

**MINUTES  
TRACY CITY PLANNING COMMISSION  
REGULAR MEETING  
JANUARY 25, 2023, 7:00 P.M.  
CITY OF TRACY COUNCIL CHAMBERS  
333 CIVIC CENTER PLAZA**

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, and WebEx during the meeting.

**CALL TO ORDER**

Chair Hudson called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Chair Hudson led the pledge of allegiance.

**ROLL CALL**

Roll Call found Commissioner Atwal, Commissioner Augustus, and Chair Hudson present. Vice Chair Orcutt and Commissioner Boakye-Boateng were not present at the time of roll call. Also present were: Bill Dean, Assistant Director of Development Services; Mary Bean, First Carbon Solutions; Frederik Venter, Kimley-Horn & Associates; Nancy Ashjian, Assistant City Attorney; Bijal M. Patel, City Attorney; Gina Peace, Executive Assistant; and Miranda Aguilar, Administrative Assistant.

**MINUTES**

Chair Hudson introduced the Regular Meeting Minutes from the December 7, 2022 meeting.

**ACTION:** It was moved by Commissioner Atwal and seconded by Commissioner Augustus to approve the December 7, 2022 Planning Commission Regular meeting minutes. A voice vote found Commissioner Atwal, Commissioner Augustus, and Chair Hudson in favor; Vice Chair Orcutt and Commissioner Boakye-Boateng absent. Passed and so ordered; 3-0-2-0.

**DIRECTOR'S REPORT REGARDING THIS AGENDA**

Bill Dean, Assistant Director of Development Services congratulated Commissioner Boakye-Boateng, who is absent tonight, because his family recently welcomed a new baby.

**ITEMS FROM THE AUDIENCE**

None.

**1. NEW BUSINESS**

- A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; 2)**

**GRANTING A CONDITIONAL USE PERMIT (CUP22-0008); AND 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE USE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS FOR A CANNABIS DELIVERY ONLY BUSINESS AT 487 E 6TH STREET, SUITE E., APN 235-190-15. THE APPLICANT IS MICHAELA TOSCAS AND THE PROPERTY OWNER IS BAR COMPANY SALES, INC.**

Bill Dean, Assistant Director of Development Services, presented the staff report and addressed questions from the Commission.

Michaela Toscas, CEO of H.E. Community Collective (Higher Elevation) (Applicant), presented a PowerPoint to the Commission.

Chair Hudson opened the Public Hearing at 7:17 p.m.

Karen Moore, via Webex, expressed support for the project and expressed concern with the City of Tracy's handling of Cannabis projects.

Chair Hudson closed the Public Hearing at 7:20 p.m.

Vice Chair Orcutt joined the meeting via Webex.

**ACTION:** It was moved by Commissioner Atwal and seconded by Commissioner Augustus that the Planning Commission adopt a resolution:

- 1) Determining that this project is categorically exempt from the California Environmental Quality Act;
- 2) Granting a Conditional Use Permit (CUP22-0008) for a non-storefront (delivery only) cannabis dispensary at 487 E. 6th Street, APN 235-190-15; and
- 3) Extending the time period to establish the dispensary site under the Conditional Use Permit from six months to twelve months.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Chair Hudson, and Vice Chair Orcutt in favor; Commissioner Boakye-Boateng absent. Passed and so ordered; 4-0-1-0.

**B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION RECOMMENDING CITY COUNCIL ADOPT AN ORDINANCE TO 1) CERTIFY AN ENVIRONMENTAL IMPACT REPORT ("EIR") AND ADOPT A MITIGATION MONITORING AND REPORTING PROGRAM ("MMRP") AND FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATIONS (TOGETHER, "CEQA FINDINGS") FOR THE ANNEXATION AND FUTURE DEVELOPMENT OF INDUSTRIAL BUILDINGS ON THE 191.18 ACRE PROPERTY LOCATED AT THE NORTHEAST CORNER OF GRANT LINE AND PARADISE ROADS BEARING ASSESSOR'S PARCEL NUMBERS 213-170-14, -24, -25, -26, -27, AND -48 (THE**

**“PROPERTY”) IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”); 2) AMEND THE NORTHEAST INDUSTRIAL (NEI) SPECIFIC PLAN TO ADD THE PROPERTY TO THE NEI SPECIFIC PLAN AREA WITH A LAND USE DESIGNATION OF LIGHT INDUSTRIAL (SPA22-0003); 3) APPROVE THE PREZONING OF THE PROPERTY TO NORTHEAST INDUSTRIAL SPECIFIC PLAN ZONE (AP20-0003); AND 4) APPROVE THE SUBMITTAL OF A PETITION TO THE SAN JOAQUIN COUNTY LOCAL AGENCY FORMATION COMMISSION (“LAFCO”) FOR ANNEXATION OF THE PROPERTY TO THE CITY OF TRACY.**

Bill Dean, Assistant Director of Development Services, presented the staff report and addressed questions from the Commission. Bill also emphasized the significant environmental impacts that would result from the project.

Mary Bean, First Carbon Solutions, addressed questions from the Commission.

Trevor Smith, Applicant, addressed the Commission.

Miranda Aguilar, Administrative Assistant, announced that Vice Chair Orcutt would like it known that he is present, online via WebEx, and would like to ensure his affirmative vote was counted for Item 1.A.

Chair Hudson opened the Public Hearing at 7:44 p.m. and allowed each speaker two minutes to speak.

Diego Hernandez, with the Labors Union, spoke in support of the project, local job opportunities, and the livable wages this project would bring.

Carlos Bedolla, spoke in support of the project, local job opportunities, and the livable wages the project would bring.

David Coria, Tracy resident, with Sheet Metal Workers’ Local Union No. 104, spoke in support of the project.

Michael Mark, with the Iron Workers Union, spoke in support of the project.

Manuel Zapata, with Sheet Metal Workers’ Local Union No. 104, spoke in support of the project.

Dotty Nygard, local resident, requested staff take a closer look at the standards for the project before approving.

William Muetzenberg, Public Health Advocates, requested the City of Tracy implement Mitigation Measures in the decision-making process to this project and others in the future.

Miranda Aguilar, Administrative Assistant, announced there was one email received in opposition to the project. A copy was provided to the Commissioners and will be added to the record after it has been redacted.

Karen Moore, via Webex, is in support of union jobs but is concerned about the air quality from the truck traffic in the project area, and is requesting Mitigation Measures be implemented.

Margo Praus, via Webex, expressed concern for the project's effect on air quality.

Chair Hudson closed the Public Hearing at 8:06 p.m.

Mary Bean, First Carbon Solutions, addressed additional questions from the Commission.

**ACTION:** It was moved by Commissioner Augustus and seconded by Vice Chair Orcutt that the Planning Commission adopt a resolution to:

- 1) Certify an Environmental Impact Report ("EIR") including the adoption of a mitigation monitoring and reporting program ("MMRP") and findings of fact and a statement of overriding considerations (together, "CEQA findings") for the annexation and future development of industrial buildings on the 191.18 acre property located at the northeast corner of Grant Line and Paradise Roads bearing Assessor's Parcel Numbers 213-170-14, -24, -25, -26, -27, and -48 (the "Property") in accordance with the California Environmental Quality Act ("CEQA");
- 2) Amend the Northeast Industrial ("NEI") Specific Plan to add the property to the NEI Specific Plan with a land use designation of light industrial (SPA22-0003);
- 3) Pre-zone the property to Northeast Industrial Specific Plan zone (AP20-0003); and
- 4) Approve the submittal of a petition to the San Joaquin County Local Agency Formation Commission ("LAFCO") for annexation of the Property to the City of Tracy.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Chair Hudson, and Vice Chair Orcutt, in favor; Commissioner Boakye-Boateng absent. Passed and so ordered; 4-0-1-0.

Chair Hudson addressed the union workers with support of local jobs and projects such as this that will bring them with hopes that future projects continue to improve.

## **2. ITEMS FROM THE AUDIENCE**

Karen Moore, via Webex, expressed that she hopes the Commissioners are balancing their support for local jobs with the health of citizens.

## **3. DIRECTOR'S REPORT**

Bill Dean, Assistant Director of Development Services, informed the Commission we will keep them updated on the progress of this item and expects it will go to City Council in a month or so. He also informed the Commission we are in the beginning stages of the General Plan Update.

## **4. ITEMS FROM THE COMMISSION**

Commissioner Augustus would like to welcome everyone back.

Chair Hudson expressed congratulations to Commissioner Boakye-Boateng on his growing family.

**5. ADJOURNMENT**

**ACTION:** It was moved by Vice Chair Orcutt and seconded by Commissioner Atwal to adjourn.

A voice vote found Commissioner Atwal, Commissioner Augustus, Chair Hudson, and Vice Chair Orcutt in favor; Commissioner Boakye-Boateng absent. Passed and so ordered; 4-0-1-0.

Time: 8:17 p.m.

  
STAFF LIAISON

  
CHAIR

**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: [REDACTED] Tracy Alliance Project Comment Letter (Planning Commission 1/25/23)  
**Date:** Wednesday, January 25, 2023 3:52:52 PM  
**Attachments:** [REDACTED] Tracy Alliance Project Comment Letter.pdf  
[REDACTED] Tracy Alliance Project Additional Recommended Mitigation Measures .pdf

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FYI

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**From:** [REDACTED]  
**Sent:** Wednesday, January 25, 2023 3:45 PM  
**To:** [REDACTED]  
[REDACTED]  
**Subject:** [REDACTED] Tracy Alliance Project Comment Letter (Planning Commission 1/25/23)

Hi [REDACTED]

Attached is my Comment letter for today's Planning Commission meeting regarding the Tracy Alliance Project. In addition to my Comment letter, I am attaching a longer document that is meant to be used as an attachment to the letter. If you can please make sure that both documents are included in the record and shared with the planning commissioners, that would be appreciated!

Thank you,

[REDACTED]  
Bachelor of Arts Kinesiology,  
Concentration in Health Promotion  
[REDACTED]  
[REDACTED]  
[REDACTED]

Tracy Planning Commission  
333 Civic Center Plaza  
Tracy, CA 95376

**RE: AGENDA ITEM 1.B**

Good evening Planning Commissioners,

My name is [REDACTED] and I request that the Planning Commission not to approve all the motions for this Tracy Alliance Project because of the lack of enforcement and mitigation measures included into the EIR. Please view the attached document that provides you additional mitigation measures. As a community organizer and a public health professional, I have concerns about the Tracy Alliance Project:

**1. Community Outreach:** This project did not do enough on community outreach. Sure, the City did the bare minimum which was to provide notices to residents 300 feet from the project but how can you say in good faith that those that will be impacted from this project are only located within 300 feet? Why wasn't there outreach to the Banta community, especially to the Elementary school that is clearly identified as a sensitive receptor in the EIR? Additionally, if there was intention to reach out to community members, why wasn't there a Spanish version for all outreach material?

**2. Mitigation Measures:** This project does not go far enough on mitigation measures. In reference to the AG's comment letter to City of Stockton's Mariposa Project, THE CITY IS REQUIRED TO ADOPT FEASIBLE MITIGATION MEASURES TO LESSEN THE PROJECT'S SIGNIFICANT ENVIRONMENTAL IMPACTS. Further, CEQA Guidelines provide that in order for the City to approve the Project despite its significant effect on the environment, it must make a "fully informed and publicly disclosed decision that: (a) There is no feasible way to lessen or avoid the significant effects..." (CEQA Guideline, § 15043). Therefore, I attached mitigation measures that are feasible.

The City of Tracy may contest these measures as not feasible but that may not be entirely accurate given that the City of Stockton and the Mariposa Industrial Complex developers have agreed to implement the exact ones one month ago. If the 3.6 million sq. feet Mariposa Warehouse can fulfill all the additional mitigation measures, this Tracy Alliance Project can do it as well. The idea is not to do the bare minimum on mitigation measures but open the floor for more opportunities. Stockton's Mariposa Industrial Complex is a clear case study as to what can be done. By not exploring and integrating the suggestions provided for the Mitigation Monitoring and Reporting Program, you are telling Tracy residents that you were made aware of these opportunities that protect the communities' public health and chose not adopt them.

**3. Truck Traffic:** In section MM AIR-1e it says that the Operational Truck Fleet Routing prior to the issuance of the Certificate of Occupancy for each development in the project site, where the applicant will provide the City with reasonable documentation demonstrating that trucks used during project operation for the subject individual development proposal will be prohibited from accessing Grant Line Road east of the project site (such as the Banta community). Remember, truckers go where there is less traffic and there has been evidence of trucks taking Grant Line Road through Banta. If all trucks used during operation are expected to use routes that "circumvent" the use of Grant Line Road east of the project site, **how will the tenant ensure that is being followed in good faith and committed? Would the tenant keep track of the truck operators on their trips and fine those who take Grant Line Road going into the Banta Community? What happens if a resident finds that an operational truck from the project site uses the Grant Line Road?**

Tracy is a major hub for warehousing and as a major hub, it is important to facilitate stronger mitigation measures to ensure it's a leader for warehousing for the future. Implementing these additional measures ensures better opportunities for the city and the tenants and protects surrounding communities' health and well-being.

Thank you,





For the Mitigation Monitoring and Reporting Program, we request stronger requirements that put this warehouse at a standard similar to Stockton's Mariposa Project, link included here (<http://stockton.legistar.com/gateway.aspx?M=F&ID=9df46a33-3479-419c-ab9c-c0856efbed9a.pdf>) that was just approved December 6th, 2022:

#### **Air Quality- Construction Emissions:**

1. The project shall comply with SJVAPCD Regulation VIII for the control of dust emissions during project construction. A project Dust Control Plan shall be submitted to the Air District as required by Regulation VIII. Enforcement of Regulation VIII is the direct responsibility of the SJVAPCD. City Building inspectors shall monitor conformance with approved plans and specifications.
2. SJVAPCD Regulation VIII Compliance: Construction plans and specifications shall include a Dust Control Plan incorporating the applicable requirements of Regulation VIII, which shall be submitted to the SJVAPCD for review and approval prior to beginning construction in accordance with the requirements of Regulation VIII.
3. Construction Worker Trip Reduction: Project construction plans and specifications will require contractor to provide transit and ridesharing information for construction workers. (
4. Construction Meal Destinations: Project construction plans and specifications will require the contractor to establish one or more locations for food or catering truck service to construction workers and to cooperate with food service providers to provide consistent food service. (Applicant is responsible for Rule 9510 compliance and submittal of documentation to the City. City Planning is responsible for review and acceptance of analysis)

#### **Air Quality- Operational Emissions**

5. Prior to building occupancy, employers with 100 or more eligible employees shall submit an Employer Trip Reduction Implementation Plan (ETRIP) to the City for review and approval, as required by SJVAPCD Rule 9410. A copy of the ETRIP shall be provided to the SJVAPCD. Employers shall facilitate participation in the implementation of the ETRIP by providing information to its employees explaining methods for participation in the Plan and the purpose, requirements, and applicability of Rule 9410. (Applicant is

responsible for preparation and submittal of ETRIP. City Planning is responsible for review and acceptance of ETRIP)

6. The project shall comply with SJVAPCD Rule 4101, which prohibits emissions of visible air contaminants to the atmosphere and applies to any source operation that emits or may emit air contaminants. (Applicant and City Planning will be responsible for VERA discussion and decision. City Planning will be responsible for ensuring that VERA discussion occurred).
7. Solar Power: Owners, operators or tenants shall include with the building permit application, sufficient solar panels to provide power for the operation's base power use at the start of operations and as base power use demand increases. Project sponsor shall include analysis of (a) projected power requirements at the start of operations and as base power demand increases corresponding to the implementation of the "clean fleet" requirements, and (b) generating capacity of the solar installation. City of Tracy shall verify the size and scope of the solar project based upon the analysis of the projected power requirements and generating capacity as well as the available solar panel installation space. The photovoltaic system shall include a battery storage system to serve the facility in the event of a power outage to the extent required by the 2022 or later California Building Standards Code. (Applicant is responsible for incorporating these requirements into project plans and specifications. City of Tracy will be responsible to ensure that subject requirements are included in plans and specifications.)

In the event sufficient space is not available on the subject lot to accommodate the needed number of solar panels to produce the operation's base or anticipated power use, the applicant shall demonstrate how all available space has been maximized (e.g., roof, parking areas, etc.). Areas which provide truck movement may be excluded from these calculations unless otherwise deemed acceptable by the supplied reports. The developer or tenant, or qualified solar provider engaged by the developer or tenant shall timely order all equipment and shall install the system when the City has approved building permits and the necessary equipment has arrived. The developer or tenant shall commence operation of the system when it has received permission to operate from the utility. The photovoltaic system owner shall be responsible for maintaining the system(s) at not less than 80% of the rated power for 20 years. At the end of the 20-year period, the building owner shall install a new photovoltaic system meeting the capacity and operational requirements of this measure, or continue to maintain the existing system, for the life of the project.

8. Emission Standards for Heavy-Duty Trucks: The following mitigation measures shall be implemented during all on-going business operations and shall be included as part of

contractual lease agreement language to ensure the tenants/lessees are informed of all on-going operational responsibilities. The property owner/tenant/lessee shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025 or when commercially available for the intended application, whichever date is later. A zero-emission vehicle shall ordinarily be considered commercially available if the vehicle is capable of serving the intended purpose and is included in California's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project, <https://californiahvip.org/> or listed as available in the US on the Global Commercial Vehicle Drive to Zero inventory, <https://globaldrivetozero.org/>. The City shall be responsible for the final determination of commercial availability and may (but is not required to) consult with the California Air Resources Board before making such final determination. In order for the City to make a determination that such vehicles are commercially unavailable, the operator must submit documentation from a minimum of three (3) EV dealers identified on the [californiahvip.org](https://californiahvip.org/) website demonstrating the inability to obtain the required EVs or equipment needed within 6 months

"Domiciled at the project site shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70% of the calendar year or (ii) dedicated to the project site (defined as more than 70% of the truck routes (during the calendar year) that start at the project site even if parked or kept elsewhere) Zero-emission heavy-duty trucks which require service can be temporarily replaced with model year 2014 or later trucks. Replacement trucks shall be used for only the minimum time required for servicing fleet trucks. (Applicant or tenant is responsible for compliance and submittal of documentation. City of Tracy is responsible for review and acceptance of documentation)

9. Zero Emission Vehicles: The property owner/tenant/lessee shall utilize a "clean fleet" of vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations as follows: For any vehicle (Class 2 through 6) domiciled at the project site, the following "clean fleet" requirements apply: (i) 33% of the fleet will be zero emission vehicles at start of operations, (ii) 65% of the fleet will be zero emission vehicles by December 31, 20\_\_, (iii) 80% of the fleet will be zero emission vehicles by December 31, 20\_\_, and (iv) 100% of the fleet will be zero emission vehicles by December 31, 20\_\_.

"Domiciled at the project site" shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70% of the calendar year or (ii) dedicated to the project site (defined as more than 70% of the truck routes (during the calendar year) that start at the project site even if parked or kept elsewhere). Zero-emission vehicles which

require service can be temporarily replaced with alternate vehicles. Replacement vehicles shall be used for only the minimum time required for servicing fleet vehicles.

The property owner/tenant/lessee shall not be responsible to meet "clean fleet" requirements for vehicles used by common carriers operating under their own authority that provide delivery services to or from the project site.

10. Demonstrate Compliance with Clean Fleet Requirements: The applicant, property owner, tenant, lessee, or other party operating the facility (the "Operator") shall utilize the zero emission vehicles/trucks required to meet the "clean fleet" requirements for Class 7 and 8 vehicles and for Class 2 through 6. Within 30-days of occupancy, the Operator shall demonstrate to the satisfaction of City staff, that the applicable clean fleet requirements are being met.

In the event that vehicles/trucks are not commercially available for the intended application, the "clean fleet requirements" may be adjusted as minimally as possible by the City of Tracy to accommodate the unavailability of commercially available vehicles/trucks.

The City shall quantify the air pollution and GHG emissions resulting from any modification of this condition. Within 12 months of failing to meet a "clean fleet" requirement the property owner/tenant/lessee shall implement a Voluntary Emissions Reduction Agreement (VERA) providing pound for pound mitigation of the criteria pollutant, toxic air contaminants, and GHG emissions quantified by the City through a process that develops, funds, and implements emission reduction projects, with the Air District serving a role of administrator of the emission reduction projects and verifier of the successful mitigation effort. The VERA shall prioritize projects in the Banta community and surrounding area. Property owner/tenant/lessee shall continue to fund the VERA each year in an amount necessary to achieve pound for pound mitigation of emissions resulting from not meeting the clean fleet requirements until the owner/tenant/lessee fully complies.

The Operator shall implement the proposed measures after City of Tracy review and approval. Any extension of time granted to implement this condition shall be limited to the shortest period of time necessary to allow for 100% electrification under the clean fleet requirements. The Tracy City staff may seek the recommendation of the California Air Resources Board in determining whether there has been a manufacturing disruption or insufficient vehicles/trucks commercially available for the intended application.

11. Zero Emission Forklifts, Yard trucks and Yard Equipment: Owners, operators or tenants shall require all forklifts, yard trucks, and other equipment used for on-site movement of

trucks, trailers and warehoused goods, as well as landscaping maintenance equipment used on the site, to be electrically powered or zero-emission. The owner, operator or tenant shall provide on-site electrical charging facilities to adequately service electric vehicles and equipment. (Tenant or owner is responsible for use of complying equipment. City Planning will be responsible for review and acceptance of compliance reports).

12. Electric Truck Charging: At all times during project operation, owners, operators or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site. (Tenant or owner is responsible for use of complying equipment. City Planning will be responsible for review and acceptance of compliance reports)
13. Project Operations, Food Service: Owners, operators or tenants shall establish locations for food or catering truck service and cooperate with food service providers to provide consistent food service to operations employees. (Tenant or owner will be responsible for establishment of food service locations. Tracy City Planning will be responsible for review and acceptance of compliance reports).
14. Project Operations, Employee Trip Reduction: Owners, operators or tenants shall provide employees transit route and schedule information on systems serving the project area and coordinate ridesharing amongst employees. (Tenant or owner will be responsible for provision of the required information. Tracy City Planning will be responsible for review and acceptance of compliance reports.)
15. Diesel Generators: Owners, operators or tenants shall prohibit the use of diesel generators, except in emergency situations, in which case such generators shall have Best Available Control Technology (BACT) that meets CARB's Tier 4 emission standards. (Tenant or owner will be responsible for compliance with prohibition. City planning will be responsible for review and acceptance of compliance reports).
16. SmartWay: Owners, operators or tenants shall enroll and participate in the SmartWay program for eligible businesses. (Tenant or owner will be responsible for SmartWay participation. City planning will be responsible for review and acceptance of compliance reports).
17. Project construction shall be subject to all adopted City building codes, including the adopted Green Building Standards Code, version July 2022 or later. Prior to the issuance of building permits, the applicant/developer shall demonstrate (e.g., provide building plans) that the proposed buildings are designed and will be built to, at a minimum, meet the Tier 2 advanced energy efficiency requirements of the Nonresidential Voluntary

Measures of the California Green Building Standards code, Divisions A5.1, 5.2 and 5.5, Energy Efficiency as outlined under Section A5.203.1.2. (Applicant is responsible for incorporating these requirements into project plans and specifications. City staff will be responsible to ensure that subject requirements are included in plans and specifications.)

18. All tenant lease agreements for the project site shall include a provision requiring the tenant/lessee to comply with all applicable requirements of the MMRP, a copy of which shall be attached to each tenant/lease agreement.

**Biological Resources:**

19. The developer shall apply to the San Joaquin Council of Governments (SJCOG) for coverage under the San Joaquin County Multi-Species Open Space and Habitat Conservation Plan (SJMSCP). The project site shall be inspected by the SJMSCP biologist, who will recommend which Incidental Take Minimization Measures (ITMMs) set forth in the SJMSCP should be implemented. The project applicant shall pay the required SJMSCP fee, if any, and be responsible for the implementation of the specified ITMMs. (The applicant will be responsible for submitting the SJMSCP coverage application, payment of required fees and implementation of ITMMs. The ODS' Engineer will be responsible for incorporating ITMM requirements in the project plans and specifications. The Contractor will be responsible for adherence to the plans and specifications, hiring a qualified biologist if required and implementing the biologist recommendations. City Planning will verify that SJMSCP coverage has been obtained and that other mitigation measures have been implemented as required by ITMMs.