using reclaimed water should be purple, and purple and white signage should clearly mark areas that are irrigated with reclaimed water.	Conditionally. A proposed condition of approval requires the applicant use reclaimed water as much as is feasible and practical.
VI.D.7: Large commercial and institutional facilities that are anticipated to employ more than 50 employees, should consider providing on-site shops and services for those employees.	Not applicable. Less than 50 employees are expected.

VI.D.8: Street side building faces should encourage walking.	Yes. The proposed project includes sidewalk around building.
VI.D.9: Secure bicycle parking facilities should be provided for at least 10% of expected peak hour trips. Bicycle parking structures should complementary to the surrounding structures and may be partially obscured by vegetation or painted with a mural design that is consistent with surrounding aesthetics. Shade trees should be planted if the parking facility is located in an area not shaded by surrounding structures. They should be located in an accessible and visible space to discourage misuse.	Conditionally. The applicant is providing secure bicycle parking for 8 bicycles on site.

Attachment 7
Applicable General Plan Goals and Policies
Pittsburg Renal Center, AP-21-1552 (DR)

General Plan Goal/Policy	Analysis
Land Use Element:	
2-G-1: Maintain a compact urban form within the City's projected municipal boundary. Ensure that hillside lands not environmentally suitable for development are maintained as open space.	Consistent. The proposed project would occur within city limits on a project site of less than 5 acres and is not located in an Open Space District.
2-G-6: Maintain programs and provide incentives for use of vacant infill land and reuse and revitalization of underutilized sites.	Consistent. The proposed project would occur on a vacant underutilized site.
2-P-7: During development review, consider project compatibility with existing surrounding land uses. Ensure that sensitive uses—such as residences, schools, and parks—are not subject to hazardous or unhealthy conditions.	Consistent. The project site is in the 'Loveridge Subarea' of the General Plan and has a land use designation of 'Regional Commercial'. Surrounding uses include commercial uses. The proposed project would be compatible with the surrounding uses in that the medical services office use is permitted in this district and is compatible with the surrounding uses.
Growth Management:	
3-G-1: Manage the City's growth to balance development of housing options and job opportunities, protection of open space and habitat areas, construction of transportation improvements, and preservation of high quality public facilities.	Consistent. The proposed project would not be located in an open space zoning designation and the use is a permitted use in the community commercial zoning district in which it is located. Further, the proposed project would provide employment opportunities.
3-G-4: Maintain programs and provide incentives for use of vacant infill land and reuse and revitalization of underutilized sites. (Land Use Goal 2-G-6)	Consistent. The proposed project would occur on a vacant underutilized site.
3-P-1: Allow urban and suburban development only in areas where public facilities and infrastructure (police, fire, parks, water, sewer, storm drainage, and community facilities) are available or can be provided.	Consistent. The project site is in an area where infrastructure can be provided.
3-P-2: Prior to project approval, ensure that the existing and planned transportation system will have adequate capacity to accommodate new urban development.	Consistent. The project site is within 1/4 mile of a bus stop for weekday routes 388 and weekend route 392.
Economic Development Element	
6-G-4: Maintain and enhance an attractive climate for conducting business in Pittsburg.	Consistent. The proposed site improvements with this project would enhance the area and provide a more attractive climate for conducting business.
Transportation Element	

7-P-30: Work with Tri-Delta and planning area residents to plan for local bus routes that more effectively serve potential riders within local neighborhoods.	Consistent. The project site is within 1/4 mile of a bus stop for weekday routes 388 and weekend route 392.
Resource Conservation Element	
9-G-10: Reduce the potential for human discomfort or illness due to local concentrations of toxic contaminants, odors and dust.	Consistent. The proposed project is a medical services office, which in itself will help reduce illness.
9-P-19: As part of the City's Zoning Ordinance, establish regulations for the preservation of mature trees. Include measures for the replacement of all mature trees removed.	Consistent. There would be no trees removed in conjunction with this project. Additional trees would be planted.
Health and Safety Element	
10-P-16: Ensure compliance with the current Uniform Building Code during development review. Explore programs that would build incentives to retrofit unreinforced masonry buildings.	Consistent. The proposed project would be conditioned to comply with all the requirements of the Community Development Department, Contra Costa County Fire Protection District, Delta Diablo Sanitation District, and all other applicable local, state and federal agencies.
Public Facilities Element	
11-G-10: Encourage buffer landscaping and multi-use of utility sites and rights-of-way to harmonize with adjoining uses.	Consistent. The proposed project contains landscaping along all property lines.
Noise Element	
12-G-3: Continue efforts to incorporate noise considerations into land use planning decisions and guide the location and design of transportation facilities to minimize the effects of noise on adjacent land uses.	No conflict. The proposed project would produce little noise to effect adjacent land uses.

Application Form and Planning Survey Report

To Comply With and Receive Permit Coverage Under The East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan

Please complete this application to apply for take authorization under the state and federal East Contra Costa County HCP/NCCP incidental take permits. The East Contra Costa County Habitat Conservancy ("Conservancy") or local jurisdiction (City of Brentwood, City of Clayton, City of Oakley, City of Pittsburg, and Contra Costa County) may request more information in order to deem the application complete.

I. PROJECT OVERVIEW

PROJECT INFORMATION	
PROJECT NAME: Pittsburg RC	
PROJECT TYPE: ☐ Residential ☒ Commercial ☐ Transportation ☐ Utility ☐ Other	
PROJECT DESCRIPTION (BRIEF): Construct building for future dialysis clinic, including building, sidewalks, parking, access.	
PROJECT ADDRESS/LOCATION: 1600 North Park Boulevard, Pittsburg, CA 94565	
PARCEL/PROJECT SIZE (ACRES): 2.28 AC	
PROJECT APN(S): New parcel to be recorded from existing APNs 088-151-045 and 089-151-042	
APPLICATION SUBMITTAL DATE: 4/15/2021	FINAL PSR DATE: (City/County/Conservancy use)
LEAD PLANNER: JURISDICTION: ☐ City of Brentwood ☐ City of Clayton ☐ City of Oakley ☒ City of Pittsburg ☐ Contra Costa County ☐ Participating Special Entity* *Participating Special Entities are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, irrigation districts, transportation agencies, local park districts, geological hazard abatement districts, or other utilities or special districts that own land or provide public services.	
DEVELOPMENT FEE ZONE: ☐ Zone I ☐ Zone II ☒ Zone III ☐ Zone IV See figure 9-1 of the HCP/NCCP at www.cocohcp.org for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction.	

PROJECT APPLICANT INFORMATION	
APPLICANT'S NAME: Mark Pagone	
AUTHORIZED AGENT'S NAME AND TITLE: Judy Bendix, project biologist	
PHONE NO.: 480-814-8100	APPLICANT'S E-MAIL: map@pagoneassoc.com
MAILING ADDRESS: 13627 S. 32nd Place, Phoenix, AZ 85044	

BIOLOGIST INFORMATION ¹	
BIOLOGICAL/ENVIRONMENTAL FIRM: Mosaic Associates	
CONTACT NAME AND TITLE: Judy Bendix, President	
PHONE NO.: 510-708-1542	CONTACT'S E-MAIL: jbendix@mosaicassociates.net
MAILING ADDRESS: 1690 San Pablo Avenue, Suite D, Pinole, CA 94564	

¹ A USFWS/CDFW-approved biologist (project-specific) is required to conduct the surveys. Please submit biologist(s) approval request to the Conservancy.

II. PROJECT DETAILS

Please complete and/or provide the following attachments:

1) Project Description

Attach as **Attachment A: Project Description**. Provide a detailed written description that concisely and completely describes the project and location. Include the following information:

- All activities proposed for the site or project, including roads utilized, construction staging areas, and the installation of underground facilities, to ensure the entire project is covered by the HCP/NCCP permit
- Proposed construction dates, including details on construction phases, if applicable
- Reference a City/County application number for the project, if applicable
- General Best Management Practices, if applicable
- If the project will have temporary impacts, please provide a restoration plan describing how the site will be restored to pre-project conditions, including revegetation seed mixes or plantings and timing

2) Project Vicinity Map

Provide a project vicinity map. Attach as **Figure 1 in Attachment B: Figures**.

3) Project Site Plans

Provide any project site plans for the project. Attach as **Figure 2 in Attachment B: Figures**.

4) CEQA Document

Indicate the status of CEQA documents prepared for the project. Provide additional comments below table if necessary.

Type of Document	Status	Date Completed
☐ Initial Study		
☐ Notice of Preparation		
☐ Draft EIR		
☐ Final EIR		
☐ Notice of Categorical Exemption		
☐ Notice of Statutory Exemption		
☐ Other (describe)		

City of Pittsburg Assistant Planner John Dacey indicated that because the developed area is less than 5 acres, the project may qualify for a Class 32 infill development categorical exemption (personal communication email from John Dacey to Judy Bendix, 12/16/2020). The City of Pittsburg Planning Department will make a final determination on CEQA requirements following receipt of the Planning Survey Report (PSR) and Planning Application.

III. EXISTING CONDITIONS AND IMPACTS

Please complete and/or provide the following attachments:

1) Field-Verified Land Cover Map²

Attach a field-verified land cover map in **Attachment B: Figures** and label as **Figure 3**. The map should contain all land cover types present on-site overlaid on aerial/satellite imagery. Map colors for the land cover types should conform to the HCP/NCCP (see *Figure 3-3: Landcover in the Inventory Area* for land cover type legend).

2) Photographs of the Project Site

Attach representative photos of the project site in **Attachment B: Figures** and label as **Figure 4**. Please provide captions for each photo.

² For PSEs and city or county public works projects, please also identify permanent and temporary impact areas by overlaying crosshatching (permanent impacts) and hatching (temporary impacts) on the land cover map.

3) Land Cover Types and Impacts and Supplemental Tables

- For all terrestrial land cover types please provide calculations to the nearest **hundredth of an acre (0.01)**. For aquatic land cover types please provide calculations to the nearest **thousandth of an acre (0.001)**.
- Permanent Impacts** are broadly defined in the ECCC HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development mitigation fee will apply (if proposed, would require Conservancy approval).
- Temporary Impacts** are broadly defined in the ECCC HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).
- If **wetland (riparian woodland/scrub, wetland, or aquatic)** land cover types are present on the parcel but will not be impacted please discuss in the following section 4) Jurisdictional Wetlands and Waters. Wetland impact fees will only be charged if wetland features are impacted. However, development fees will apply to the entire parcel.
- Stream** land cover type is considered a linear feature where impacts are calculated based on length impacted. The acreage within a stream, below Top of Bank (TOB), must be assigned to the adjacent land cover type(s). Insert area of impact to stream below TOB in parentheses after the Land Cover acreage number (e.g., Riparian Woodland/Scrub: 10 (0.036) – where 10 is the total impacted acreage including 0.036 acre, which is the acreage within stream TOB). Complete following supplemental **Stream Feature Detail** table to provide information for linear feet.
- Total Impacts** acreage should be the total parcel acreage (development project) or project footprint acreage (rural infrastructure or utility project).

Table 1: Land Cover Types and Impacts

*Proposed for HCP/NCCP
Dedication on the Parcel
(Requires Conservancy Approval)*

Land Cover Type	Permanent Impacts	Temporary Impacts	Stream Setback	Preserve System Dedication
Grassland				
Annual Grassland				
Alkali Grassland				
Ruderal	1.46	0.63		
Shrubland				
Chaparral and Scrub				
Woodland				
Oak Savannah				
Oak Woodland				
Riparian				
Riparian Woodland/Scrub				
Wetland				
Permanent Wetland				
Seasonal Wetland				
Alkali Wetland				
Aquatic				
Aquatic (Reservoir/Open Water)				
Slough/Channel				
Pond				
Stream (in linear feet)	-	-	-	-
Irrigated Agriculture				
Pasture				
Cropland				
Orchard				
Vineyard				
Other				
Nonnative woodland				
Wind turbines				
Developed (not counted toward Fees)				
Urban	0.03	0.16		
Aqueduct				
Turf				
Landfill				
TOTAL IMPACTS	1.49	0.79		

Identify any uncommon vegetation and uncommon landscape features³:

Supplemental to Table 1: Uncommon Vegetation and Landscape Features

	Permanent Impacts	Temporary Impacts
<i>Uncommon Grassland Alliances</i>		
Purple Needlegrass Grassland		
Blue Wildrye Grassland		
Creeping Ryegrass Grassland		
Wildflower Fields		
Squirreltail Grassland		
One-sided Bluegrass Grassland		
Serpentine Bunchgrass Grassland		
Saltgrass Grassland		
Alkali Sacaton Bunchgrass Grassland		
☐ Other		
<i>Uncommon Landscape Features</i>		
Rock Outcrops		
Caves		
Springs and seeps		
Scalds		
Sand Deposits		
☐ Mines ⁴		
☐ Buildings (bat roosts) ³		
☐ Potential nest sites (trees or cliffs) ³		

Please provide details of impacts to stream features:

Stream Name: Not applicable – no stream impacts

Watershed:

Supplemental to Table 1: Stream Feature Detail⁵

Stream Width	Stream Type ⁶	Permanent Impacts (linear feet) ⁷	Temporary Impacts (linear feet) ⁷
☐ ≤ 25 feet wide ☐ > 25 feet wide	☐ Perennial ☐ Intermittent ☐ Ephemeral, 3rd or higher order ☐ Ephemeral, 1st or 2nd order		
☐ ≤ 25 feet wide ☐ > 25 feet wide	☐ Perennial ☐ Intermittent ☐ Ephemeral, 3rd or higher order ☐ Ephemeral, 1st or 2nd order		
☐ ≤ 25 feet wide ☐ > 25 feet wide	☐ Perennial ☐ Intermittent ☐ Ephemeral, 3rd or higher order ☐ Ephemeral, 1st or 2nd order		

³ These acreages are for Conservancy tracking purposes. Impacts to these uncommon vegetation and landscape features should be accounted for within the land cover types in Table 1 (e.g., x acres of purple needlegrass in this supplemental table should be accounted for within annual grassland in Table 1).

⁴ Insert amount/number, not acreage. Provide additional information on these features in Attachment A: Project Description.

⁵ Use more than 1 row as necessary to describe impacts to streams on site.

⁶ See glossary (Appendix A) for definition of stream type and order.

⁷ Stream length is measured along stream centerline, based on length of impact to any part of the stream channel, TOB to TOB.

4) Summary of Land Cover Types

Please provide a written summary of descriptions for land cover types found on site including characteristic vegetation.

Ruderal Grassland Land Cover

The site supports ruderal grassland with very little plant cover due to compaction and past site disturbance activities. The discernable plant species observed during the 1/11/2021 planning survey were redstem filaree (*Erodium cicutarium*), cheese weed (*Malva* sp.) and a few areas of emerging grasses, presumed to be non-native annual grasses. Approximately 1.46 acres of ruderal grassland will be permanently developed, with an additional 0.63 acres of ruderal grassland in the construction laydown area that will be temporarily disturbed.

Developed (Urban)

There are approximately 0.19 acres of developed/urban land covered with pavement in the development area. Roughly 0.03 acres lie within the permanent development area in the southwest corner of the project area. An additional 0.16 acres of pavement on the east side of the project area will be used for construction laydown during construction activities.

5) Jurisdictional Wetlands and Waters

If wetlands and waters are present on the project site, project proponents must conduct a delineation of jurisdictional wetlands and waters. Jurisdictional wetlands and waters are defined on pages 1-18 and 1-19 of the ECCC HCP/NCCP as the following land cover types: permanent wetland, seasonal wetland, alkali wetland, aquatic, pond, slough/channel, and stream. It should be noted that these features differ for federal and state jurisdictions. If you have identified any of these land cover types in Table 1, complete the section below.

- a) Attach the wetland delineation report as **Attachment E: Wetland Delineation**. If a wetland delineation has not been completed, please explain below in section 4c.
- b) **Please check the following permits the project may require. Please submit copies of these permits to the Conservancy prior to the start of construction:**
- | | |
|--|--|
| ☐ CWA Section 404 Permit ⁸ | ☐ CWA Section 401 Water Quality Certification |
| ☐ Waste Discharge Requirements | ☐ Lake and Streambed Alteration Agreement |
- c) **Provide any additional information on impacts to jurisdictional wetland and waters below, including status of the permit(s):**

Based on the planning survey conducted by Judy Bendix on January 11, 2021 the site does not support any potentially jurisdictional wetlands or other waters of the U.S. and state. Due to the absence of potentially jurisdictional features, a wetland delineation is not warranted and was not prepared.

⁸ The USACE Sacramento District issued a Regional General Permit 1 (RGP) related to ECCC HCP/NCCP covered activities. The RGP is designed to streamline wetland permitting in the entire ECCC HCP/NCCP Plan Area by coordinating the avoidance, minimization, and mitigation measures in the Plan with the Corps' wetland permitting requirement. Applicants seeking authorization under this RGP shall notify the Corps in accordance with RGP general condition number 18 (Notification).

6) Species-Specific Planning Survey Requirements

Based on the land cover types found on-site and identified in Table 1, check the applicable boxes in Table 2a.

Table 2a. Species –Specific Planning Survey Requirements

Land Cover Type in Project Area	Required Survey Species	Habitat Element in Project Area	Planning Survey Requirement ⁹	Info in HCP
☒ Grasslands, oak savannah, agriculture, or ruderal	☐ San Joaquin kit fox	Assumed if within modeled range of species	If within modeled range of species, identify and map potential breeding or denning habitat within the project site and a 250-ft radius around the project footprint.	pp. 6-37 to 6-38
	☒ Western burrowing owl	Assumed	Identify and map potential breeding habitat within the project site and a 500-ft radius around the project footprint. Please note the HCP requires buffers for occupied burrows. Surveys may need to encompass an area larger than the project footprint.	pp. 6-39 to 6-41
☐ Aquatic (ponds, wetlands, streams, sloughs, channels, and marshes)	☐ Giant garter snake	Aquatic habitat accessible from the San Joaquin River	Identify and map potential habitat.	pp. 6-43 to 6-45
	☐ California tiger salamander	Ponds and wetlands Vernal pools Reservoirs Small lakes	Identify and map potential breeding habitat. Document habitat quality and features. Provide the Conservancy with photo-documentation and report.	pp. 6-45
	☐ California red-legged frog	Slow-moving streams, ponds and wetlands	Identify and map potential breeding habitat. Document habitat quality and features. Provide the Conservancy with photo-documentation and report.	p. 6-46
	☐ Covered shrimp	Seasonal wetlands Vernal pools Sandstone rock outcrops Sandstone depressions	Identify and map potential habitat. Please note the HCP requires a 50 foot non-disturbance buffer from seasonal wetlands that may be occupied by covered shrimp. Surveys may need to encompass an area larger than the project footprint.	pp. 6-46 to 6-48
☒ Any	☐ Townsend's big-eared bat	Rock formations with caves Mines Abandoned buildings outside urban area	Map and document potential breeding or roosting habitat.	pp. 6-36 to 6-37
	☒ Swainson's hawk	Potential nest sites within 1,000 feet of project	Inspect large trees for presence of nest sites. Document and map.	pp. 6-41 to 6-43
	☒ Golden Eagle	Potential nest sites with ½ mile of project	Inspect large trees for presence of nest sites. Document and map.	pp. 6-38 to 6-39

Surveys for all covered species must be conducted by a qualified biologist (USFWS/CDFW project-specific approved). Please submit biologist approval request to the East Contra Costa County Habitat Conservancy.

Surveys for all covered species must be conducted according to the respective USFWS or CDFW survey protocols, as identified in Chapter 6.4.3 in the HCP/NCCP.

7) Planning Survey Species Habitat Maps

Provide Planning Survey Species Habitat Maps as required in Table 2a, attach as **Figure 5 in Attachment B: Figures**.

⁹ The planning survey requirements in this table are not comprehensive. Please refer to Chapter 6.4.3 in the ECCC HCP/NCCP for more detail.

8) Results of Species Specific Surveys

Provide a written summary describing the results of the planning surveys. Please discuss the location, quantity, and quality of suitable habitat for specified covered wildlife species on the project site.

A planning survey was conducted by Judy Bendix of Mosaic Associates on January 11, 2021 between 1:25 and 3:00 pm. The temperature was 57 degrees F, sunny with scattered high clouds and a light wind, 7 mph ENE. The site and 500-ft buffer was surveyed by foot in a series of closely spaced pedestrian transects, with frequent stops to scan the site and surroundings with the use of 10x40 binoculars. Prominent perches, including metal standpipes, a tall sign abutting North Park Boulevard, and wood framing from smaller signs were examined for perching birds.

Trees within 1,000 feet and ½ mile of the project site were visually scanned for evidence of nesting by Swainson's hawk or golden eagle, and surrounding habitats were visually surveyed in the field, and also through a desktop review of Google Earth Pro aerial imagery.

In response to comments by City of Pittsburg planning and Habitat Conservancy staff, a second planning survey was conducted by Judy Bendix on July 16, 2021 between 10 am and 12:30 pm. The temperature was 68 degrees, sunny and clear with little wind. The site and surrounding buffer (500 ft for burrowing owl, 1,000 ft for Swainson's hawk, and ½ mile for golden eagle) was surveyed consistent with methods employed during the January 11th planning survey.

The entire project site is thoroughly disturbed and strewn with litter. Tire tracks crisscross the site, which is largely devoid of vegetation. A review of historic aerial imagery on Google Earth Pro shows evidence of frequent site disturbance, with mowing/disking patterns evident. A paved roadway on the north side of the project site that crossed the RR tracks was developed in 2011, presumably to facilitate truck access for stockpiling materials. The pavement was removed in late 2012 or early 2013. There are several ground-level grated vaults set in concrete as well as electrical and cable vaults present in the northern portion of the project site. An excavated pit covered with boards was also noted. A number of earthen debris piles had been deposited around the perimeter of the dental office, immediately west of the project site between the January 11th and July 16th site visits.

Planning surveys were conducted for golden eagle, Swainson's hawk and burrowing owl:

Ruderal Grassland Land Cover

The project site supports 1.46 acres of ruderal grassland, with an additional 0.63 acres of ruderal grassland in the construction laydown area. The presence of grasslands triggers species-specific planning surveys for two species: San Joaquin kit fox and western burrowing owl. The ruderal grassland also provides foraging habitat for golden eagle. The project site lies outside of the modeled range of the San Joaquin kit fox; therefore, no further planning or preconstruction surveys are required for this species.

Burrowing Owl

Appendix D-05c of the HCP identifies the project site as Suitable Habitat for burrowing owl. Roughly 50 ground squirrel burrows were identified on and within a 500-ft buffer of the project site. The ground squirrel burrows provide potentially suitable nesting and underground cover habitat for the owl. Ruderal land cover also provides suitable foraging habitat for the burrowing owl. The suitability of habitat on site for burrowing owls is somewhat diminished by the power lines north of the site which provide suitable perching for other raptors, including those that prey upon burrowing owls. No burrowing owls or sign were observed within the project site or within the 500-foot buffer surrounding the project site during the planning surveys.

A review of the California Natural Diversity Data Base (CNDDB) on July 15, 2021 revealed that the nearest burrowing owl records are approximately 1.5 (# 1153) and 2.1 (# 1161) miles to the east and southeast of the project site. The CNDDB reported that owls in both locations had been evicted to facilitate past development.

Preconstruction surveys for burrowing owls are warranted, given the presence of suitable nesting habitat on and within 500 ft of the project site.

Golden Eagle

As described in the golden eagle species profile in Appendix D of the ECCC HCP NCCP, modeled nesting habitat includes secluded cliffs with overhanging ledges and large trees adjacent to suitable foraging habitat. Foraging habitat includes all land cover types except urban, aqueduct, aquatic, turf, orchards and vineyards. The project site was classified as suitable habitat, as shown on the map of golden eagle modelled habitat distribution in Appendix D-04c. While no secluded cliffs are present, numerous large trees are present within ½ mile of the project site. Large trees within ½ mile of the project site were visually scanned for the presence of golden eagle nests, including trees along the Pittsburg-Antioch Highway near undeveloped land suitable for golden eagle foraging east of the project site, trees surrounding a pond on the Los Medanos Community College campus, south of the project site, and other trees within ½ mile of the project site.

The nearest record of golden eagle observations in the CNDDDB is for a site approximately 6.7 miles to the west on the Concord Naval Weapons Station, an area of expansive open space and grassland habitat with scattered large trees that provide suitable nesting habitat.

Large trees within ½ mile of the project site are situated within a predominantly industrial, commercial, residential and highly disturbed landscape that lacks the expansive areas of grassland cover that provides suitable foraging habitat for golden eagle. However, due to the presence of suitable foraging habitat more than ½ mile to the north and east of the project site, large trees within ½ mile of the project site are considered to provide marginally suitable nesting habitat.

Due to the presence of large trees near suitable foraging habitat, preconstruction surveys for golden eagle are warranted and recommended.

Swainson's Hawk

Modeled breeding habitat is described in Appendix D of the ECCC HCP NCCP as all riparian woodland scrub and non-native woodland land cover types within the inventory area in or east of Marsh Creek and below 150 feet in elevation. Modeled foraging habitat includes cropland and pasture within 10 miles of existing breeding sites and outside of the Urban Limit Line. Annual grassland, alkali grassland, seasonal wetland and alkali wetland land-cover types below 150 feet in elevation are also considered potential foraging habitat. The project site lies to the west of modelled foraging habitat for Swainson's hawk described in the HCP.

According to the CNDDDB, the nearest Swainson's hawk nest records are 4.9 miles southeast (#2690), 5.4 miles east (#1804), and 6.1 miles east (#1799) of the project site – all located west of Marsh Creek.

Numerous native and non-native trees are present within 1,000 ft of the project site, and as described above, are situated within a developed, highly disturbed landscape. Suitable foraging habitat within 1,000 ft of the project site is limited, although abundant suitable foraging habitat is present further east and to the north. Out of an abundance of caution, and due to the presence of trees suitable for nesting and nearby foraging habitat, preconstruction surveys for Swainson's hawk are recommended.

No covered species, or other special-status species were observed during the planning survey.

The developed/urban areas of the site do not provide habitat for covered species.

9) Covered and No-Take Plants

Please check the applicable boxes in Table 2b based on the land cover types found in the project area. If suitable land cover types are present on site, surveys must be conducted using approved CDFW/USFWS methods during the appropriate season for identification of covered and no-take species (see page 6-9 of the ECCC HCP/NCCP). Reference populations of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant species is visible and detectable at the time surveys are conducted. In order to complete all the necessary covered and no-take plant surveys, spring, summer, and fall surveys may be required.

Table 2b. Covered and No-Take Plant Species

Plant Species	Covered (C) or No-Take (N)	Associated Land Cover Type	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period	Suitable Land Cover Type Present
Adobe navarretia (<i>Navarretia nigelliformis</i> ssp. <i>radians</i>) ^a	C	Annual Grassland	Generally found on clay barrens in Annual Grassland ^b	Apr–Jun	☐ Yes ☒ No
Alkali milkvetch (<i>Astragalus tener</i> ssp. <i>tener</i>)	N	Alkali grassland Alkali wetland Annual grassland Seasonal wetland	Generally found in vernal moist habitat in soils with a slight to strongly elevated pH	Mar–Jun	☐ Yes ☒ No
Big tarplant (<i>Blepharizonia plumosa</i>)	C	Annual grassland	Elevation below 1500 feet ^d most often on Altamont Series or Complex soils	Jul–Oct	☐ Yes ☒ No
Brewer's dwarf flax (<i>Hesperolinon breweri</i>)	C	Annual grassland Chaparral and scrub Oak savanna Oak woodland	Generally, restricted to grassland areas within a 500+ buffer from oak woodland and/or chaparral/scrub ^d	May–Jul	☐ Yes ☒ No
Brittlescale (<i>Atriplex depressa</i>)	C	Alkali grassland Alkali wetland	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area ^d	May–Oct	☐ Yes ☒ No
Caper-fruited tropidocarpum (<i>Tropidocarpum capparideum</i>)	N	Alkali grassland		Mar–Apr	☐ Yes ☒ No
Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Alkali grassland Alkali wetland Annual grassland Seasonal wetland	Generally found in vernal pools	Mar–Jun	☐ Yes ☒ No
Diablo Helianthella (<i>Helianthella castanea</i>)	C	Chaparral and scrub Oak savanna Oak woodland	Elevations generally above 650 feet ^d	Mar–Jun	☐ Yes ☒ No
Diamond-petaled poppy (<i>Eschscholzia rhombipetala</i>)	N	Annual grassland		Mar–Apr	☐ Yes ☒ No
Large-flowered fiddleneck (<i>Amsinckia grandiflora</i>)	N	Annual grassland	Generally on clay soil	Apr–May	☐ Yes ☒ No
Mount Diablo buckwheat (<i>Eriogonum truncatum</i>)	N	Annual grassland Chaparral and scrub	Ecotone of grassland and chaparral/scrub	Apr–Sep	☐ Yes ☒ No
Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Annual grassland Chaparral and scrub Oak savanna Oak woodland	Elevations generally between 650 and 2,600 ^d	Apr–Jun	☐ Yes ☒ No
Mount Diablo Manzanita (<i>Arctostaphylos auriculata</i>)	C	Chaparral and scrub	Elevations generally between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo ^d and the vicinity of Black Diamond Mines	Jan–Mar	☐ Yes ☒ No
Recurved larkspur (<i>Delphinium recurvatum</i>)	C	Alkali grassland Alkali wetland		Mar–Jun	☐ Yes ☒ No
Round-leaved filaree (<i>California macrophylla</i>) ^c	C	Annual grassland		Mar–May	☐ Yes ☒ No
San Joaquin spearscale (<i>Extriplex joaquiniana</i>) ^e	C	Alkali grassland Alkali wetland		Apr–Oct	☐ Yes ☒ No
Showy madia (<i>Madia radiata</i>)	C	Annual grassland Oak savanna Oak woodland	Primarily occupies open grassland or grassland on edge of oak woodland	Mar–May	☐ Yes ☒ No

^a The species *Navarretia nigelliformis* subsp. *nigelliformis* is no longer considered to occur within Contra Costa County based on specimen annotations at the UC and Jepson Herbaria at the University of California Berkeley as well as the opinions of experts in the genus. This taxon is now recognized as *Navarretia nigelliformis* subsp. *radians*. Any subspecies of *Navarretia nigelliformis* encountered as a part of botanical surveys in support of a PSR should be considered as covered under this HCP/NCCP.

^b Habitat for the *Navarretia nigelliformis* subspecies that occurs within the inventory are inaccurately described in the HCP/NCCP as vernal pools. The entity within the Inventory generally occupies clay barrens within Annual Grassland habitat, which is an upland habitat type.

^c From California Native Plant Society. 2007. *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site. Reference population of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant is visible and detectable at the time surveys are conducted.

^d See Species Profiles in Appendix D of the Final HCP/NCCP. Reference populations of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant species is visible and detectable at the time surveys are conducted.

^e In the recent update to the Jepson eflora (JFP 2013) *Atriplex joaquiniana* has been circumscribed and segregated into a new genus called *Extriplex* based on the work of Elizabeth Zacharias and Bruce Baldwin (2010). The etymology of the genus *Extriplex* means, "beyond or outside *Atriplex*".

10) Results of Covered and No-Take Plant Species

Provide a written summary describing the results of the planning surveys conducted as required in Table 2b. Describe the methods used to survey the site for all covered and no-take plants, including the dates and times of all surveys conducted (see Tables 3-8 and 6-5 of the ECCC HCP/NCCP for covered and no-take plants), including reference populations visited prior to conducting surveys.

If any covered or no-take plant species were found, include the following information in the results summary:

- Description and number of occurrences and their rough population size.
- Description of the “health” of each occurrence, as defined on pages 5-49 and 5-50 of the HCP/NCCP.
- A map of all the occurrences.
- Justification of surveying time window, if outside of the plant’s blooming period.
- The CNDDDB form(s) submitted to CDFW (if this is a new occurrence).
- A description of the anticipated impacts that the covered activity will have on the occurrence and how the project will avoid impacts to all covered and no-take plant species. If impacts to covered plant species cannot be avoided and plants will be removed by covered activity, the Conservancy must be notified and has the option to salvage the covered plants. All projects must demonstrate avoidance of all six no-take plants (see table 6-5 of the HCP/NCCP).

Due to the history of thorough site disturbance, no covered or no-take plant species have potential to occur on site. No further planning surveys or preconstruction surveys are warranted.

IV. SPECIES-SPECIFIC AVOIDANCE AND MINIMIZATION REQUIREMENTS

Please complete and/or provide the following attachments:

1) Species-Specific Avoidance and Minimization for Selected Covered Wildlife

Complete the following table and check the applicable box for covered species determined by the planning surveys.

Table 3. Summary of Applicable Preconstruction Surveys, Avoidance and Minimization, and Construction Monitoring Requirements¹⁰

Species	Preconstruction Survey Requirements	Avoidance and Minimization Requirements	Construction Monitoring Required	Info in HCP
☐ San Joaquin kit fox	- On project footprint and 250-ft radius, map all dens (>5 in. diameter) and determine status - Provide written survey results to USFWS within 5 working days after surveying	- Monitor dens - Destroy unoccupied dens - Discourage use of occupied (non-natal) dens	- Establish exclusion zones (>50 ft for potential dens, and >100 ft for known dens) - Notify USFWS of occupied natal dens	pp. 6-37 to 6-38
☒ Western burrowing owl	- On project footprint and 500-ft radius, identify and map all owls and burrows, and determine status - Document use of habitat (e.g. breeding, foraging)	- Avoid occupied nests during breeding season (Feb-Sep) - Avoid occupied burrows during nonbreeding season (Sep – Feb) - Install one-way doors in occupied burrow (if avoidance not possible) - Monitor burrows with doors installed	- Establish buffer zones (250 ft around nests) - Establish buffer zones (160 ft around burrows)	pp. 6-39 to 6-41
☐ Giant garter snake	- Delineate aquatic habitat up to 200 ft from water's edge on each side - Document any occurrences	- Limit construction to Oct-May - Dewater habitat April 15 – Sep 30 prior to construction - Minimize clearing for construction	- Delineate 200 ft buffer around potential habitat near construction - Provide field report on monitoring efforts - Stop construction activities if snake is encountered; allow snake to passively relocate - Remove temporary fill or debris from construction site - Mandatory training for construction personnel	pp. 6-43 to 6-45
☐ California tiger salamander	Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence on site	Allow agency staff to translocate species, if requested	None	p. 6-45
☐ California red-legged frog	Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence on site	Allow agency staff to translocate species, if requested	None	p. 6-46
☐ Covered shrimp	- Establish presence/absence - Document and evaluate use of all habitat features (e.g. vernal pools, rock outcrops)	- Establish buffer near construction activities - Prohibit incompatible activities	- Establish buffer around outer edge of all hydric vegetation associated with habitat (50 ft or immediate watershed, whichever is larger) - Mandatory training for construction personnel	pp. 6-46 to 6-48
☐ Townsend's big-eared bat	- Establish presence/absence - Determine if potential sites were recently occupied (guano)	- Seal hibernacula before Nov - Seal nursery sites before April - Delay construction near occupied sites until hibernation or nursery seasons are over	None	pp. 6-36 to 6-37
☒ Swainson's hawk	Determine whether potential nests are occupied	- No construction within 1,000 ft of occupied nests within breeding season (March 15 - Sep 15) - If necessary, remove active nest tree after nesting season to prevent occupancy in second year.	Establish 1,000 ft buffer around active nest and monitor compliance (no activity within established buffer)	pp. 6-41 to 6-43
☒ Golden Eagle	Establish presence/absence of nesting eagles	No construction within ½ mile near active nests (most activity late Jan – Aug)	Establish ½ mile buffer around active nest and monitor compliance with buffer	pp. 6-38 to 6-39

¹⁰ The requirements in this table are not comprehensive; they are detailed in the next section on the following page.

2) Required Preconstruction Surveys, Avoidance and Minimization, and Construction Monitoring

All preconstruction surveys shall be conducted in accordance with the requirements set forth in Section 6.4.3, Species-Level Measures, and Table 6-1 of the ECCC HCP/NCCP. Detailed descriptions of preconstruction surveys, avoidance and minimization, and construction monitoring applicable to each of the wildlife species in Table 3 are located below. Please remove the species-specific measures that do not apply to your project (highlight entire section and delete).

WESTERN BURROWING OWL

Preconstruction Surveys

Prior to any ground disturbance related to covered activities, a USFWS/CDFW- approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1995).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1– August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

Avoidance and Minimization and Construction Monitoring

This measure incorporates avoidance and minimization guidelines from CDFW's *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Game 1995).

If burrowing owls are found during the breeding season (February 1 – August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1 – January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below).

During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur will be established around each occupied burrow (nest site). Buffer zones of 160 feet will be established around each burrow being used during the nonbreeding season. The buffers will be delineated by highly visible, temporary construction fencing.

If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

SWAINSON'S HAWK

Preconstruction Survey

Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15– September 15), a qualified biologist will conduct a preconstruction survey no more than 1 month prior to

construction to establish whether Swainson's hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet are off the project site, then their occupancy will be determined by observation from public roads or by observations of Swainson's hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring are required (see below).

Avoidance and Minimization and Construction Monitoring

During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Implementing Entity will coordinate with CDFW/USFWS to determine the appropriate buffer size.

If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the Implementing Entity for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFW. While the nest is occupied, activities outside the buffer can take place.

All active nest trees will be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project proponent according to the requirements below.

Mitigation for Loss of Nest Trees

The loss of non-riparian Swainson's hawk nest trees will be mitigated by the project proponent by:

- If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below.
AND either
 - 1) Pay the Implementing Entity an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below, OR
 - 2) The project proponent will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g., within an HCP/NCCP Preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.

The following requirements will be met for all planting options:

- Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least three years without irrigation.
- Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.
- Native trees suitable for this site should be planted. When site conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson's hawk. This variety will help to ensure that nest trees will be available in the short term (5-10 years for cottonwoods and willows) and in the long term (e.g., Valley oak, sycamore). This will also minimize the temporal loss of nest trees.
- Riparian woodland restoration conducted as a result of covered activities (i.e., loss of riparian woodland) can be used to offset the nest tree planting requirement above, if the nest trees are riparian species.
- Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).
- Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the UDA.
- Trees planted in the HCP/NCCP preserves or other approved offsite location will occur within the known range of Swainson's hawk in the inventory area and as close as possible to high-quality foraging habitat.

GOLDEN EAGLE

Preconstruction Survey

Prior to implementation of covered activities, a qualified biologist will conduct a preconstruction survey to establish whether nests of golden eagles are occupied (see Section 6.3.1, *Planning Surveys*). If nests are occupied, minimization requirements and construction monitoring will be required.

Avoidance and Minimization

Covered activities will be prohibited within 0.5 mile of active nests. Nests can be built and active at almost any time of the year, although mating and egg incubation occurs late January through August, with peak activity in March through July. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented, the Implementing Entity will coordinate with CDFW/USFWS to determine the appropriate buffer size.

Construction Monitoring

Construction monitoring will focus on ensuring that no covered activities occur within the buffer zone established around an active nest. Although no known golden eagle nest sites occur within or near the ULL, covered activities inside and outside of the Preserve System have the potential to disturb golden eagle nest sites. Construction monitoring will ensure that direct effects to golden eagles are minimized.

3) Construction Monitoring Plan

Before implementing a covered activity, the applicant will develop and submit a construction monitoring plan to the planning department of the local land use jurisdiction and the East Contra Costa County Habitat Conservancy for review and approval. Elements of a brief construction monitoring plan will include the following:

- Results of planning and preconstruction surveys.¹¹
- Description of avoidance and minimization measures to be implemented, including a description of project-specific refinements to the measures or additional measures not included in the HCP/NCCP.
- Description of monitoring activities, including monitoring frequency and duration, and specific activities to be monitored.
- Description of the onsite authority of the construction monitor to modify implementation of the activity.

☒ Check box to acknowledge this requirement.

¹¹ If the preconstruction surveys do not trigger construction monitoring, results of preconstruction surveys should still be submitted to the local jurisdiction and the East Contra Costa County Habitat Conservancy.

V. SPECIFIC CONDITIONS ON COVERED ACTIVITIES

1) Check off the HCP conservation measures that apply to the project.

APPLIES TO ALL PROJECTS

☒ **Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Migratory Birds.** This conservation measure applies to all projects. All projects will avoid all impacts on extremely rare plants and fully protected species listed in Table 6-5 of the ECCC HCP/NCCP. See HCP pp. 6-23 to 6-25, and Table 6-5.

APPLIES TO PROJECTS THAT IMPACT COVERED PLANT SPECIES

☐ **Conservation Measure 3.10. Plant Salvage when Impacts are Unavoidable.** This condition applies to projects that cannot avoid impacts on covered plants and help protect covered plants by prescribing salvage whenever avoidance of impacts is not feasible. Project proponents wishing to remove populations of covered plants must notify the Conservancy of their construction schedule to allow the Conservancy the option of salvaging the populations. See HCP pp. 6-48 to 6-50.

APPLIES TO PROJECTS THAT INCLUDE ARE ADJACENT TO STREAMS, PONDS, OR WETLANDS

☐ **Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization.** All projects will implement measures described in the HCP to avoid and minimize impacts on wetlands, ponds, streams, and riparian woodland/scrub. See HCP pp. 6-33 to 6-35.

APPLIES TO NEW DEVELOPMENT PROJECTS

☒ **Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion.** All new development must avoid or minimize direct and indirect impacts on local hydrological conditions and erosion by incorporating the applicable Provision C.3 Amendments of the Contra Costa County Clean Water Program's (CCCCWP's) amended NPDES Permit (order no. R2-2003-0022; permit no. CAS002912). The overall goal of this measure is to ensure that new development covered under the HCP has no or minimal adverse effects on downstream fisheries to avoid take of fish listed under ESA or CESA. See HCP pp. 6-21 to 6-22.

APPLIES TO NEW DEVELOPMENT PROJECTS THAT INCLUDE OR ARE ADJACENT TO STREAMS, PONDS, OR WETLANDS

☐ **Conservation Measure 1.7. Establish Stream Setbacks.** A stream setback will be applied to all development projects covered by the HCP according to the stream types listed in Table 6-2 of the HCP. See HCP pp. 6-15 to 6-18 and Table 6-2.

APPLIES TO NEW DEVELOPMENT PROJECTS ADJACENT TO EXISTING PUBLIC OPEN SPACE, HCP PRESERVES, OR LIKELY HCP ACQUISITION SITES

☐ **Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space.** Project applicants are encouraged to minimize their development footprint and set aside portions of their land to contribute to the HCP Preserve System. Land set aside that contributes to the HCP biological goals and objectives may be credited against development fees. See HCP pages 6-14 to 6-15.

☐ **Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property.** Buffer zones will provide a buffer between development and wildlands that allows adequate fuel management to minimize the risk of wildlife damage to property or to the preserve. The minimum buffer zone for new development is 100 feet. See HCP pages 6-18 to 6-19.

☐ **Conservation Measure 1.9. Incorporate Urban-Wildlife Interface Design Elements.** These projects will incorporate design elements at the urban-wildlife interface to minimize the indirect impacts of development on the adjacent preserve. See HCP pp. 6-20 to 6-21.

APPLIES TO ROAD MAINTENANCE PROJECTS OUTSIDE THE UDA

☐ **Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance.** Road maintenance activities have the potential to affect covered species by introducing sediment and other pollutants into downstream waterways, spreading invasive weeds, and disturbing breeding wildlife. In order to avoid and minimize these impacts, BMPs described in the HCP will be used where appropriate and feasible. See HCP pp. 6-25 to 6-26.

APPLIES TO NEW ROADS OR ROAD IMPROVEMENTS OUTSIDE THE UDA

☐ **Conservation Measure 1.14. Design Requirements for Covered Roads Outside the Urban Development Area (UDA).** New roads or road improvements outside the UDA have impacts on many covered species far beyond the direct impacts of their project footprints. To minimize the impacts of new, expanded, and improved roads in agricultural and natural areas of the inventory area, road and bridge construction projects will adopt siting, design, and construction requirements described in the HCP and listed in Table 6-6. See HCP pp. 6-27 to 6-33 and Table 6-6.

APPLIES TO FLOOD CONTROL MAINTENANCE ACTIVITIES

☐ **Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance.** Flood control maintenance activities have the potential to affect covered species by introducing sediment and other pollutants into downstream waterways and disturbing breeding wildlife. In order to avoid and minimize these impacts, BMPs described in the HCP will be used where appropriate and feasible. See HCP pp. 6-26 to 6-27.

- 2) For all checked conservation measures, describe how the project will comply with each measure. Attach as Attachment C: Project Compliance to HCP Conditions.

VI. MITIGATION MEASURES ---

- 1) **Mitigation Fee Calculator(s)**

Complete and attach the fee calculator (use permanent and/or temporary impact fee calculator as appropriate), and attach as **Attachment D: Fee Calculator(s)**.

- 2) **Briefly describe the amount of fees to be paid and when applicant plans to submit payment.**

The applicant will pay the fees detailed in the permanent and temporary fee calculator sheets once the amounts have been confirmed by the City of Pittsburgh. Because a new parcel will be recorded through a lot line adjustment of two existing parcels (APN 088-151-045, 6.18 acres and APN 089-151-042, 2.37 acres), the acreage subject to fee payment includes the 1.49-acre future parcel as well as area subject to temporary disturbance on portions of the two existing parcels that surround the future parcel.

ATTACHMENT A: PROJECT DESCRIPTION

Attachment A: Project Description

The Pittsburg RC project consists of new site improvements to construct a new 14,350 square foot shell building for future development of a dialysis clinic. Construction of a new single-story building, sidewalks and a pedestrian access between the building and parking lot, parking, delivery drive and other site appurtenances are proposed.

Access to the project will utilize an existing driveway from North Park Boulevard for the Wow Smiles dental office.

Construction staging will take place on the 0.79-acre construction laydown areas on APNs 088-151-045 and 088-151-042. Development of the 1.49-acre project site will be permanent. Temporary disturbance will occur on the 0.79-acre construction laydown area.

Construction is expected to begin in 2021. The proposed project construction will not be phased. However, a separate building permit will be required for interior construction and exterior finish details for the future dialysis clinic that will be constructed in the proposed shell building.

Standard construction BMP's will be employed during project construction. BMP's will be detailed on final construction plans.

Areas that are temporarily disturbed during construction will be restored to pre-project conditions and will be revegetated with an erosion control seed mix after construction is complete.

ATTACHMENT B: FIGURES

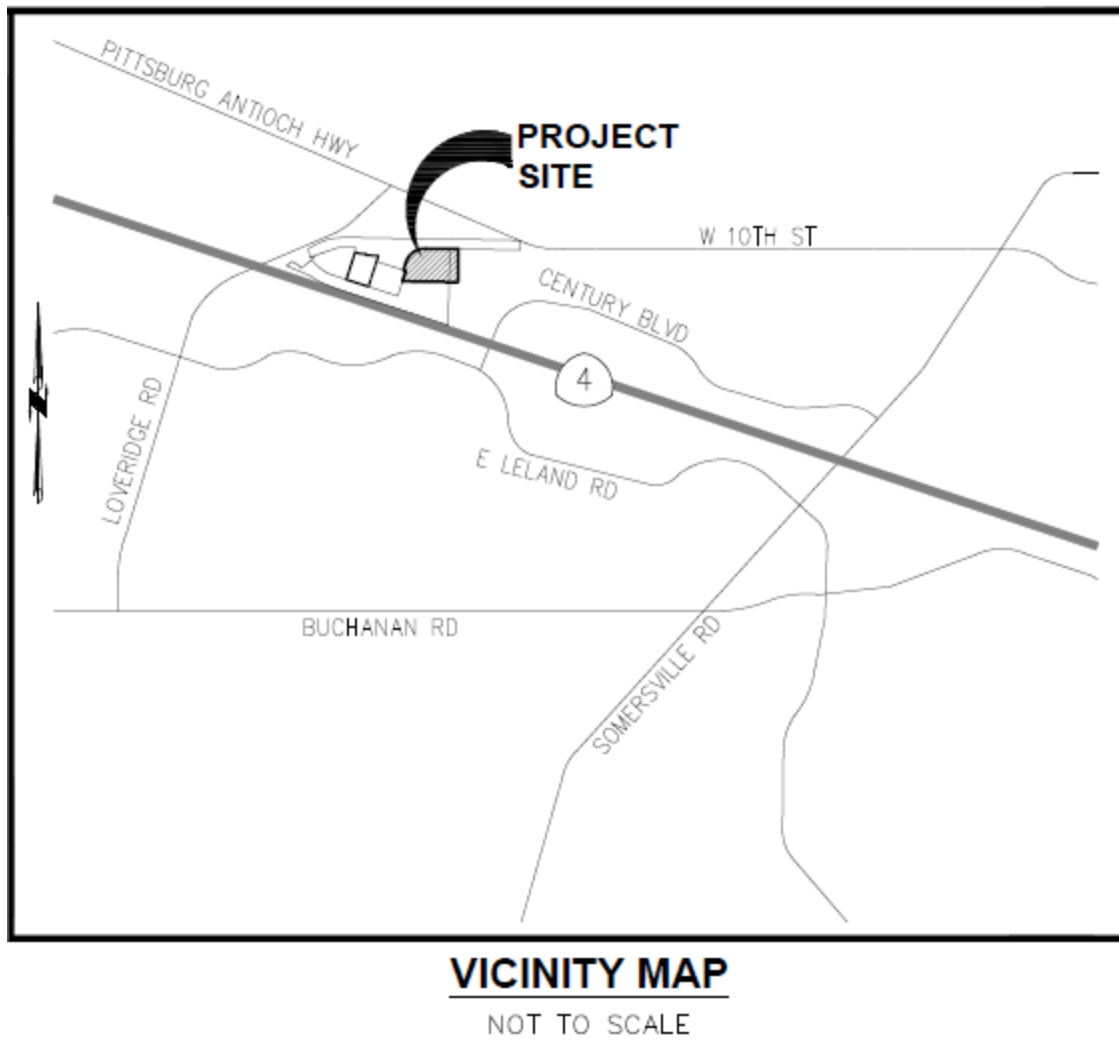
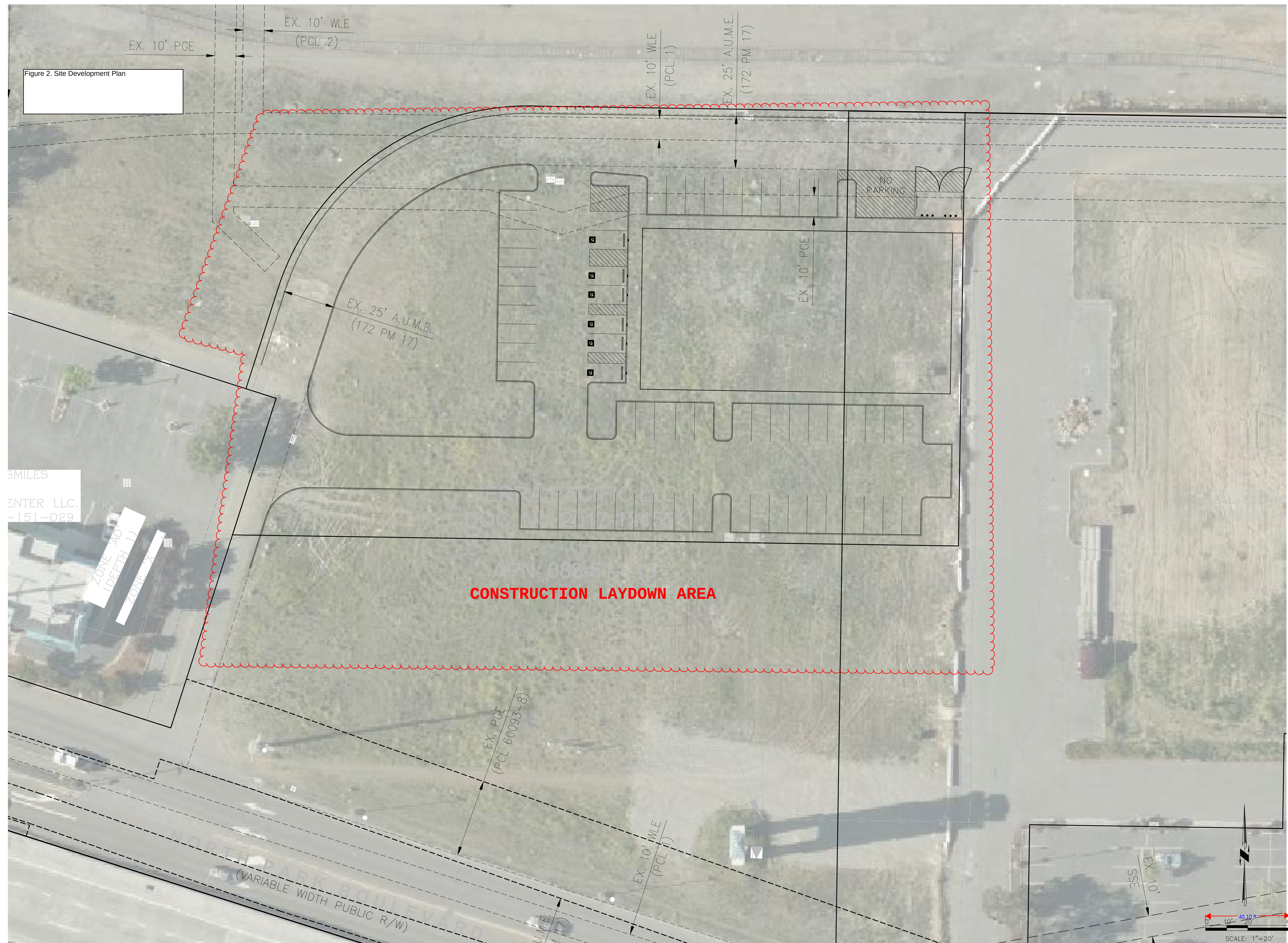
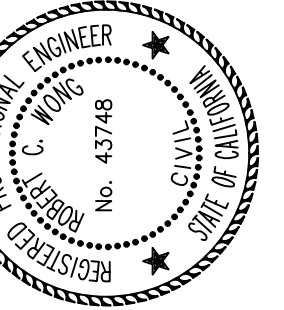


Figure 1. Pittsburgh RC Project Vicinity Map



Aliquot Associates, Inc.
90 S. Main St. - Ste. 310
Walnut Creek, CA 94596
Telephone: (925) 476-2300
Fax: (925) 476-2350

Civil Engineers
Traffic Engineers
Surveyors

[illegible]

PRELIMINARY
NOT FOR CONSTRUCTION

GRADING PLAN

NORTH PARK BLVD

CONTRA COSTA COUNTY

CALIFORNIA

PITTSBURG

SCALE: 1"=20'
DATE: 12/23/2022
DESIGN: MC
DRAWN: MC
APPROVED: MC

DRAWING NUMBER

C1

OF 3

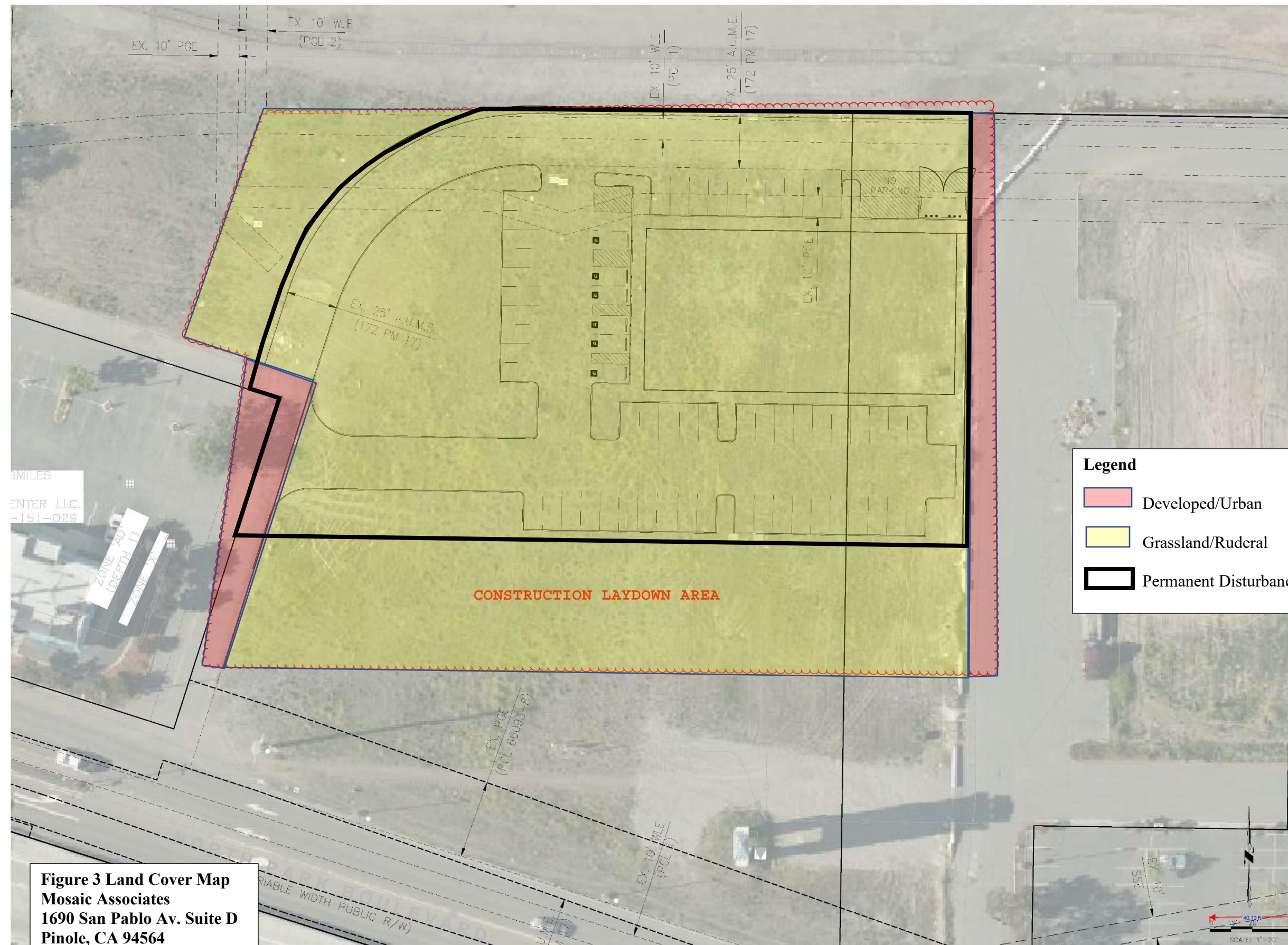


Figure 4. Photos of the Project Site – All photos taken 1/11/2021



Photo 1. View of northern portion of project site, looking west. Railroad tracks are visible in upper right corner of the site. The ground is bare across most of the site.



Photo 2. View of project site looking to the south. Tire tracks visible from past disturbance.



Photo 3. View of project site, looking west.

Date & Time: Mon Jan 11 14:15:33 PST 2021
Position: +038.01215° / -121.86321°
Altitude: 17m
Datum: WGS-84
Azimuth/Bearing: 111° S69E 1973mils (True)
Zoom: 1X

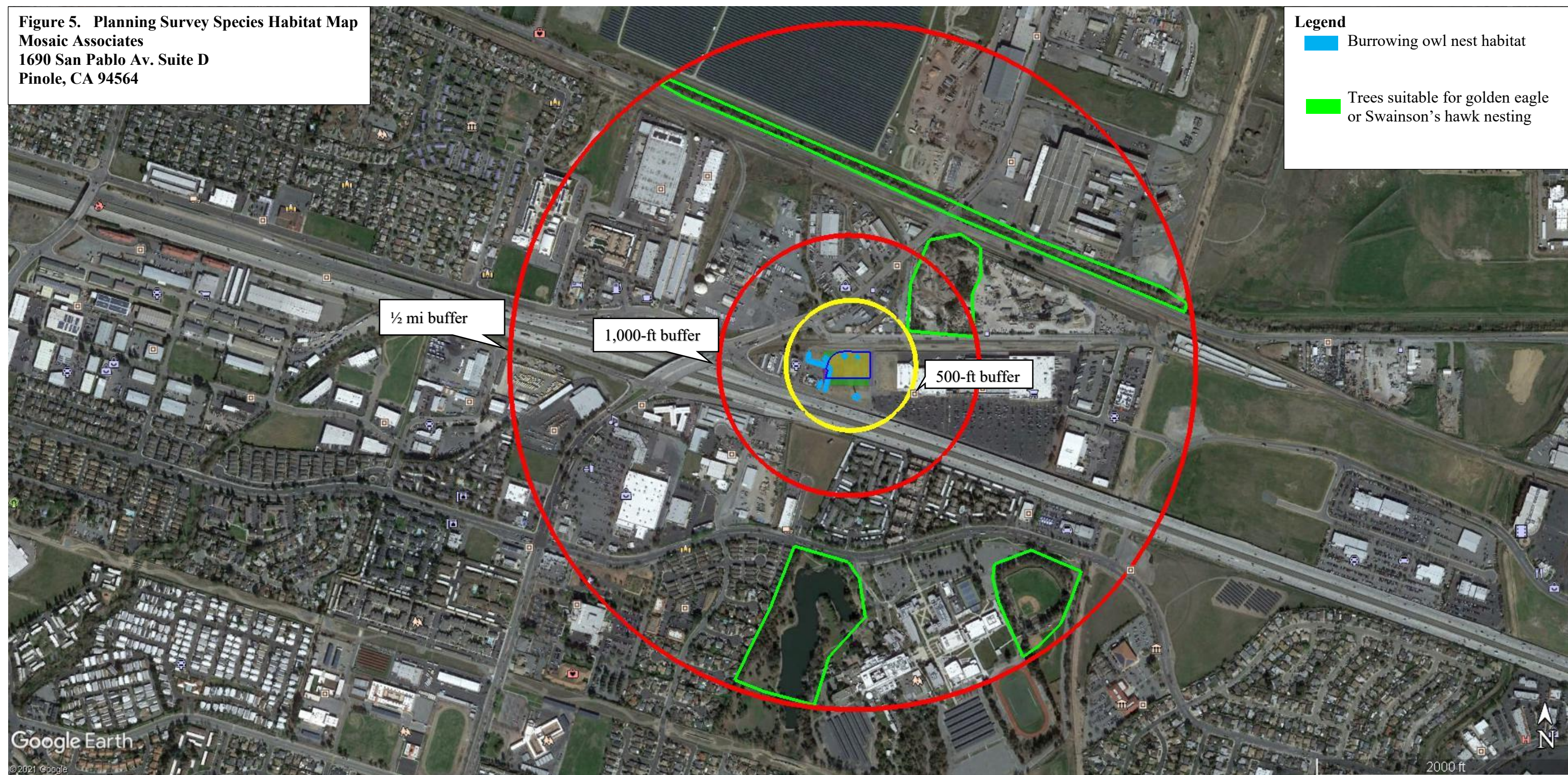


Photo 4. View of project site, looking east.



Photo 5. Ground squirrel burrows on project site, near electrical vault

Figure 5. Planning Survey Species Habitat Map
Mosaic Associates
1690 San Pablo Av. Suite D
Pinole, CA 94564



ATTACHMENT C: PROJECT COMPLIANCE TO HCP CONDITIONS

☒ **Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Migratory Birds.** This conservation measure applies to all projects. All projects will avoid all impacts on extremely rare plants and fully protected species listed in Table 6-5 of the ECCC HCP/NCCP. See HCP pp. 6-23 to 6-25, and Table 6-5.

The project will have no direct impacts on extremely rare plants because habitat for rare plants is absent from the Study Area.

The fully protected species white-tailed kite (*Elanus leucurus*) and golden eagle (*Aquila chrysaetos*) may utilize the Study Area for foraging. Trees in the vicinity of the site may provide suitable nesting habitat. The active nests of numerous bird species with potential to nest on or adjacent to the Study Area are protected under provisions of the Migratory Bird Treaty Act and Sections 3503 and 3503.5 of the California Fish and Wildlife Code, which outlaws take, possession, or destruction of bird's nests. To avoid direct impacts to fully protected wildlife species or covered migratory birds not already addressed in this application, within 14 days of construction activities, a USFWS/CDFW-approved biologist shall conduct preconstruction nesting bird surveys for protected species during the nesting season (February 1-August 31) in suitable habitat within 0.5 mile (golden eagle), 500 feet (white-tailed kite) and 250 feet (other raptors, migratory birds) of the construction site, where access is permitted. If an active nest is located, the need and/or extent of no-disturbance buffer(s) around the nest location will be determined through consultation with CDFW to avoid disturbance or destruction of the nest site until after the breeding season or after a qualified biologist determines that the young have fledged. The extent of no-disturbance buffers will depend on the level of noise or disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. If it is determined that construction activities will not affect an active nest, activities may proceed without restriction.

APPLIES TO NEW DEVELOPMENT PROJECTS

☒ **Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion.** All new development must avoid or minimize direct and indirect impacts on local hydrological conditions and erosion by incorporating the applicable Provision C.3 Amendments of the Contra Costa County Clean Water Program's (CCCCWP's) amended NPDES Permit (order no. R2-2003-0022; permit no. CAS002912). The overall goal of this measure is to ensure that new development covered under the HCP has no or minimal adverse effects on downstream fisheries to avoid take of fish listed under ESA or CESA. See HCP pp. 6-21 to 6-22.

Applicable Provision C.3 Amendments of the Contra Costa County Clean Water Program's amended NPDES Permit will be implemented to prevent erosion and avoid adverse impacts to downstream fisheries and water quality. No streams or wetlands are present on the Study Area. A stormwater control plan shall be prepared and submitted for approval prior to the start of construction.

ATTACHMENT D: FEE CALCULATOR(S)

Please note that areas subject to permanent and temporary impact fees do not include areas that have already been developed with pavement. Developed/urban land cover excluded from fee payment is shown on Figure 3 Land Cover Map

ECCC HCP/NCCP 2021 Fee Calculator Worksheet

Permanent Impacts

PROJECT APPLICANT: Mark Pagone

PROJECT NAME: Pittsburg RC

APN(s): new parcel will be recorded

JURISDICTION: City of Pittsburg

DATE: April 15, 2021

<u>DEVELOPMENT FEE</u>	ACREAGE		2021 FEE PER ACRE (SUBJECT TO CHANGE) ²		
	PERMANENTLY IMPACTED (TABLE 1) ¹				
See appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone	Fee Zone 1	x	\$17,602.20	=	\$0.00
	Fee Zone 2	x	\$35,204.40	=	\$0.00
	Fee Zone 3	1.46 x	\$8,801.84	=	\$12,850.69
	Development Fee Total				\$12,850.69

<u>WETLAND MITIGATION FEE</u>	ACREAGE		2021 FEE PER ACRE (SUBJECT TO CHANGE) ²		
	PERMANENTLY IMPACTED (TABLE 1) ¹				
Riparian woodland / scrub	x		\$85,924.69	=	\$0.00
Perennial Wetland	x		\$117,581.16	=	\$0.00
Seasonal Wetland	x		\$254,759.18	=	\$0.00
Alkali Wetland	x		\$241,192.12	=	\$0.00
Ponds	x		\$128,133.32	=	\$0.00
Aquatic (open water)	x		\$64,820.38	=	\$0.00
Slough / Channel	x		\$146,222.72	=	\$0.00
<u>STREAMS</u>	LINEAR FEET		2021 FEE PER LINEAR FT (SUBJECT TO CHANGE) ²		
	PERMANENTLY IMPACTED (TABLE 1)				
Streams 25 feet wide or less	x		\$700.52	=	\$0.00
Streams greater than 25 feet wide	x		\$1,055.22	=	\$0.00
Wetland Mitigation Fee Total				=	\$0.00

<u>FEE REDUCTION³</u>	Development Fee reduction for land in lieu of fee	=	
	Development Fee reduction (up to 33%) for permanent assessments	=	
	Wetland Mitigation Fee reduction for wetland restoration/creation performed by applicant	=	
	Reduction Total	=	\$0.00

<u>FINAL FEE CALCULATION</u>	Development Fee Total	\$12,850.69
	Wetland Mitigation Fee Total	+ \$0.00
	Fee Subtotal	= \$12,850.69
	Contribution to Recovery	+
	TOTAL AMOUNT TO BE PAID	= \$12,850.69

¹ City/County planning staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.

² Development Fees are adjusted annually according to a formula that includes both a Home Price Index (HPI) and a Consumer Price Index (CPI). The Wetland Mitigation Fees are adjusted according to a CPI. The Conservancy conducted the 2013 periodic fee audit required by the HCP/NCCP. Action by the County and participating cities is pending, which could result in adjustments to some or all fees in 2021.

³ Fee reductions must be reviewed and approved by the Conservancy.

ECCC HCP/NCCP 2021 Fee Calculator Worksheet

Temporary Impacts

PROJECT APPLICANT: Mark Pagone

PROJECT NAME: Pittsburg RC

APN(s): new parcel will be recorded

JURISDICTION: City of Pittsburg

DATE: April 15, 2021

<u>TEMPORARY DEVELOPMENT FEE</u>	ACREAGE TEMPORARILY IMPACTED (TABLE 1) ¹	YEARS OF DISTURBANCE (MIN. SHOWN) ²	2021 FEE PER ACRE (SUBJECT TO CHANGE) ³	
See appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone	Fee Zone 1	x 2 / 30	x \$17,602.20	= \$0.00
	Fee Zone 2	x 2 / 30	x \$35,204.40	= \$0.00
	Fee Zone 3	x 0.63 / 30	x \$8,801.84	= \$369.68
			Development Fee Total	= \$369.68

<u>TEMPORARY WETLAND MITIGATION FEE</u>	ACREAGE TEMPORARILY IMPACTED (TABLE 1) ¹	YEARS OF DISTURBANCE (MIN. SHOWN) ²	2021 FEE PER ACRE (SUBJECT TO CHANGE) ³	
Riparian woodland / scrub	x 5 / 30	x	\$85,924.69	= \$0.00
Perennial Wetland	x 2 / 30	x	\$117,581.16	= \$0.00
Seasonal Wetland	x 2 / 30	x	\$254,759.18	= \$0.00
Alkali Wetland	x 2 / 30	x	\$241,192.12	= \$0.00
Ponds	x 2 / 30	x	\$128,133.32	= \$0.00
Aquatic (open water)	x 2 / 30	x	\$64,820.38	= \$0.00
Slough / Channel	x 2 / 30	x	\$146,222.72	= \$0.00
STREAMS	LINEAR FEET TEMPORARILY IMPACTED (TABLE 1)	YEARS OF DISTURBANCE (MIN. SHOWN) ²	2021 FEE PER LINEAR FT (SUBJECT TO CHANGE) ³	
Streams 25 feet wide or less	x 2 / 30	x	\$700.52	= \$0.00
Streams greater than 25 feet wide	x 2 / 30	x	\$1,055.22	= \$0.00
			Wetland Mitigation Fee Total	= \$0.00

<u>FEE REDUCTION</u> ⁴	Development Fee reduction for land in lieu of fee	=
	Development Fee reduction (up to 33%) for permanent assessments	=
	Wetland Mitigation Fee reduction for wetland restoration/creation performed by applicant	=
	Reduction Total	= \$0.00

<u>FINAL FEE CALCULATION</u>	Development Fee Total	\$369.68
	Wetland Mitigation Fee Total	+ \$0.00
	Fee Subtotal	= \$369.68
	Contribution to Recovery	+ \$0.00
	TOTAL AMOUNT TO BE PAID	= \$369.68

¹ City/County planning staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.

² Years of disturbance is the number of calendar years in which the activity occurs. For activities that disturb soil, 1 year must be added to each activity interval to account for the longer delay in habitat recovery (e.g. X = 3 if the activity disturbs soil, lasts 2 years, and only occurs once in 30 years).

³ Development Fees are adjusted annually according to a formula that includes both a Home Price Index (HPI) and a Consumer Price Index (CPI). The Wetland Mitigation Fees are adjusted according to a CPI. The Conservancy conducted the 2013 periodic fee audit required by the HCP/NCCP. Action by the County and participating cities is pending, which could result in adjustments to some or all fees in 2021.

⁴ Fee reductions must be reviewed and approved by the Conservancy.

ATTACHMENT E: WETLAND DELINEATION (if applicable)



City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that the **PLANNING COMMISSION** of the City of Pittsburg will conduct an online public meeting on:

DATE: August 24, 2021

TIME: 7:00 p.m.

PLACE: Zoom Teleconference via Streaming Media on the City's homepage:

www.pittsburgca.gov (see public advisory on last page)

Concerning the following matter:

Pittsburg Renal Center, AP-21-1552 (DR)

This is a public meeting on an application filed by Mark Pagone, requesting design review approval to construct a new 11,225 square foot commercial shell building for future development of a dialysis clinic, along with site and landscaping improvements, on vacant land located along the north side of North Park Boulevard, in the CC (Community Commercial) District. Assessor's Parcel No. 088-151-045.

PROJECT PLANNER: Celina Palmer, (925) 252-4029 or cpalmer@ci.pittsburg.ca.us

Why am I receiving this notice?

You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

Where can I get more information about this project?

The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements.

What can I do if I have comments on the project?

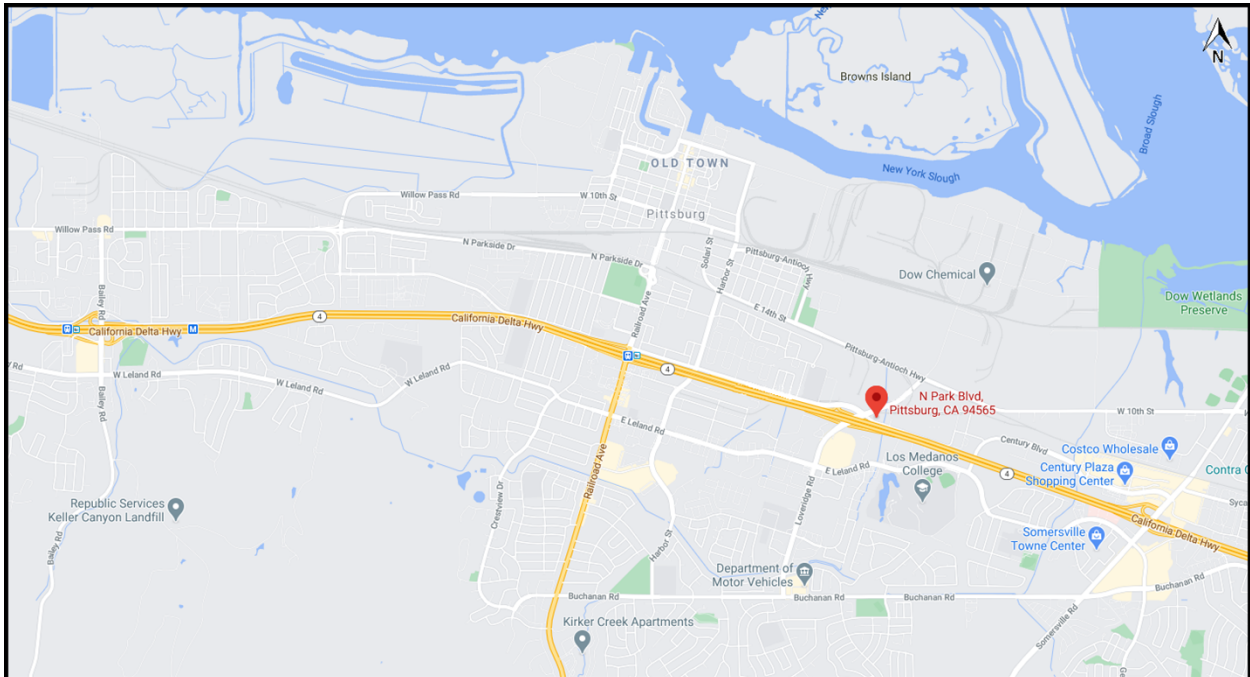
Comments or objections to the project can be made by writing or through e-mailed testimony during the meeting. Written comments citing the project name may be emailed to the project planner listed above or may be mailed or delivered to Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. Comments during the meeting can be submitted via email to meetingcomments@ci.pittsburg.ca.us.

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.

*Para información en
español:
(925) 252-4920*

JORDAN DAVIS, ACTING SECRETARY
PITTSBURG PLANNING COMMISSION

Project Title: Pittsburg Renal Center, AP-21-1552 (DR)
Location: North Park Boulevard, APN: 088-151-045



PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the Planning Commission will be conducted electronically through Zoom and broadcast live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Planning Commissioners will be participating electronically and will not be physically present in the Council Chamber.

Live comments will be allowed by members of the public via teleconferencing during Zoom meetings and written comments received after 3:00 p.m. on the day of the meeting will be read aloud by staff. To be placed in a queue to comment, please adhere to the following instructions.

To Participate in Public Comment During the Meeting:

- Notify the City Clerk's Office via email by 3:00 p.m. on the meeting date that you would like to be placed in the queue for general Public Comments, or comments on a specific agenda item. Requests received after 3:00 p.m. on the date of the meeting will not be able to comment.
- Email your name and telephone number to meetingcomments@ci.pittsburg.ca.us. We need both identifications to pair you with the item you wish to speak on. You must also be sure that you call in using the number you have provided or we may not be able to identify you as a speaker.
- Your email must include the words **"FOR PUBLIC COMMENT"** in the subject line and specify the **Agenda Item number or Non-Agenda** as appropriate.
- You will receive an email confirmation with instructions to log in.
- Once the meeting starts (check the "Agendas & Live Meetings" link on the City's website at www.pittsburgca.gov) you can phone in to Zoom. If you log in before the event has started you may be disconnected.
- You will be added to the meeting as an attendee and will be called upon by staff for phone-in comments.
- Speakers will be muted until their opportunity to provide public comment.
- All comments will be subject to the three-minute time limitation (approximately 350 words).
- The City requests speakers begin their comments by providing their name and city of residence for the record – although providing this is not required for participation.
- Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.

Attachment 1

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Granting Design Review	)	Resolution No. 10174
Approval to Construct a New 11,225	)	
Square Foot Commercial Shell Building	)	
on APN 088-151-045, for "Pittsburg	)	
Renal Center, AP-21-1552 (DR)."	)	

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On February 26, 2021, Mark Pagone filed Planning Application No. 21-1552, requesting design review approval of plans to construct a new 11,225 square foot commercial shell building for future development of a dialysis clinic, along with site and landscaping improvements, on approximately 1.49 acres of vacant land located along the north side of North Park Boulevard, in the CC (Community Commercial) District. Assessor's Parcel Nos. 088-151-045.
- B. The proposed project is governed by the policies, development standards, and guidelines contained in the Pittsburg General Plan, Pittsburg Municipal Code (PMC) Title 18 (Zoning), and the City of Pittsburg Development Review Design Guidelines (DRDG; Planning Commission Resolution No. 9864).
- C. Design review approval can be granted only after the Planning Commission makes a determination that the proposed project is consistent with PMC section 18.36.220.B, which is summarized below:
 - 1. the structure conforms with good taste, good design and in general contributes to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
 - 2. the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
 - 3. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
 - 4. the structure is in harmony with proposed developments on land in the general area; and

5. the application conforms with the criteria set forth in any applicable city-adopted design guidelines.
- D. Although not required by the PMC, on or prior to August 14, 2021, notice of the August 24, 2021, public meeting to consider design review of the proposed project was posted at City Hall and at or near the proposed project site; and on the 'Public Notices' section of the city's website and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, to local service agencies expected to provide services to the site, and to individuals who had previously filed written request for such notice. The notice was also posted on www.nextdoor.com ("Nextdoor") and was sent directly to all subscribed residents in the "Pittsburg Antioch", "Diamond Hillside", and "East Leland" neighborhoods.
- E. On August 24, 2021, the Planning Commission held a public meeting on Design Review Application No. AP-21-1552, at which time oral and/or written testimony was considered.

Section 2. Findings

- A. Based on the Planning Commission Staff Report, "Consideration of a Resolution Approving Design Review of the Pittsburg Renal Center, AP-21-1552 (DR)," dated August 24, 2021, all the information contained in the Planning Division files on the project adopted and incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and all written and oral testimony presented at the meeting, the Planning Commission finds that:
 1. All recitals above are true and correct and incorporated herein by reference.
 2. This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 32, 'Infill-Development Projects' of the state CEQA Guidelines, section 15332. The project qualifies for this CEQA exemption because, as described in the staff report, it would: a) be consistent with the City's general plan and zoning; b) occur within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) be built on a site having no value as habitat for endangered, rare or threatened species; d) result in no significant impacts to traffic, noise, air quality, or water quality; and e) be built on a site that is adequately served by utilities and public services.
 3. The project will conform with good taste, good design and in general contribute to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that the proposed structure's materials and earth tone colors are in

keeping with the character of the area. The proposed project will also result in the development of a long-standing vacant parcel, which would otherwise contribute to blight within the neighborhood.

4. The structures will be protected against exterior and interior noise, vibrations and other factors which may tend to make the environment less desirable, in that the proposed structures will be required to comply with all applicable building and fire codes.
5. The exterior design and appearance of the site will not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value, in that the project includes the addition of several trees at the site along with a variety of colorful shrubs, vines, and ground cover; and will appear more attractive than the vacant parcel in its current state of underutilization.
6. The structures will be in harmony with proposed developments on land in the general area, in that the proposed structure's materials and earth tone colors are in keeping with the character of the area and currently there are no proposed developments near the project's vicinity.
7. The proposed projects will conform with the criteria set forth in the City's adopted Development Review Design Guidelines (DRDG, Planning Commission Resolution No. 9864), if conditions of approval are adopted requiring the project to: a) screen all utility box transformers, backflow preventers, meters, and junction boxes from public view; b) break up any continuous roof line expanses exceeding 50 feet in length; c) install downspouts behind building walls; and d) incorporate a cool roof on the building and pre-wire the building roof for solar panels.

- B. The Staff Report entitled, "Consideration of a Resolution Approving Design Review of the Pittsburg Renal Center, AP-21-1552 (DR)," dated August 24, 2021, is referenced hereto as additional support for findings.

Section 3. Decision

Based on the findings set forth above, this Planning Commission hereby approves Design Review Application No. 21-1552, subject to the following conditions:

Planning Conditions:

1. Conformity with Project Plans. The project shall be constructed in substantial conformity with the project plans date stamped July 21, 2021, except as hereinafter may be modified. Any major changes to the project plans shall be subject to review and approval by the Planning Commission

at the City Planner's discretion.

2. Exterior Appearance. The exterior of the structure shall be maintained in a good state of repair and the exterior finish must be clean and well maintained.
3. Site Maintenance. The entire parcel shall be kept clean and free of all litter, debris, and refuse.
4. Business License. The business operator to obtain and maintain a valid business license for the business at all times.
5. Landscape Maintenance: The applicant or subsequent business owner or operator shall be responsible for maintaining landscaping in accordance with the approved landscape plan. Amendments or modifications to the approved landscape plan shall be submitted to the city planner for approval.
6. Solar Readiness. The proposed building roof shall be pre-wired to create a solar ready surface.
7. Cool Roof: The entire roofing surface behind the building parapets shall be painted white to create a 'cool roof', consistent with Guideline VI.D.1 of the City of Pittsburgh Development Review Design Guidelines (Planning Commission Resolution No. 9864).
8. Electric Vehicle Charging. The applicant shall maintain a minimum of four (4) electric vehicle spaces with fully operational electric vehicle supply equipment.
9. Bicycle Parking. The applicant shall maintain permanent, fixed bicycle racks or lockers for a minimum of 8 bicycles. The final design and location of any new bicycle rack(s) shall be subject to review and approval by the Planning Division.
10. Utility Screening: All air conditioning units, utility boxes, transformers, backflow preventers, meters, and junction boxes shall be substantially screened from public view using a block or retaining wall screen, wood/architectural screen, or dense landscaping screen, consistent with Guideline IV.d of the City of Pittsburgh Development Review Design Guidelines (Planning Commission Resolution No. 9864). Final utility screening methods shall be included on the construction drawings and shall be subject to review and approval by the Planning Division prior to issuance of a building permit.
11. Horizontal Rooflines: The building design shall be modified to break up any continuous horizontal roof line exceeding 50 feet in length, consistent with Guideline IV.f of the City of Pittsburgh Development Review Design Guidelines

(Planning Commission Resolution No. 9864). The modifications shall be incorporated into the construction drawings for the project and shall be reviewed and approved by the Planning Division prior to the issuance of a building permit.

12. Gutters & Downspouts: All gutters and downspouts shall be placed behind exterior walls, consistent with Guideline IV.m of the City of Pittsburgh Development Review Design Guidelines (Planning Commission Resolution No. 9864). Final gutter and/or downspout placement shall be identified on the construction drawings and shall be subject to review and approval by the Planning Division prior to issuance of a building permit.
13. Peace and Order: The business operator shall be responsible for maintaining the peace and order on the premises. All necessary steps shall be taken to ensure that the customers refrain from incidents of violence that adversely impact the safety of the community. Should the business operator fail to control loitering, noise, public disturbances or incidents of violence, and in the event that the business necessitates an increased police presence, the Chief of Police may require the business owner to provide additional public safety measures, including but not limited to, video cameras, additional exterior lighting, hiring licensed and bonded security guards approved by the Police Department, or such other measures as determined necessary by the Chief of Police. Any such required additional measures shall be at the business owner/operator's sole expense.
14. Site Maintenance: The site shall be kept clean and free of all litter, debris and refuse at all times. All landscaping on site shall be kept weed free and maintained in a healthy and thriving condition. Outdoor storage on-site shall be prohibited.
15. Signage: Signage for the use is not approved with this resolution. The applicant or their designee shall submit proposed signs as part of a separate sign permit application, which will be subject to review and approval by the Planning Division prior to installation.

ECCC HCP/NCCP Conditions:

The following conditions of approval are subject to ECCC HCP/NCCP approval, and must be satisfied prior to, or in conjunction with, the issuance of a grading permit.

16. Take Authorization: The project is receiving permit coverage under the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("ECCC HCP/NCCP" or "the Plan"). All applicable avoidance, minimization and mitigation measures of the ECCC

HCP/NCCP will be imposed on the project. The project will receive take authorization under the City's incidental take permit from the United States Fish and Wildlife Service (USFWS) issued pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act (permit number: TE 160958-0) and the City's incidental take permit from the California Department of Fish and Wildlife (CDFW) issued pursuant to California Fish and Wildlife Code Section 2835 (permit number 2835-2007-01-03).

17. ECCC HCP/NCCP Development Fees: Prior to the issuance of grading or construction permits for the project site and in accordance with the final ECCC HCP/NCCP Planning Survey Report application dated April 15, 2021, as revised in July 2021, the applicant shall pay the required ECCC HCP/NCCP Development Fee of \$13,220.37 for 2.09 acres of impact (the fee is subject to annual adjustments, in accordance with Chapter 9.3.1 of the ECCC HCP/NCCP) and receive a Certificate of Coverage from the City of Pittsburg. The Certificate of Coverage will confirm that the fee has been received, that other ECCC HCP/NCCP requirements have been met or will be performed, and will authorize take of covered species.
18. Construction Monitoring Plan. Prior to the issuance of grading or construction permits for the project site and in accordance with the final ECCC HCP/NCCP Planning Survey Report application dated April 15, 2021, as revised in July 2021, the applicant shall submit a construction monitoring plan to the East Contra Costa County Habitat Conservancy (the Plan's Implementing Entity) for review and approval.
19. Species-Level Measures: In accordance with the 2006 Final Environmental Impact Report/Environmental Impact Statement for the ECCC HCP/NCCP a mitigation fee shall be paid to avoid, minimize, and mitigate impacts to a less than significant level for the following special status wildlife species covered under the ECCC HCP/NCCP.
 - a) Western Burrowing Owl:
 - Preconstruction Surveys. Prior to any ground disturbance related to covered activities, a USFWS/CDFW-approved biologist shall conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys shall establish the presence or absence of Western Burrowing Owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1995).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot

radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1–August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted. Copies of both surveys shall be submitted to ECCC Habitat Conservancy and the City for review and approval.

- Avoidance and Minimization and Construction Monitoring. This measure incorporates avoidance and minimization guidelines from CDFW’s Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1995).

If burrowing owls are found during the breeding season (February 1–August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1–January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below).

During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur will be established around each occupied burrow (nest site). Buffer zones of 160 feet will be established around each burrow being used during the nonbreeding season. The buffers will be delineated by highly visible, temporary construction fencing.

If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for a week to confirm that the owl has abandoned the burrow. Whenever possible burrows should be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

b) Swainson's Hawk

- Preconstruction Survey. Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than 1 month prior to construction to establish whether Swainson's hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet of the project site are found, then their occupancy will be determined by observation from public roads or by observations of Swainson's hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring are required (see below). A copy of the preconstruction survey shall be submitted to the ECCC Habitat Conservancy and the City for review and approval.
- Avoidance and Minimization and Construction Monitoring. During the Swainson's hawk nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Implementing Entity will coordinate with California Department of Fish and Wildlife (CDFW)/United States Fish and Wildlife (USFWS) to determine the appropriate buffer size. If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the ECCC

Habitat Conservancy and the City for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFW. While the nest is occupied, activities outside the buffer can take place. No trees will be removed during project construction.

All active nest trees will be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project proponent according to the requirements below.

- Mitigation for Loss of Nest Trees. The loss of non-riparian Swainson's hawk nest trees will be mitigated by the project proponent by:

- a. If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below.

AND either

- i. Pay the Implementing Entity an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below, OR
- ii. The project proponent will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g., within an HCP/NCCP Preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.

- The following requirements will be met for all planting options:
 - a. Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least three years without irrigation.

- b. Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.
- c. Native trees suitable for this site should be planted. When site conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson's hawk. This variety will help to ensure that nest trees will be available in the short term (5-10 years for cottonwoods and willows) and in the long term (e.g., Valley oak, sycamore). This will also minimize the temporal loss of nest trees.
- d. Riparian woodland restoration conducted as a result of covered activities (i.e., loss of riparian woodland) can be used to offset the nest tree planting requirement above, if the nest trees are riparian species.
- e. Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).
- f. Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the UDA.
- g. Trees planted in the HCP/NCCP preserves or other approved offsite location will occur within the known range of Swainson's hawk in the inventory area and as close as possible to high-quality foraging habitat.

c) Golden Eagle

- Preconstruction Survey. Prior to implementation of covered activities, a qualified biologist will conduct a preconstruction survey to establish whether nests of golden eagles are occupied. If nests are occupied, minimization requirements and construction monitoring will be required.
- Avoidance and Minimization. Covered activities will be prohibited within 0.5 mile of active nests. Nests can be built

and active at almost any time of the year, although mating and egg incubation occurs late January through August, with peak activity in March through July. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented, the ECCC Habitat Conservancy and the City will coordinate with CDFW/USFWS to determine the appropriate buffer size.

- Construction Monitoring. Construction monitoring will focus on ensuring that no covered activities occur within the buffer zone established around an active nest. Although no known golden eagle nest sites occur within or near the ULL, covered activities inside and outside of the Preserve System have the potential to disturb golden eagle nest sites. Construction monitoring will ensure that direct effects to golden eagles are minimized.

20. Specific Conditions on Covered Activities. Developer shall implement all additional HCP conservation measures that are applicable to the project noted within the PSR dated April 15, 2021, as revised in July 2021.

Engineering Conditions:

Engineering Fees:

21. Improvement and Grading Plan Review fees. The applicant shall provide an initial payment for review of the grading and improvement plans with the first submittal. These fees are based on the engineer's estimated costs for site improvements and grading, which shall be submitted with the plans. The improvement plan check fee is 7% of the cost of the improvements. The grading plan check fee is 2.5% of the cost for grading, or it may be based upon cubic yards of earth disturbance as set forth in the City's Master Fee Schedule. Fifty percent (50%) of these total fees are to be paid with the initial submittal of plans and engineer's cost estimate. These initial payments will be credited towards the final fees as determined at engineering permit. The remainder of the fees shall be due payable prior to issuance of an engineering permit.
22. Improvement and Grading Inspection fees. The applicant shall pay the improvement and/or grading inspection fee(s) to the Engineering Division prior to the issuance of a single parcel development permit. The current improvement inspection fee is 6.75% of the engineer's estimated cost for improvements. The grading inspection fee is 3% of the engineer's estimated cost of grading. The grading inspection fee may also be based

upon an approved engineer's estimate of total cubic yards, according to the current schedule of grading fee charges as set forth in the City's Master Fee Schedule.

23. Facility Reserve Charge. Prior to the issuance of a building permit, the applicant shall pay the City of Pittsburgh Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Division for water and sewer service in the amounts in effect at the time of building permit issuance. The applicant understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City.
24. Local Traffic Mitigation Fee. Prior to issuance of a building permit, the applicant shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect at the time of building permit issuance. The applicant understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburgh Local Transportation Mitigation Fee Program Update, copies of which are available from the City.
25. Regional Traffic Mitigation Fee. Prior to issuance of a building permit, the applicant shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the "RTDIM") amount in effect at the time of building permit issuance. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area, between September 1 and September 1 of the preceding two calendar years.
26. GIS Update. Prior to the issuance of an engineering permit, the applicant shall pay the Geographic Information System (GIS) fee as set forth in the City's Master Fee Schedule. The current fee is \$114.19 per parcel plus \$0.06/sf of parcel improvements for non-residential uses.
27. Supplemental Studies. If additional engineering studies are deemed necessary by the City Engineer, i.e. geotechnical, structural, hydraulic, etc., or expedited reviews are requested by the applicant, the applicant shall pay for all costs related to the extra work. The costs shall be paid at the time of first plan check submittal, and they may include all costs

associated with the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the applicant's engineer.

Engineering Submittals:

28. Improvement Plans. The applicant shall submit the following plans to the Engineering Division for review and approval. The plans shall be prepared by a registered civil engineer, to include but not be limited to the following:
 - a) A Site Plan
 - b) A Grading and Drainage Plan
 - c) A Utilities Plan
 - d) A Landscaping and Irrigation Plan
 - e) An Erosion and Sedimentation Control Plan
 - f) Offsite Improvements due to Project Impacts
29. Geotechnical Report. The applicant shall submit a current geotechnical report that supports the design features incorporated into this project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and/or the issuance of a site development permit.

NPDES Requirements:

30. Stormwater Pollutants. The applicant shall incorporate long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long term BMPs to limit pollutant generation, discharge, and runoff. Such source control design measures may include:
 - a) Incorporating landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices.
 - b) Using pavers for walkways and other appropriate hardscape surfaces to minimize impervious areas.
 - c) Minimizing the amount of directly connected impervious surface area.
 - d) Marking all storm drains with "No Dumping, Drains to Delta" messages.
 - e) Constructing concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
 - f) Plumbing of the following discharges to the sanitary sewer, subject to Delta Diablo's authority and standards:
 - Discharges from indoor floor mat/equipment/hood filter wash racks or

- covered outdoor wash racks for restaurant.
 - Dumpster drips from covered trash and food compactor enclosures.
 - Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option.
31. Stormwater Pollution Protection During Construction. Prior to the issuance of a grading permit, the applicant shall submit an Erosion and Sedimentation Control Plan or Stormwater Pollution Prevention Plan (if the project requires a permit from the State Water Resources Control Board under the provisions of the General Construction Permit) to the Engineering Division for review. The Stormwater Pollution Prevention Plan measures shall also include measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with California Stormwater Quality Association's (CASQA's) construction handbook.
32. Consistency with Stormwater Control Plan. Grading, improvement, and/or building plans shall be consistent with the approved Stormwater Control Plan. The applicant shall submit a complete Stormwater Control Plan and Report compliant with the requirements set forth in the City's most current NPDES permit. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from the associated drainage management areas. The grading and/or building plans shall include drawings and specifications necessary to implement all measures in the approved Stormwater Control Plan. Design features should incorporate low impact development design standards as outlined in the most current edition of the Contra Costa Clean Water Program's C.3 Guidebook. These features include limiting directly connected impervious area, and incorporating pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants. Grading and/ or building permits shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.
33. Operations and Maintenance Plan. The applicant shall submit a Stormwater BMP Operation and Maintenance Plan for the continuous maintenance of all C.3 facilities constructed to meet the C.3 requirements of the project. The final plan shall be submitted to the Engineering Division prior to the certificate of occupancy.
34. Operation and Maintenance Agreement and Right of Entry. The applicant shall execute the Operations and Maintenance Agreement and Right of Entry, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs prior to the issuance of a certificate of occupancy. The Guidelines

for the preparation of Stormwater BMP Operation and Maintenance Plans are found on the Contra Costa County Clean Water Program website (www.cccleanwater.org) or the Stormwater C.3 Guidebook, most current edition.

35. Off-Site Capacity Evaluation. The applicant shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities required to be constructed to accommodate the project shall be borne by the applicant.
36. Sanitary Sewer. The applicant shall provide 6-inch sanitary sewer laterals located 5-feet horizontally from the water service lateral, with a two-way cleanout at the property line.
37. Parcel Map Waiver. Prior to issuance of the Site Improvement Permit, the applicant shall record the parcel map waiver for lot line adjustment (PMW 20-06).

Engineering Exactions (CFD inclusion):

38. Annexation Documentation for CFD 2005-1. The applicant shall agree to annex into the Community Facilities District 2005-1, which is for public safety services. The fees collected will provide funding for an increase of police coverage in the area. The rate of the CFD 2005-1 fee is subject to City Council Resolution No. 05-10342. The applicant shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2005-1 Public Safety Services Community Facilities District (CFD 2005-1), prior to the issuance of any building or engineering permits.
39. Annexation Documentation for CFD 2017-1. The applicant shall agree to annex into the Community Facilities District 2017-1, which is for fire facilities and fire safety and emergency services. The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. The applicant shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 21017-1 Fire Facilities and Fire Safety and Emergency Services Community Facilities District (CFD 2017-1), prior to the issuance of any building or engineering permits.

Standard Conditions:

40. Other Agency Requirements. The applicant shall comply with all the requirements of the Community Development Department, Contra Costa County Fire Protection District, Delta Diablo Sanitation District, and all other

applicable local, state and federal agencies. It is the responsibility of the applicant to contact each local, state, or federal agency for requirements that may pertain to this project.

41. Sales Tax on Construction Materials. The applicant, subsequent developers, or their contractors, subcontractors, agents, or affiliates shall use best reasonable efforts to pay local sales tax in connection with the purchase, acquisition, and/or supply of goods and materials, as well as any new or replacement equipment and supplies purchased during the course of operation. Sales tax(es) shall be apportioned and paid at the applicable sales tax rate in effect for the City as administrated by the California Department of Tax and Fee Administration (CDTFA). At no point may Developer or its contractors, subcontractors, agents or affiliates contractually agree to waive or share sales and use taxes from this Project with any other city, county or entity in the State of California, including another jurisdiction where they have offices or conduct business. The City of Pittsburg will be the sole jurisdiction of record to the transfer of title. Developer and its contractors, subcontractors, agents and affiliates shall comply with the Sales and Use Tax Requirements ("Requirements") set forth below and all CDTFA requirements.
42. Standard Conditions of Development. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is conflict between the Standard Conditions of Development and the specific conditions of approval specified in this resolution, the specific conditions of this Resolution No 10174 shall govern.
43. Indemnification. Applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. Applicant may select its own legal counsel to represent applicant's interests at applicant's sole cost and expense. Applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.
44. Expiration of Approval. This design review approval will expire on August

24, 2023, unless a building permit or grading permit has been issued for purposes of construction of this project, or a written request for an extension is filed with the Planning Division prior to the expiration date and is subsequently approved by the Planning Commission. The approval shall be valid for no more than six months from the date of permit issuance, unless work is commenced and diligently pursued prior to the expiration of the permit.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner _____, seconded by Commissioner _____, the foregoing resolution was passed and adopted the 24th day of August, 2021, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. 10174 was adopted by the Planning Commission of the City of Pittsburg on August 24, 2021.

JORDAN DAVIS, AICP, SECRETARY
PITTSBURG PLANNING COMMISSION