

SECTION 2: MASTER RESPONSES

Master responses address similar comments made by multiple public agencies, organizations, or individuals through written comments submitted to Contra Costa County. Master responses are provided in the order in which they are referenced in the responses in Section 3.

2.1 - List of Master Responses

- Master Response 1—Water Supply and Distribution
- Master Response 2—Agricultural Preservation Agreement
- Master Response 3—Transportation Analysis
- Master Response 4—General Comments
- Master Response 5—Growth Inducement

2.2 - Master Responses

Master Response 1—Water Supply and Distribution

Summary of Relevant Comments

Since publication of the RDEIR, the project description has been refined to clarify and simplify the intention of the Project proponent in terms of water supply and distribution.

The Water Supply Evaluation (WSE) examined two possible supplies of water:

- Water purchased from Calaveras Public Utility District (CPUD)
- Off-site Water Conservation

The Project now proposes to focus solely on facilitating and accelerating the implementation of East Bay Municipal Utility District (EBMUD) water conservation measures to augment the availability of potable water sufficient to serve the Project as proposed. Thus, Section 4, Changes to the Recirculated Draft EIR/Errata contains an explanation of the strategy that was ultimately selected to ensure adequate water supply to the proposed Project. These changes are the result of consultation with EBMUD staff about the options and issues that were presented in the RDEIR and are responsive to comments received, and do not change the significance of any of the environmental issue conclusions within the RDEIR or otherwise trigger recirculation.

Many commenters expressed general and specific opposition to the provision of potable water through a long-term agreement with CPUD. Following the simplification of the proposed water supply approach for the Project, those comments are no longer applicable to the Project as proposed.

The key issues raised by commenters include the following concepts:

1. CPUD water:
 - a. Opposition to the use of CPUD water; and

- b. Questions regarding the accuracy of the term sheets used to ensure the provision of long-term water supply from CPUD.
2. Questions regarding the feasibility of using conservation measures to free up sufficient potable water for the Project.
3. Assertions that the Project would result in a reduction of water available to EBMUD customers.
4. Consistency with EBMUD Policies 3.01, 3.05, and 3.08.
5. Questions regarding the extent of water demand to be generated by the Project.

Responses

1. Opposition to the use of CPUD water, and questions regarding the accuracy of the term sheets used to ensure the provision of long-term water supply from CPUD.

Several commenters expressed opposition to the use of CPUD water, along with questions regarding the accuracy of the proposed term sheets to ensure the long-term water supply from CPUD.

As described in the introduction to this Master Response, the Project no longer proposes the use of CPUD water; rather, the Project would focus solely on facilitating and accelerating the implementation of EBMUD water conservation measures to augment the availability of potable water sufficient to serve the Project as proposed. No further response is required.

2. Questions regarding the feasibility of using conservations measures to free up sufficient potable water for the Project.

Several commenters questioned the feasibility of using conservation measures to free up sufficient potable water for the Project. Following circulation of the RDEIR, and in preparation of this Final EIR, County staff coordinated with EBMUD staff on several occasions in response to comments received and to further discuss and clarify the potential ways in which the Project could facilitate and accelerate the funding of conservation measures, as well as the practical effect of any such financial support to result in sufficient water savings to fully accommodate the Project's water demand. Should the EBMUD Board of Directors vote to authorize its staff to negotiate an agreement for the Project and associated water conservation funding, said agreement would include a ratio of savings above and beyond the actual projected demand that is ultimately determined acceptable by EBMUD, such that a reasonable buffer of water would be assured to more than offset the anticipated demand.

Specifically, the WSE references four "Level E" measures identified in the WSMP 2040 that would provide conservation of 2 million gallons per day (mgd) if implemented, which is well in excess of that needed to serve the Project. While EBMUD has identified these specific additional conservation measures, along with the assumed amount of water that would be conserved upon implementation, the WSMP 2040 did not identify a timetable for implementation of Level E measures since this would be heavily dependent upon the availability of funding, among other considerations; nor did it identify specific funding source(s) for same. Therefore, by providing funding in an amount sufficient, as determined by the EBMUD Board of Directors, to facilitate, accelerate and implement these

measures in a manner that would cover the estimated Project water demand, service to the Project by EBMUD could be achieved through its existing supply in a manner that would otherwise not occur. As documented in the WSE, the preferred conservation elements would be developed and confirmed in consultation with EBMUD. The amount of funding that would be necessary to achieve the foregoing conservation offset would be defined and confirmed through negotiations with EBMUD and subject to the discretion and approval of the EBMUD's Board of Directors as memorialized in a binding agreement.

3. Assertions that the Project would result in a reduction of water available to EBMUD customers.

State law requires that the amount of current and anticipated water supply be documented for a finite period of time, i.e., 20 years, recognizing that it is speculative to treat any water source as permanent. Consistent therewith, agencies like EBMUD typically rely on contract water rights with time-limited terms, and thus do not typically involve contractual provisions that guarantee the water supply is available in perpetuity. EBMUD's WSMP 2040 adheres to the foregoing approach and, among other things, identifies a range of specific "Level E" conservation measures, which, if implemented, would provide conservation of 2 million gallons per day (mgd) and thus would further bolster EBMUD's existing supply, as detailed more fully in the WSMP 2040 and clarified in the Errata for this EIR. As explained above, by providing funding in an amount sufficient, as determined by the EBMUD Board of Directors, to facilitate, accelerate and implement these measures in a manner that would offset the estimated Project water demand, service to the Project could be achieved through EBMUD's existing supply in a manner that would otherwise not occur. This would therefore ensure that the Project does not result in a reduction of water available to EBMUD customers. In addition, as discussed in paragraph 5, below, the Project would be subject to stringent mandated water conservation measures to ensure the efficient use of water, which would further address concerns regarding the amount of water available to EBMUD customers.

Please see WSE for additional information regarding the foregoing.

4. Consistency with EBMUD policies 3.01, 3.05, and 3.08.

In accordance with applicable laws and regulations, it is within the authority of EBMUD's Board of Directors to ultimately determine whether the Project is consistent with the priorities and objectives underlying the Board's own policies; this determination would occur when a request for approval to supply water to the Project Site goes before them, whether proposed through an extraterritorial water service agreement or annexation. Also in accordance with applicable laws and regulations, as a responsible agency, however, EBMUD's Board would not be asked to consider providing water service to the Project until after the County, as lead agency and the local land use authority, has exercised its discretion to both include the residential development component of the Project within the urban limit line (ULL) and to approve the Project itself. That chronology of lead agency followed by responsible agency review and approval is consistent with CEQA case law requiring that a water agency's approval of a water supply for new land uses should follow the land use agency's determination to approve the new land use. *See County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931 (approving water supply before approving land use puts "cart before the horse"); *see RiverWatch v. Olivenhain Mun. W D.* (2009) 170 Cal.App.4th 1186 (water

supply agreement approval should follow completion of CEQA review by land use agency). As such, if the County, as the land use authority and lead agency for purposes of CEQA, grants the requested approvals, the residential development component of the Project would be within the ULL when EBMUD's Board is asked to take action on the Project's water supply, which may be considered a relevant consideration from the EBMUD Board's perspective given that its service area and sphere of influence are typically consistent with the County's ULL.

5. Questions regarding the extent of water demand to be generated by the Project.

Indoor and outdoor residential water demand factors are defined and expressed in terms of acre-feet per year on page 3.13-24 of the RDEIR. As explained more fully in the WSE and based on substantial evidence in the record, the Project would demand up to approximately 48 acre-feet of potable water annually. To clarify the information contained in the RDEIR, Table 3.13-2 is amended in Section 4, Changes to the Recirculated Draft EIR/Errata, to make clear that the factors shown are in acre-feet per year.

The WSE for the Project was prepared by recognized experts and peer reviewed, as appropriate, by the County's consultants. The WSE estimates the Project's water demand through buildout, presents and discusses the availability of water sources identified to meet that demand, and assesses whether expected water sources would be sufficient to meet the Project's anticipated water demand during normal, single dry, and multiple dry year conditions. The analytical approach taken in the WSE is consistent with the State's Water Supply Assessment law that applies only to much larger projects, and provides a clear and robust evaluation of whether expected water supplies would be sufficient to meet the Project's expected water demand.

Given that EBMUD is the identified service provider and based on consultation with EBMUD in response to comments received, the County and the various technical consultants have sought to coordinate with EBMUD staff, as appropriate, regarding the methodologies and assumptions used in this EIR. The methodology for projections used by EBMUD staff is based on historic demand levels in a large region where much, or most, residential development was constructed decades ago, before water-related building standards mandated high levels of water conservation. Necessarily then, using historic demand projections will not reflect current water-related building standards that mandate inclusion of features that result in high levels of water conservation. Specifically, the California Green Building Standards Code mandates water efficiency and conservation measures for both indoor and outdoor water use, and requires new development to comply with the state's updated Model Water Efficient Landscape Ordinance, which generates substantial water savings through water-saving landscape design, installation, and maintenance. The Project would be legally required to adhere to these more stringent updated conservation mandates, and thus would be prohibited from generating the higher water demand that historically occurred without these much more rigorous water conservation measures. Accordingly, the Tassajara Parks Project would only be allowed to generate the same -- substantially lower -- water demand evidenced by other more recent housing developments, such as the nearby Alamo Creek project.

In any event, as indicated in paragraphs 3 and 4 above, the Project applicant would be required to enter into a binding agreement with the EBMUD's Board of Directors to confirm the amount of

Project water demand that would need to be offset through funding of identified conservation measures, and that it would be within EBMUD’s purview to set the Project’s estimated demand in connection therewith.

However, in preparing this FEIR and with the goal of being responsive to the comments raised in connection with the Project’s demand calculation and continuing to facilitate full disclosure and a robust analysis, the County commissioned a letter report from an independent third party evaluating the potential water demand of the Project. The letter report is included in Appendix J and recognizes that varying methodologies may be used to determine demand. This analysis evaluated three different methodologies and confirmed a range of potential water demand from approximately 47.9 acre-feet per year (AFY) to approximately 91.7 AFY. It also identified the amount of 56.3 AFY as appropriately conservative, while properly taking into account modern technologies and conservation measures, coupled with updated legal mandates regarding water efficiency. This information provides further support for the existing discussion and analysis and does not require modification of or otherwise affect the conclusions of the RDEIR.

The County acknowledges that EBMUD would be the purveyor for this Project (subject to approval by the EBMUD Board as well as LAFCO) and also acknowledges EBMUD’s purview in setting the estimated demand based on its own historical data. The County further acknowledges the disagreement among experts and the possibility that the Project’s water demand could fall somewhere between approximately 47.9 and 91.7 AFY depending on the methodology used (rounded up to a range of 48 to 92 AFY). To ensure impacts are fully mitigated and taking into account the foregoing, the County would condition the Project such that the Project developer be required to enter into a binding agreement with EBMUD that provides for the Project to fully accommodate its identified demand at a minimum of 56.3 AFY or the amount ultimately confirmed by EBMUD, whichever is greater. The County also would condition the Project on requiring specified water conserving features and limits on total demand to be included as enforceable provisions in the Project’s CC&Rs, and that penalties could be levied against individual homeowners for violating these provisions to help ensure compliance. This is consistent with the method successfully used in the Alamo Creek development.

Master Response 2—Agricultural Preservation Agreement

Summary of Relevant Comments

Several commenters expressed general opposition to, and concerns regarding a proposed Agreement Regarding Preservation and Agricultural Enhancement in the Tassajara Valley (previously referred to as a Memorandum of Understanding (MOU); referred to herein as the “Agricultural Preservation Agreement”) that is being considered by the County and the other adjacent jurisdiction (San Ramon) as well as the East Bay Regional Park District.

As discussed below, the Agricultural Preservation Agreement would facilitate the ongoing implementation of existing policies and would not involve any land use changes or result in any significant adverse physical environmental impacts. An EIR is only required to address environmental impacts that could be caused, in whole or in part, by a proposed project. Although the public comments related to the Agricultural Preservation Agreement do not raise environmental issues that are within the purview of the RDEIR prepared for the Project, information is provided in the responses below in an effort to promote full public disclosure. All comments related to the

Agricultural Preservation Agreement will be provided to the County decision-makers for their review and consideration.

The key issues raised by commenters centered around the following concepts:

1. The relationship between the Project and the proposed Agricultural Preservation Agreement;
2. The parties/signatories to the Agricultural Preservation Agreement;
3. The provisions of and obligations under the Agricultural Preservation Agreement;
4. The need for and purpose of the Agricultural Preservation Agreement;
5. The ultimate potential effects or results if the Agricultural Preservation Agreement were to be approved, including the potential for the Agricultural Preservation Agreement to “open the door” for other future development on lands now outside the ULL; and
6. Potential alternatives to the Agricultural Preservation Agreement.

Background

On November 6, 1990, Contra Costa County voters approved Measure C—1990, the Contra Costa County 65/35 Land Preservation Plan Ordinance (65/35 Ordinance). The 65/35 Ordinance is codified in Chapter 82-1 of the County Ordinance Code.

The 65/35 Ordinance limits urban development to no more than 35 percent of the land in the County and requires at least 65 percent to be preserved for agriculture, open space, wetlands, parks, and other non-urban uses (“65/35 Standard”). Measure C—1990 also established the ULL, a boundary beyond which no urban land use may be established. Measure C—1990 was set to expire on December 31, 2010. However, on November 7, 2006, County voters approved Measure L, which extended the term of the 65/35 Ordinance (including the ULL) to December 31, 2026.

Section 82-1.018 of the voter-approved 65/35 Ordinance, labelled “Changes to the urban limit line,” allows a four-fifths vote of the County’s Board of Supervisors (Board), at its discretion, to approve a change to the ULL by up to 30 acres, after holding a public hearing and making any one of the following seven enumerated findings:

1. A natural or man-made disaster or public emergency has occurred which warrants the provision of housing and/or other community needs within land located outside the urban limit line;
2. An objective study has determined that the urban limit line is preventing the county from providing its fair share of affordable housing, or regional housing, as required by state law, and the board of supervisors finds that a change to the urban limit line is necessary and the only feasible means to enable the county to meet these requirements of state law;
3. A majority of the cities that are party to a preservation agreement and the county have approved a change to the urban limit line affecting all or any portion of the land covered by the preservation agreement;

4. A minor change to the urban limit line will more accurately reflect topographical characteristics or legal boundaries;
5. A 5-year cyclical review of the urban limit line has determined, based on the criteria and factors for establishing the urban limit line set forth in Section 82-1.010, that new information is available (from city or county growth management studies or otherwise) or circumstances have changed, warranting a change to the urban limit line;
6. An objective study has determined that a change to the urban limit line is necessary or desirable to further the economic viability of the East Contra Costa County Airport, and either (i) mitigate adverse aviation-related environmental or community impacts attributable to Buchanan Field, or (ii) further the county's aviation related needs; or
7. A change is required to conform to applicable California or federal law.

As noted above, one such finding is that "A majority of the cities that are party to a preservation agreement and the county have approved a change to the urban limit line affecting all or any portion of the land covered by the preservation agreement." As set forth in Section 82-1.024 of the 65/35 Ordinance, a "preservation agreement" is an agreement with the County and one or more cities in the County designed to preserve certain land in the County for agriculture, open space, wetlands, parks, and other non-urban uses. The foregoing is intended to reflect the desired relevant inter-agency collaboration on land use issues, particularly in areas that have been long-subject to disputes in this regard.

The Tassajara Valley Agricultural Preservation and Enhancement Area is generally not appropriate for urban growth because of its physical unsuitability for development, unstable geological conditions, inadequate water availability, lack of appropriate infrastructure, distance from existing development, likelihood of substantial environmental damage or substantial injury to fish or wildlife or their habitat, and other similar factors.

In recognition of those facts, the proposed Agricultural Preservation Agreement is designed to preserve the Tassajara Valley Agricultural Preservation and Enhancement Area for agriculture, open space, wetlands, parks, recreation and other non-urban uses by committing the parties thereto to numerous principles, including, among others, memorializing and reaffirming each party's respective commitment to preserving land in the Tassajara Valley Agricultural Preservation and Enhancement Area consistent with the parties' respective existing policies and principles and requiring urban development to be effectively buffered from land planned for agricultural, open space, parks, recreation or other non-urban uses. The parties' commitments to these existing policies and principles would preserve the existing non-urban state of the Tassajara Valley Agricultural Preservation and Enhancement Area by reinforcing a buffer of lands that may only be used for non-urban purposes consistent with existing ULL/UGB principles and policies. To reiterate, this merely reflects an ongoing commitment to the parties' existing land use principles and policies related to urban sprawl and growth management.

In addition, as described further below, the Agricultural Preservation Agreement provides a mechanism for the permanent protection and preservation of 727 acres of lands (i.e., the Dedication Area), coupled with the commitment of significant funding to preserve and enhance agricultural

uses, as detailed therein and as made further enforceable through the Project’s Development Agreement and its conditions of approval.

Response

1. The Relationship between the Project and the Agricultural Preservation Agreement.

Some commenters requested clarification of what lands are proposed to be preserved under the Project. Approximately 101 acres of the Northern Site (subject to a maintenance easement in favor of the GHAD) would be conveyed by fee simple transfer to EBRPD (or, at EBRPD’s request, to the Regional Parks Foundation), which would prohibit any future urban uses outside of the 30-acre Residential Development Area. The Project applicant also would convey almost all of the Southern Site—approximately 609 acres—to the EBRPD by fee simple transfer, subject to a conservation easement on a portion of the Southern Preservation Area. In other words, the Agricultural Preservation Agreement would require the parties to support the dedication and permanent preservation of land at two locations comprising a total of approximately seven hundred twenty-seven (727) acres of the Project Site (collectively, “**Dedication Area**”). The fee simple conveyances of a total of 727 acres to EBRPD would ensure that the foregoing lands are protected and preserved in perpetuity for non-urban uses only. In addition to conveying most of the Southern Site to EBRPD for permanent preservation, the Project applicant has offered to dedicate an approximately 7-acre parcel on the Southern Site to the San Ramon Valley Fire Protection District (SRVFD) for its potential future use, in a manner consistent with the parcel’s location outside the ULL. If SRVFD does not ultimately accept this offer of dedication, then this remaining 7 acres would also be conveyed in fee to EBRPD, as reflected in the Project’s conditions of approval.

Subject to the above conveyance of the Dedication Area under specified circumstances, which would be achieved through implementation of the Agricultural Preservation Agreement and enforced via the Project’s Development Agreement and conditions of approval, the Agricultural Preservation Agreement also would memorialize each signatory agency’s respective commitment to endeavor to preserve and enhance agricultural and other non-urban land uses within an approximately 17,667-acre area in Tassajara Valley (the “Preservation and Enhancement Area”) by agreeing to apply each party’s existing land preservation policies, as codified in existing zoning regulations and general plan policies, to this area.

In addition to the conveyance of the Dedication Area and the commitment to the parties’ existing land preservation policies, the Agricultural Preservation Agreement would also secure the irrevocable payment of \$4 million, under specified circumstances, to an agricultural enhancement and preservation fund.

Some comments claimed that that the Agricultural Preservation Agreement may violate CEQA if it commits the County to approval of the Project; and/or stated that it appears the only reason for proposing the Agricultural Preservation Agreement is to facilitate the making of a finding to permit the Project’s approval under County Code Chapter 82-1.018(a)(3) (the County’s 65/35 Land Preservation Plan Ordinance).

As explained throughout the RDEIR, the Agricultural Preservation Agreement seeks to reinforce a range of *existing* provisions in each party’s general plan/master plan intended to protect agricultural lands and open space, and is therefore not a “project” within the meaning of CEQA. The Agricultural Preservation Agreement does not commit any party to a particular course of action or project that could have any effect on the environment, and therefore does not have the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, pursuant to Section 15378 of the CEQA Guidelines. In addition, the Board of Supervisors may approve the Agricultural Preservation Agreement separate and apart from the Project. Thus, the Agricultural Preservation Agreement is not part of the Tassajara Parks Project and may exist separate and apart from, and irrespective of, the Project. In the event the parties approve the Agricultural Preservation Agreement and if the Board of Supervisors also elects to change the ULL and approve the Project, the Project applicant would be required to convey the 727-acre Dedication Area and make an irrevocable payment of \$4 million to an agricultural enhancement and preservation fund established by the County pursuant to the Agricultural Preservation Agreement’s terms. The money in the fund would be used for any of the stated purposes of the Agricultural Preservation Agreement, as described below in Section 3.

As explained in detail in the RDEIR, the effect of the Agricultural Preservation Agreement would be to continue existing policy, and it would not result in a substantial adverse change to existing conditions with respect to any environmental impact area addressed within the RDEIR. It is not intended to facilitate additional urban development within the Enhancement Area or Dedication Area, which is evident given the signatories’ expressed commitment to existing preservation policies. Any potential future agricultural or preservation program that may be funded and pursued pursuant to the Agricultural Preservation Agreement that involves discretionary approvals would be subject to separate project-level CEQA review as determined necessary under CEQA, all of which would be subject to the applicable regulatory framework governing the ULL and permitted uses.

If the Agricultural Preservation Agreement serves as the basis for making the finding of approval under Section 82-1.018(a)(3), above, and the Project is approved, there are a number of other public benefits that would be realized as a result of Project approval, which would be enforced through the Project’s Development Agreement and conditions of approval:

- Permanent preservation of at least 727 acres of land in the Tassajara Valley (i.e., the Dedication Area) for non-urban uses such as recreation, open space, agriculture, grazing, scenic, wetland preservation and creation, and habitat mitigation;
- An irrevocable payment of \$4 million to an agricultural enhancement and preservation fund established by the County to support, develop and implement a broad array of policies, programs, and other actions intended to enhance agriculture and to preserve open space, wetlands, parks, recreation, and other non-urban uses in the Tassajara Valley;
- A \$2,500,000 contribution (“**\$2.5M LCTF Contribution**”) to the existing Contra Costa Livable Communities Trust Fund to be used by the County in its discretion in accordance with any adopted guidelines for the use of fund revenues;

- Off-site improvements would be constructed at the adjacent Tassajara Hills Elementary School parking lot/entrance to improve existing parking and circulation deficiencies, particularly during drop-off and pick-up times;
- Dedication of a pedestrian staging area to EBRPD; and
- Dedication of an approximately 7-acre parcel for potential future public use to the San Ramon Valley Fire Protection District.

Approval of the Project subject to the commitment to these items in the Agricultural Preservation Agreement, the Project's Development Agreement and the Project's conditions of approval would, among other things, establish a substantial buffer of land owned and controlled by public agencies that surrounds the ULL in this part of the Tassajara Valley, beyond which no urban services would be extended and urbanization of the Tassajara Valley would therefore not occur. Together, the Agricultural Preservation Agreement and the Project would directly and substantially advance the primary objective of the County's 65/35 Land Preservation Plan Ordinance.

Because the Project and the Agricultural Preservation Agreement are separate actions, however, the Agricultural Preservation Agreement could also be separately approved even if the Project were not ultimately approved. In that scenario, the Agricultural Preservation Agreement would still advance the purposes stated within Section 10 of the Agricultural Preservation Agreement (discussed under paragraph 3, below).

2. Parties/Signatories to the Agricultural Preservation Agreement.

One comment claimed that EBRPD should not be a party to the Agricultural Preservation Agreement because it is not a local government under Article 11, Section 7 of the California Constitution and, as such, does not have the same police powers that apply to land use and zoning matters.

The County Ordinance Code does not contain any such limitation. Moreover, under specified circumstances, the Project applicant would be required to convey to EBRPD (or, at EBRPD's request, to the Regional Parks Foundation) almost all of the Southern Site—approximately 609 acres—, as well as approximately 101 acres of the Northern Site, by fee simple transfer, subject to a conservation easement on a portion of the Southern Preservation Area and a maintenance easement for purposes of the GHAD (on the Northern Site). The fee simple conveyances to EBRPD, totaling 727 acres, would ensure that the foregoing lands are protected and preserved in perpetuity for non-urban uses only. Because EBRPD, which is a regional park district formed pursuant to Article 3 of Chapter 3 of Division 5 of the Public Resources Code, may accept conveyances of park land for these purposes, it is an appropriate party to the Agricultural Preservation Agreement. Moreover, including EBRPD as a strategic partner with the County and San Ramon would help achieve the overall purpose and goals of the Agricultural Preservation Agreement.

Some commenters stated that local landowners in the Tassajara Valley (or their designated representative) should also be party to the Agricultural Preservation Agreement. However, the representation of local landowners is achieved by the election of the Board of Supervisors, and is also reflected in the previous voter approval of the County's 65/35 Land Preservation Plan Ordinance (which gives the County authority to approve an adjustment to the ULL by up to 30 acres where,

among other potential findings, a preservation agreement has been executed). The voters decided that ULL expansions of 30 acres or less do not require their approval if the Board of Supervisors is able to make any one of the seven findings identified above, by a four-fifths vote (Contra Costa County Development Code § 82-1.018(b)). Moreover, the Agricultural Preservation Agreement’s provisions confirm that it is not intended to limit, and does not limit, the authority of the voters to elect to extend or not extend the life of the ULL. If the voters ever elect to not extend the life of the ULL, the Agricultural Preservation Agreement would only apply to the Dedication Area.

3. Provisions of, and Obligations Under the Agricultural Preservation Agreement.

Some commenters claimed the Agricultural Preservation Agreement should contain additional provisions for environmental protection from damage that could occur from potential future orchard and vineyard uses (adding that organic farming methods should be promoted), and questioned what efforts are proposed by the signatory agencies to the Agricultural Preservation Agreement to protect environmental degradation of valuable sensitive natural communities throughout the Preservation and Enhancement Area.

As stated above, the Agricultural Preservation Agreement seeks to reinforce a range of *existing* provisions in each party’s general plan/master plan intended to protect agricultural lands and open space. The effect of the Agricultural Preservation Agreement would be to continue existing policy, and the Agricultural Preservation Agreement would not result in a substantial adverse change to existing conditions with respect to any environmental impact area addressed within the RDEIR. Any specific agricultural enhancement and preservations measures that would be funded pursuant to the Agricultural Preservation Agreement that are discretionary in nature would be subject to separate project-level CEQA review at the time pursued. It is reasonable to conclude that any such required review would include analysis of potential environmental impacts from any agricultural uses and any potential impacts to any sensitive natural communities.

Several commenters stated that it is unclear what the \$4 million developer payments would be used for or how they would be allocated. Pursuant to Section 12 of the Agricultural Preservation Agreement, the monies contributed to the fund may not be commingled with other County funds, and shall be expended solely for one or more of the purposes set forth in Section 10 of the Agricultural Preservation Agreement ; which include but are not limited to the following:

- a) Encouraging and promoting purchase of land or conservation easements, from **willing sellers**, to protect and enhance agriculture and to preserve open space, wetlands, parks, recreation and other non-urban uses [Section 12 of the Agricultural Preservation Agreement indicates that the preference of the parties is to dedicate approximately 90% of the funds in furtherance of one or more of the purposes set forth in Section 10 of the Agricultural Preservation Agreement.];
- b) Continuing the California Land Conservation Act of 1965 (“Williamson Act”) (Gov’t Code § 51200, et seq.) program to provide tax incentives for property owners who agree not to develop their land;
- c) Encouraging lease of public land for agricultural activities such as grazing;

- d) Encouraging and promoting enhanced ground water management for agriculture and rural use, including technical support for more efficient water application and cooperative ground water management and extraction;
- e) Encouraging and promoting enhanced marketing for locally-grown agricultural goods, including better connecting farmers to local markets;
- f) Encouraging continuation and augmentation of the technical support available to farmers, especially in the areas of financing, weed abatement and management, soil conservation, and range management;
- g) Exploring and pursuing a range of funding opportunities for agricultural enhancement and preservation of open space, wetlands, parks, recreation, and other non-urban uses through activities such as grants, allocations from funding measures, and appropriations from density transfer programs and mitigation programs;
- h) Cooperating with stakeholders to develop a shared vision for the future of the Tassajara Valley; and
- i) Encouraging public beautification projects, public signage, way-finding signage, and traffic regulations and improvements that enhance agricultural activities in the Tassajara Valley, or the rural character of the Tassajara Valley.

Several commenters questioned what is meant by the term “nonurban uses.” As provided for in the County General Plan’s Land Use Element (p. 3-4) and as defined by County Code Section 82-1.032, the term “nonurban uses” includes such uses as agriculture, wetlands, parks, recreation, or general open space. It also includes rural residential and agricultural structures allowed by applicable zoning and facilities for public purposes, whether privately- or publicly funded or operated, which are necessary or desirable for the public health, safety or welfare or required by state or federal law.

Several commenters expressed concerns regarding potential extension of water service and infrastructure. Section 8 of the Agricultural Preservation Agreement provides, however, that the parties will agree to reinforce existing policies to *not* to support any proposal to extend, expand or connect to urban infrastructure or service to all or any portion of the Preservation and Enhancement Area, *unless* such extension, expansion or connection is (1) the minimum necessary to avoid an unconstitutional taking of private property; (2) is the minimum necessary to comply with state or federal law; or (3) is the minimum necessary to avoid specific, adverse impacts upon public health or safety. Therefore, the Agricultural Preservation Agreement includes safeguards to ensure that necessary extensions, expansions, or connections to infrastructure may occur as necessary to avoid public harm or compensable takings.

4. The Need for, and Purpose of the Agricultural Preservation Agreement.

Several commenters claimed that the lands proposed for preservation by the Project are already protected by the County’s ULL and existing General Plan and zoning designations, thus rendering the Agricultural Preservation Agreement unnecessary; that the Agricultural Preservation Agreement creates no enforceable obligations for its signatories to preserve any land; and that the Agricultural

Preservation Agreement is an illegal attempt to circumvent the actual requirements of the ULL ordinance, against the will of the voters who approved the ULL.

The parties to the Agricultural Preservation Agreement would be reflecting the underlying goals of inter-agency collaboration and reaffirming their commitments to the existing agricultural and open space protection policies adopted by that party, including but not limited to, the County's ULL and the San Ramon urban growth boundary(UGB) for all lands within each party's respective jurisdiction, and specifically with respect to the Preservation and Enhancement Area, which is outside the ULL/UGB of any jurisdiction, thereby ensuring that no urban development outside of the ULL/UGB will be allowed. It would also facilitate the permanent protection and preservation of the Dedication Area as described further above.

It is important to note that the Preservation and Enhancement Area (including the Dedication Area) are currently outside of the County's ULL and the San Ramon UGB; do not fall within any municipality's sphere of influence; and are outside the current service areas/spheres of influence for all special districts providing water and sewer service. The Agricultural Preservation Agreement would serve to memorialize the agreement of the parties to cooperate with respect to the continuing implementation of existing policies such as the following:

- Expressly reaffirming each party's commitment to said existing policies, and acknowledging and agreeing that the Preservation and Enhancement Area and the Dedication Area are outside the ULL/UGB, both of which prevent urban development;
- Supporting the addition of the Preservation and Enhancement Area and the Dedication Area to the Association of Bay Area Government's list of Priority Conservation Areas to improve access to grant funding for acquisition of land or easements from **willing sellers**;
- Consistent with the existing policies, and except as otherwise provided therein, each party agreeing not to support any proposal to annex all or any portion of the Preservation and Enhancement Area or Dedication Area into a municipality or a utility services district unless the annexation serves non-urban uses, such as agriculture, open space, wetlands, parks, recreation, and other non-urban uses.
- EBRPD agreeing that following County certification of the EIR and Project approval, it will accept fee title to the Dedication Area, either directly from the Developer or through a dedication from the Regional Parks Foundation.
- Cooperating to cause the County General Plan land use designation for the Dedication Area to be changed to Parks and Recreation (PR).
- Consistent with the existing policies, and except as otherwise provided therein, each party agreeing not to support any proposal to modify the sphere of influence of any municipality or utility services district to include all or any portion of either the Preservation and Enhancement Area or Dedication Area unless the modification serves non-urban uses such as agriculture, open space, wetlands, parks, recreation and other non-urban uses in the Preservation and Enhancement Area or Dedication Area.

- Consistent with the existing policies, and except as otherwise provided therein, each party agreeing not to support any proposal to extend, expand, or connect to urban infrastructure or service, all or any portion of either the Preservation and Enhancement Area or Dedication Area, unless: (a) the extension, expansion, or connection serves non-urban uses such as agriculture, open space, wetlands, parks, recreation, and other non-urban uses; or (b) the extension, expansion, or connection (i) is the minimum necessary to avoid an unconstitutional taking of private property, (ii) is the minimum necessary to comply with state or federal law, or (iii) is the minimum necessary to avoid specific, adverse impacts upon public health and safety.
- Consistent with the existing policies, and except as otherwise provided therein, each party understanding that the County does not support amending the General Plan land use designation for all or any portion of either the Preservation and Enhancement Area or Dedication Area, unless such proposed amendment is for one or more of the following County General Plan land use designations: Agricultural Lands, Public and Semi-Public, Open Space, or Parks and Recreation Uses, or other non-urban uses.
- Consistent with the existing policies, and except as otherwise provided therein, each party understanding that the County does not support amending the zoning designations in either the Preservation and Enhancement Area or Dedication Area to change the zoning to a non-agricultural designation or other designation that is not compatible with agriculture, open space, parks, recreation, and other non-urban uses.
- Consistent with the existing policies, and except as otherwise provided therein, each party agreeing that it does not support any future urban development in the Preservation and Enhancement Area or Dedication Area; and
- Agreeing to work together to support, develop, and implement policies, programs, and other actions intended to enhance agriculture and to preserve open space, wetlands, parks, recreation, and other non-urban uses in the Preservation and Enhancement Area.

As discussed under Section 1, above, the County's 65/35 Land Preservation Plan Ordinance gives the County the ability to expand the ULL by up to 30 acres provided that one of the requisite findings under Section 82-1.018(a) is made (this provision was approved by the voters in 2006 and is therefore not an attempt to circumvent the requirements of the Ordinance). Approval of the Agricultural Preservation Agreement or similar agreement is just one of the potential findings that can be made to support approval by the Board of Supervisors so long as this is supported by substantial evidence in the record. As explained above, approval of the Agricultural Preservation Agreement would provide additional protections and public benefits related to preservation and agricultural enhancement.

5. Effects If Agricultural Preservation Agreement Were Approved.

Some commenters expressed concerns that the Agricultural Preservation Agreement, if approved, will be used to extend the ULL for other projects in the Tassajara Valley and throughout the County, thus potentially "opening the door" to further development on lands now outside the ULL, and

encouraging development by providing a legal path for future projects to move the ULL without a public vote.

As discussed above in this response, the ULL may be expanded by up to 30 acres by a four-fifths vote of the Board of Supervisors after holding a public hearing and making one or more of the findings under County Code Section 82-1.018, based on substantial evidence in the record. Therefore, although any such proposed ULL expansions of 30 acres or less would not require voter approval, they are still subject to the public hearing process and a supermajority vote by the Board of Supervisors. Any other potential future development project that may seek to change the ULL would still be required to comply with this robust process regardless of whether the Agricultural Preservation Agreement is in place. The Agricultural Preservation Agreement would not, therefore, promote or encourage development on lands now outside the ULL, but rather would simply provide the other benefits and protections outlined in this response. This conclusion is further supported by the fact that the seven above-referenced findings have been in place for decades and there has been only one other ULL modification made pursuant thereto.

Some commenters expressed concerns that the Agricultural Preservation Agreement would amount to the taking of private property without due process and compensation, and that if the intention is to convert privately owned property to open space, then it must be purchased and paid for by the governing jurisdictions. As discussed above, the Agricultural Preservation Agreement does not propose any general plan amendments or zoning changes and seeks only to reaffirm the parties' commitments under *existing* land use policies. The Agricultural Preservation Agreement would encourage and facilitate acquisition of land or conservation easements from willing sellers only and would provide a funding mechanism to ensure that any willing sellers receive compensation—it would not result in compensable takings of private property. Both County Code Section 82-1.018(b) and Section 8 of the Agricultural Preservation Agreement provide exceptions to prevent unconstitutional takings of private property and to ensure compliance with state and federal law.

6. Alternatives to the Agricultural Preservation Agreement.

Several commenters proposed alternative solutions to the Agricultural Preservation Agreement, such as creating a fund with tax revenue, limiting the boundary of the Agricultural Preservation Agreement so that it applies only to the Project footprint, adjusting the ULL as part of the regular review process, or making one of the other findings under County Code Section 82-1.018(a) to approve the Project. While these comments and suggestions do not relate to the adequacy of the EIR, they will be provided to County decision-makers as part of the EIR document for their review and consideration.

Master Response 3—Transportation Analysis

Summary of Relevant Comments

The key issues raised by commenters centered around the following concepts:

1. The methodology used to determine study intersections and whether traffic signals are warranted;
2. Potential Project impacts to freeway on-ramps;

3. The Contra Costa Transportation Authority (CCTA) model year and data used for the analysis;
4. The identification of safety mitigation for drivers and pedestrians entering/exiting the staging areas;
5. Safety of bicyclists and pedestrians along Camino Tassajara; and
6. Congestion and safety in the vicinity of Tassajara Hills Elementary School.

Response

1. The methodology used to determine traffic study intersections and signal warrants.

Several commenters requested clarification on how the traffic study intersections were identified.

The transportation impact analysis was conducted in accordance with CCTA standard procedures, as well as Caltrans Transportation Impact Study Guidelines, the Contra Costa County General Plan, and input from the City of San Ramon and Town of Danville (the City of Dublin was contacted but did not provide any input in this regard). The RDEIR discusses methodology and identifies 50 peak-hour Project trips as the threshold for inclusion as a study intersection (see RDEIR at pages 3.12-9 to 3.12-10). Exhibit 3.12-4, Project Trip Distribution shows the assumed trip distribution).

Several commenters mentioned Highland Road in particular as an intersection that should have been included. The Project trip distribution would result in an estimated 41 trips to the Highland Road intersection in the AM peak-hour and 32 peak-hour trips in the PM peak-hour, which would not merit inclusion in the traffic study in accordance with the 50 Project trip methodology discussed above.

As discussed at RDEIR page 3.12-25, traffic volumes at the unsignalized study intersections were compared against the peak-hour signal warrant criteria in the 2014 California Manual on Uniform Traffic Control Devices (CA MUTCD). Traffic Signal Warrant #3—Peak-hour Volume Warrant is satisfied when traffic volumes on the major and minor approaches exceed thresholds for one hour of the day. The Peak-hour Warrant is generally the first warrant to be satisfied. Other warrants such as for minimum vehicle volumes, interruption of continuous traffic, and traffic progression were not evaluated because they require higher traffic volumes to be satisfied. Signal warrants have no bearing on potentially significant impacts. However, if signalization of an unsignalized intersection is either part of a proposed project or could serve as a potential project-level mitigation, then a signal warrant is required to be met pursuant to MUTCD guidance. None of the study intersections (selected in accordance with the methodology described above) were found to meet the AM or PM peak-hour CA MUTCD signal warrant, including the Camino Tassajara/Finley Road intersection (see RDEIR at 3.12-61 to 3.12-62).

2. The effect on freeway segments and on-ramps

Using the 50-peak-hour trip methodology described above, the analysis determined that the Project is anticipated to generate 10 or fewer trips that would travel onto any single freeway ramp during the peak-hour. This nominal increase would not result in any noticeable changes to ramp operations or LOS. Therefore, based on this analysis, it was determined that no further evaluation of freeway

intersections/ramps was necessary. However, as the I-580 and I-680 freeway segments in the Project vicinity are already operating at an unacceptable level of service, the RDEIR acknowledged that the Project would result in an incremental impact to ongoing deficient operations.

Mitigation Measure TRANS-1 is designed to mitigate the identified impacts to freeway segments. The Project would contribute to the Tri-Valley Transportation Development Fee (TVTDF) program, which would partially mitigate the identified impact by contributing to the construction of planned freeway improvements, HOV lanes, auxiliary lanes and interchanges. The TVTDF programs approved by the Tri-Valley Transportation Council in January 2015 included the BART extension to Livermore, I-580 HOV express lanes, and I-680 HOV lanes.

Section 4, Changes to the Recirculated Draft EIR/Errata includes corrected text for Mitigation Measure TRANS-1 to remove reference to construction of the West Dublin BART Station, which is now complete, and to add the extension of BART to Livermore as a new project which could receive funding from the Project through the TVTDF.

3. The CCTA model year and assumptions

A commenter noted that Dougherty Road is a six-lane major arterial (three lanes in each direction). If Dougherty Road is coded as a four-lane roadway as in the 2013 CCTA travel Demand Model, this could have an impact on the select zone analysis used to derive the trip distribution.

Section 3.12 of the RDEIR reflects the current six-lane configuration of Dougherty Road. The road was therefore correctly coded in the CCTA Travel Demand Model, which was used in the RDEIR's traffic analysis. No changes were made to the CCTA model.

4. The identification of safety mitigation for drivers and pedestrians entering/exiting the staging area at Finley Road

Several commenters raised concerns about safety along Finley Road, and in particular related to increased traffic associated with the previously proposed Equestrian Staging Area.

At the time the RDEIR was published, the applicant had proposed to offer to dedicate land to EBRPD for purposes of a potential future Equestrian Staging Area. Therefore, for purposes of a conservative evaluation, a sight distance analysis was conducted at the proposed driveway to the staging area (see RDEIR Impact TRANS-6, page 3.12-82). The northerly intersection sight distance is currently limited by the horizontal curvature of Finley Drive north of the driveway and the existence of brush within the curb radius. As shown in Exhibit 2-9 of the RDEIR, the Project had previously proposed, as a project design feature, to realign the driveway onto Finley Road, which is anticipated to improve sight distance at this location. In addition, Mitigation Measure TRANS-6b required the applicant to clear brush and any obstructions that limit the sight distance within the horizontal radius of Finley Road to ensure that adequate sight distance is provided for vehicles traveling north. The RDEIR concludes that with implementation of these measures, the potential impact would be reduced to a less than significant level. Subsequent to the publication of the RDEIR, it was determined that an equestrian staging area would no longer be included as part of the Project and is thus no longer incorporated into any Project approvals. Accordingly, the Project applicant no longer proposes to

realign the above-referenced driveway and Mitigation Measure TRANS-6b is no longer relevant, since the previously identified significant would no longer occur since the equestrian staging area is no longer part of the Project.

As indicated in Section 4, Changes to the RDEIR/Errata, in consultation with EBRPD, it has been determined that a future equestrian staging area will no longer be included as a Project component and thus has been deleted from the Project Description. Furthermore, since the Project would no longer generate traffic along Finley Road to access the equestrian staging area, the corresponding potential impact to the intersection of Camino Tassajara/Finley Road would not occur and Mitigation Measure TRANS-3e, which would have required construction of a 50-foot southbound right-turn pocket on Finley Road, would no longer be necessary and therefore has been removed. The foregoing minor revisions do not change the underlying analysis in a way that would result in new significant impacts or increase the severity of any previously identified impacts.

5. Safety of bicyclists and pedestrians along Camino Tassajara

Several commenters noted that Camino Tassajara is a popular bicycle route and that the Project would exacerbate safety concerns along this corridor. Some commenters provided data related to accidents in the area.

Impact TRANS-8 (RDEIR page 3.12-86), evaluates the Project's potential conflicts with adopted plans, policies, and programs supporting alternative transportation. As discussed in the RDEIR, the Project would enhance bicycle connections, in compliance with plans for Camino Tassajara as shown in the 2009 Contra Costa Countywide Bike and Pedestrian Plan. Section 4, Changes to the RDEIR/Errata, includes additional text that is added to the discussion under Impact TRANS-8 (RDEIR page 3.12-86) to clarify the existing analysis. The added text amplifies the existing analysis and does not change the conclusions of, or mitigation provided in the RDEIR.

Several commenters suggested that bike counts be taken to more fully evaluate the potential effect of the Project. Bike counts are not a required analysis under CEQA; nevertheless, for informational purposes, the RDEIR includes this data. Specifically, bike counts were collected at all study intersections for peak periods and are included in Appendix I (Traffic Impact Study or "TIS"). Five years of crash data were reviewed and were also included in the RDEIR. Materials regarding documented crash reports are reviewed below.

Bike lanes along Camino Tassajara are consistent with Caltrans and County requirements from a design perspective, and the Project would not negatively impact these requirements; rather, the Project would preserve existing bike lanes and would extend a bike lane along the Project frontage to further facilitate safe bicycle connections. For purposes of a conservative analysis, the Project's TIA did not take any reductions for bike trips or people walking to the school. Field review did not indicate any specific bike safety concerns or that any substantial bike congestion occurs, and it is not anticipated the Project would significantly modify these existing conditions.

Moreover, increased traffic does not necessarily increase accidents. Accidents are typically a measure of the number of vehicle miles traveled, so an increase in vehicles may constitute a similar or lower rate of accidents. Safety is typically impacted by design deficiencies and design elements

and driver behavior. The bicycle facilities that were studied meet design standards and any proposed bicycle facilities would similarly be constructed to required standards. Driver behavior is not controlled by the Project applicant or the addition of Project traffic.

The commenter expresses a general opinion on the lack of existing bike lanes but does not raise any specific issues within the environmental analysis under CEQA; therefore, no further response is necessary. For informational purposes, it is noted that this is an existing deficiency, and the additional Project trips to the referenced roads are expected to be very low (see, e.g., RDEIR, at pp. 3.12-88 and 3.12-89). Further, the Project would preserve an existing Class II bike lane and would extend a Class II bike lane along the Project frontage, thereby encouraging the safe travel of bicyclists on these roads.

6. Congestion and safety in the vicinity of Tassajara Hills Elementary School

With respect to comments regarding potential Project-related traffic impacts, the TIS took the adjacent Tassajara Hills Elementary School into consideration and confirmed that the level of impact would be less than significant, and no mitigation would be required. In addition, the TIS provided recommendations to improve circulation and safety, which the Project applicant has voluntarily agreed to incorporate into the Project's design for the benefit of the broader community.

See RDEIR, at pp. 3.12-74 for a discussion of the Project's potential traffic impacts, including those near the Tassajara Hills Elementary School driveway, which confirmed that the LOS in the driveway study location would not be degraded below acceptable LOS E during the AM or PM peak-hours. This evaluation was conducted pursuant to relevant agency requirements and protocols and industry standards. School peaks typically occur for 15 to 20 minutes, whereas the typical street peaks occur over a period of one hour or more. Also note that the Project includes voluntary circulation improvements to the school's parking area, which were identified by the Project's traffic consultant in consultation with the School District. The congestion at the school is an existing condition caused by the school traffic and the number of students who choose not to take the bus, walk, or ride bicycles to school. The Project proposes to improve site parking and circulation, provide an additional westbound right turn lane on Camino Tassajara, and improve access for pedestrians from the project site to the school. These measures would improve traffic operations at the school and potentially shorten the time period of congestion at the school driveway. Regarding the voluntary parking lot and circulation improvements to Tassajara Hills Elementary School, there has been appropriate coordination between the County, the Project's traffic consultant and the School District. In addition, the Project would be required to form a new transit county service area, which could further be used to enhance transit-related options/

The TIS evaluated the Project's potential impacts in the AM and PM peak-hours in accordance with the relevant agencies' requirements and protocols, and industry standards in terms of the assumptions and methodologies used. The comment's assertions regarding an alternative methodology would be inconsistent with the relevant agencies' requirements and protocols and industry standards, and therefore was not incorporated into the evaluation. Therefore, the RDEIR fully evaluates the Project's potential traffic impacts and no additional analysis is warranted.

As noted in Table 3.12-6 Tassajara Parks Trip Generation, Note 1, for single-family residential uses, “Trip generation rates developed by the Town of Danville were used in this study. The Town of Danville’s rates are higher than ITE rates and thus more conservative.” Regardless, the daily trip rate assumed for each single family residential household is 12.17, which is based on survey data and includes trips to/from work, school(s), shopping, leisure, deliveries, etc. This means that for each household, there would be (on average) slightly more than six arrivals and six departures (or six round trips) per household, per weekday. Town of Danville data show that for the average home on the average weekday, daily trips are 12.17. Peak traffic occurs in the study area during weekday AM and PM periods. Therefore, the TIS analyzed reasonable worst-case conditions and weekend traffic operations can be assumed to be better than what was analyzed.

Master Response 4—General Comments (Merits of the Project)

General Comments fall into one of several categories:

- 1) The comment presents information already considered in the analysis in the DEIR/RDEIR;
- 2) The comment presents unsubstantiated evidence challenging the adequacy of the analysis in the DEIR/RDEIR;
- 3) The comment does not pertain to the physical environment under the purview of the EIR and CEQA;
- 4) The comment presents opinions or speculation; or
- 5) The comment editorializes.

Comments received in response to the DEIR/RDEIR that do not address the adequacy of the environmental analysis in the manner prescribed by the CEQA Guidelines are referred to herein as “General Comments” and are the focus of this Master Response.

While the County does not provide individual responses to these comments in this Response to Comments Document, they are part of the public record on the Project and will be forwarded to County decision-makers (Planning Commission and Board of Supervisors) prior to the public hearings on the Project.

In cases where the commenter provides an opinion and/or concerns about the Project but does not challenge the adequacy of the DEIR/RDEIR, the County notes the opinion. Where a commenter offers unsubstantiated assertions and/or opinions about a significant environmental impact or the adequacy of the DEIR/RDEIR, the County notes the opinion, but does not alter the DEIR/RDEIR or provide additional information, per CEQA Guidelines Section 15204.

The key purpose of reviewing and commenting on a Draft EIR includes sharing expertise, disclosing agency analyses, checking for accuracy, detecting omissions, discovering public concerns, and soliciting counter proposals. CEQA Guidelines Section 15204, Focus of Review, in part states:

- a) In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts of the environment and the ways

in which the significant effects of the project might be avoided or mitigated...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

- b) Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence [emphasis added].
- c) This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.

Master Response 5—Growth-Inducing Impacts Related to Expansion of the Urban Limit Line

Summary of Relevant Comments

Several commenters suggested that approval of the Project will lead to growth-inducing impacts, and more specifically, that precedent will be set for approving numerous additional 30-acre expansions of the Urban Limit Line (ULL). One commenter, Greenbelt Alliance, submitted a map suggesting that up to 9,346 acres in parcels adjacent to the ULL throughout the county are “at risk” of being moved inside the ULL if the Project is approved.

Summary of Responses

Assertions that expanding the ULL as proposed will lead to approval of numerous additional ULL expansions, whether in the Tassajara Valley area or countywide, are unrealistic for the following reasons:

1. Most Parcels Abutting the ULL are Inherently Unsuitable for Urban Development

Abutting the ULL does not make a property inherently suitable for urban development; in fact, the opposite is more likely to be true. As explained in Master Response 2, the ULL was originally established through voter approval of Measure C-1990, Section 4.B(3) of which contains the following language:

The criteria and factors for determining whether land should be considered for location outside the Urban Limit Line should include (a) land which qualifies for rating as Class I and Class II in the soil Conservation Service Land Use Capability Classification; (b) open space, parks, and other recreation areas; (c) lands with slopes in excess of 26 percent; (d) wetlands; and (e) other areas not appropriate for urban growth because of physical unsuitability for development, unstable geological conditions, inadequate water availability, the lack of appropriate infrastructure, distance from existing development, likelihood of substantial environmental damage or substantial injury to fish or wildlife or their habitat, and other similar factors.

An examination of those parcels abutting the ULL identified in the above referenced map confirms that the overwhelming majority are affected by at least one, and typically several, of the criteria and factors stated above. In other words, the majority of these properties possess physical attributes that make them poor sites for urban development. Most commonly, these properties have steep slopes, lack infrastructure, and/or contain sensitive species or habitat. In the East County area, many properties contain Class I or II soils. All of these factors, among others, would likely make entitling and developing this land for urban use exceedingly difficult and perhaps economically infeasible, thereby further diminishing the likelihood of a property owner pursuing conversion of the land. Approval of the Project would not change the physical characteristics that justified placing these other properties to be outside the ULL originally.

2. The Project Includes Growth-Deterring Components

The Project proposes to move 30 acres inside the ULL and dedicate three parcels (i.e., Dedication Area) totaling approximately 727 acres to EBRPD (or, at EBRPD's direction, to the Regional Parks Foundation) for preservation in perpetuity. The Dedication Area would abut the adjusted ULL along approximately 1.5 miles of the ULL boundary in the Tassajara Valley. The Project would essentially create a physical barrier to future growth along portions of the ULL boundary that would effectively preclude opportunities for future ULL expansions in this area of the county. Certain protected portions of the Northern Site would be subject to a maintenance easement in favor of the GHAD, and a portion of the Southern Site would be subject to a conservation easement in favor of the relevant resource agencies.

3. Many Properties Identified as "At Risk" are Government-Controlled

Numerous properties identified as "at risk" on the Greenbelt Alliance map are owned or otherwise controlled by government agencies including the U.S. Department of Defense, State of California, Contra Costa County, City of Martinez, EBRPD, Contra Costa Water District, EBMUD, Ironhouse Sanitary District, Mt. View Sanitary District, Discovery Bay Community Services District, and Geologic Hazard Abatement District No. 1990-01. Together these properties encompass several thousand acres, and most are protected from urban conversion in perpetuity. Others are already developed with public facilities and infrastructure, such as sewage treatment plants. Still others are included within the boundaries of active military installations. It is unrealistic to expect any of these properties to develop with urban uses in the foreseeable future. Furthermore, EBRPD is actively pursuing acquisition of hundreds of parcels throughout Contra Costa and Alameda Counties, many of which either are depicted as being "at risk" or are adjacent to those parcels. Acquisition by EBRPD would automatically protect these parcels from future development and in some areas would create barriers to any future ULL expansion in the vicinity.

4. The County Cannot Approve Unlimited ULL Adjustments

Expanding the ULL by 30 acres or fewer requires a four-fifths vote of the Board of Supervisors after making at least one of seven findings enumerated in County Ordinance Code Section 82-1.018. ULL adjustments are treated as amendments to the Land Use Element of the County General Plan. As the Land Use Element is one of seven State-mandated General Plan elements, it can be amended a

maximum of four times annually (see California Government Code Section 65358[b]). Given this limitation, and assuming the Board of Supervisors could make the required findings in every case, it would take decades for the County to approve ULL adjustments affecting the hundreds of parcels abutting the ULL boundary. Therefore, it is unrealistic to expect that approval of the Project would necessarily result in a wave of similar ULL adjustments.

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