## 2.1 INTRODUCTION

No new significant environmental impacts or issues, beyond those already covered in the Draft Environmental Impact Report (EIR) for the 2040 Pittsburg General Plan, were raised during the comment period. Responses to comments received during the comment period do not involve any new significant impacts or add "significant new information" that would require recirculation of the Draft EIR pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15088.5.

CEQA Guidelines Section 15088.5 states that: *New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement.*

Chapters 2.0 and 3.0 of this Final EIR include information that has been added to the EIR since the close of the public review period in the form of responses to comments and revisions.

## 2.2 LIST OF COMMENTERS

Table 2-1 lists the comments on the Draft EIR that were submitted to the City during the 60-day public review period. The assigned comment letter number, letter date, letter author, and affiliation, if presented in the comment letter or if representing a public agency, are also listed. The City received 17 comment letters during the 60-day review period for the Draft EIR.

***TABLE 2-1: LIST OF COMMENTERS***

| RESPONSE LETTER | INDIVIDUAL OR SIGNATORY | AFFILIATION | DATE |
|---|---|---|---|
| A | Dani Lanis | Bike East Bay | January 31, 2024 |
| B | Tamara Purvis | California Department of Toxic Substances Control | February 2, 2024 |
| C | Yunsheng Luo | California Department of Transportation | February 8, 2024 |
| D | Kevin Marstall | City of Concord | February 9, 2024 |
| E | Mark Quady | Contra Costa Water District | February 9, 2024 |
| F | Linda Klein | Cox, Castle & Nicholson LLP (Making Waves Academy) | February 9, 2024 |
| G | Jeff Henderson | Delta Stewardship Council | February 9, 2024 |
| H | S. Garside | Department of California Highway Patrol | January 29, 2024 |
| I | Donna Smith | Resident | February 7, 2024 |
| J | David Rehnstrom | East Bay Municipal Utility District | February 2, 2024 |
| K | Sean Marciniak and Niran Somasundaram | Hanson Bridgett LLP (Discovery Builders, Inc.) | February 9, 2024 |
| L | Hitesh Haria | Pittsburg Unified School District | February 8, 2024 |

| *RESPONSE LETTER* | *INDIVIDUAL OR SIGNATORY* | *AFFILIATION* | *DATE* |
|---|---|---|---|
| M | Matthew Francois | Rutan & Tucker, LLP (Integral Communities) | February 9, 2024 |
| N | S.L. Floyd | Resident | February 9, 2024 |
| O | Kamala Parks | San Francisco Bay Area Rapid Transit | February 9, 2024 |
| P | Eric Buescher and Aundi Mevoli | San Francisco Baykeeper | February 9, 2024 |
| Q | Juan Pablo Galván Martinez | Save Mount Diablo | February 8, 2024 |

## 2.3 COMMENTS AND RESPONSES

### REQUIREMENTS FOR RESPONDING TO COMMENTS ON A DRAFT EIR

CEQA Guidelines Section 15088 requires that lead agencies evaluate and respond to all comments on the Draft EIR (and Recirculated Draft EIR) that regard an environmental issue. The written response must address the significant environmental issue raised and be detailed, especially when specific comments or suggestions (e.g., additional mitigation measures) are not accepted. In addition, the written response must be a good faith and reasoned analysis. However, lead agencies only need to respond to significant environmental issues associated with the project and do not need to provide all of the information requested by the commenter, as long as a good faith effort at full disclosure is made in the EIR (CEQA Guidelines Section 15204(a)).

CEQA Guidelines Section 15204 recommends that commenters provide detailed comments that focus on the sufficiency of the Draft EIR in identifying and analyzing the possible environmental impacts of the project and ways to avoid or mitigate the significant effects of the project, and that commenters provide evidence supporting their comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

CEQA Guidelines Section 15088 also recommends that revisions to the Draft EIR be noted as a revision in the Draft EIR or as a separate section of the Final EIR. Chapter 3.0 of this Final EIR identifies all revisions to the Pittsburg General Plan Update Recirculated Draft EIR.

### RESPONSES TO COMMENT LETTERS

Written comments on the Draft EIR are reproduced on the following pages, along with responses to those comments. To assist in referencing comments and responses, the following coding system is used:

- Each comment letter is lettered (i.e., Letter A), each comment within each letter is numbered (i.e., Comment A-1, Comment A-2, etc.), and each response is numbered correspondingly (i.e., Response A-1, Response A-2, etc.).

Where changes to the Draft EIR text result from the response to comments, those changes are included in the response and identified with revisions marks (<u>underline</u> for new text, ~~strike out~~ for deleted text).

## John Funderburg

**From:** Dani Lanis <dani.lanis@bikeeastbay.org>
**Sent:** Wednesday, January 31, 2024 2:08 PM
**To:** John Funderburg
**Cc:** Robert Prinz
**Subject:** Comment on 2040 Pittsburg General Plan and Draft EIR

**External Sender: Use caution before opening links or attachments**

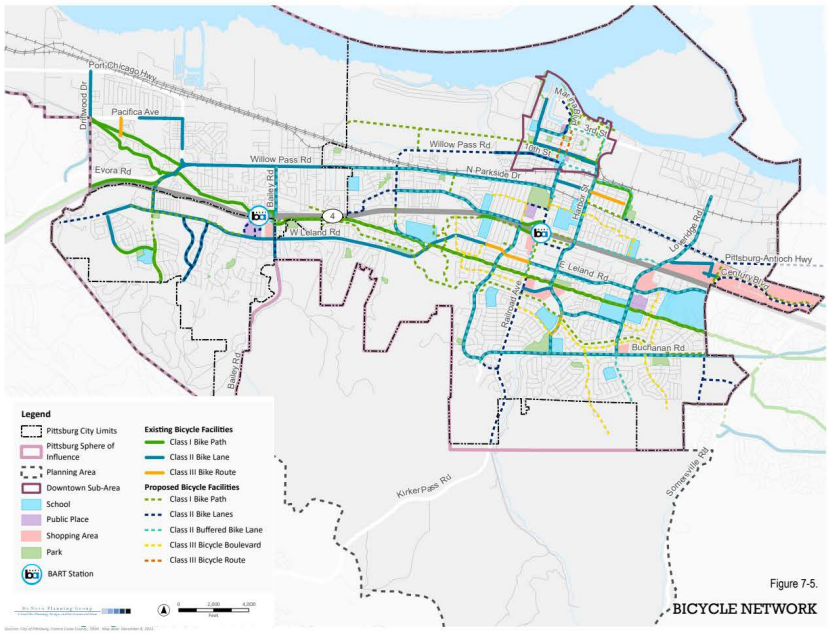
Hello John,

We took a look at the proposed bikeway map from the Pittsburg general plan (first image below) and compared it to the proposed bikeway map from the 2021 Pittsburg active transportation plan (second image below). It looks like as far as we can tell all of the proposed Class IV protected bikeways from the 2021 active transportation plan are changed to proposed Class II buffered bike lanes in the general plan map.

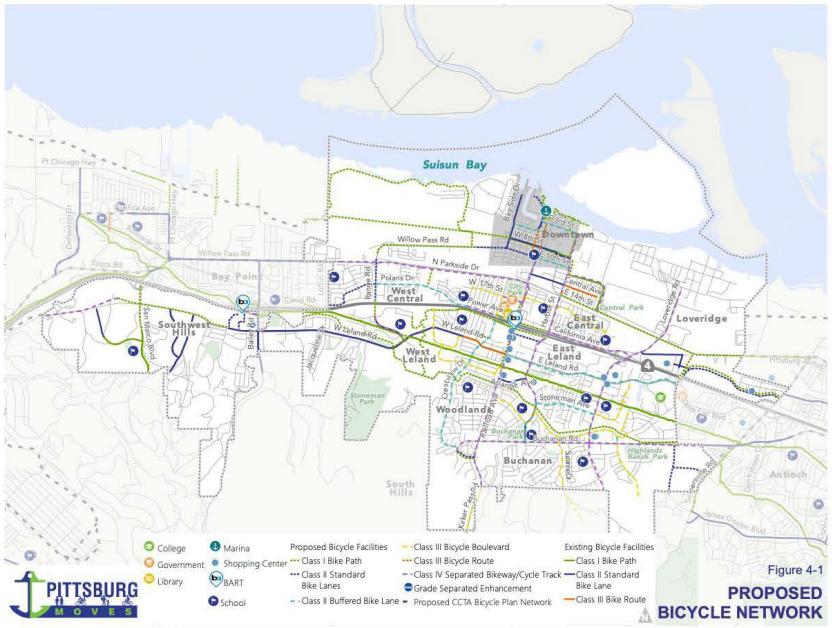
We don't know if this is intentional or accidental, but please note that the "Class IV separated bikeway/cycle track" is a different category of bikeway by design and by law than the "Class II buffered bike lane" type, and the general plan bikeway map needs to be updated to more accurately reflect the 2021 Pittsburg active transportation plan recommendations. A-1

Thank you for updating the plan and considering comments.

Best regards,




1




**Dani Lanis | Advocacy Manager**
Pronouns: he/him/el
Mail: PO Box 1736 Oakland, CA 94604
Office: 466 Water Street Oakland, CA 94607
E: dani.lanis@bikeeastbay.org

2

## Response to Letter A: Bike East Bay

**Response A-1:** The commenter states that the proposed Class IV protected bikeways from the 2021 Active Transportation Plan are changed to proposed Class II buffered bike lanes in the General Plan map. The commenter further states that the Class IV separated bikeway/cycle track is a different category of bikeway by design and by law than the Class II buffered bike lane type.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

Department of Toxic Substances Control

Yana Garcia
Secretary for
Environmental Protection

Meredith Williams, Ph.D., Director
8800 Cal Center Drive
Sacramento, California 95826-3200

Gavin Newsom
Governor

**SENT VIA ELECTRONIC MAIL**

February 2. 2024

John Funderburg
Assistant Director of Community and Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
funderburg@pittsburgca.gov

RE: DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE 2040 PITTSBURG GENERAL PLAN UPDATE, DATED DECEMBER 12, 2023 STATE CLEARINGHOUSE # 2022040427

Dear John Funderburg,

The Department of Toxic Substances Control (DTSC) received a DEIR for the 2040 Pittsburg General Plan Update. The proposed Project is a programmatic planning document consisting of, among others, an updated land use map and policy document consisting of goals, policies, and implementation measures that will guide future development activities and City actions. No specific development projects are proposed as part of the General Plan Update. Upon adoption, the 2040 General Plan will replace the City's existing 2020 General Plan, which was adopted in 2001 with subsequent updates to various elements. The City is also updating the Housing Element, which will address the City's Regional Housing Needs Allocation and the 2023-2031 planning period, in a process separate from the General Plan Update. DTSC has identified that this project may affect multiple sites within the project boundaries therefore, based on our project review, we request the consideration of the following comments: B-1

John Funderburg
February 2, 2024
Page 2

1. The proposed project encompasses multiple active and nonactive mitigation and clean-up sites where DTSC has conducted oversight that may be impacted as a result of this project. This may restrict what construction activities are permissible in the proposed project areas in order to avoid any impacts to human health and the environment.
2. Due to the broad scope of the project, DTSC is unable to determine all of the locations of the proposed project site, whether they are listed as having documented contamination, land use restrictions, or whether there is the potential for the project site to be included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. DTSC recommends providing further information on the project site and areas that may fall under DTSC's oversight within the DEIR. Please review the City of Pittsburg project area in Envirostor; DTSC's public-facing database.

B-2

DTSC believes the City of Pittsburg must address these comments to determine if any significant impacts under the California Environmental Quality Act (CEQA) will occur and, if necessary, avoid significant impacts under CEQA. DTSC recommends the department connect with our unit if any hazardous waste projects managed or overseen by DTSC are discovered.

DTSC appreciates the opportunity to comment on the 2040 Pittsburg General Plan Update. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. If you have any questions or would like any clarification on DTSC's comments, please respond to this letter or via email for additional guidance.

B-3

John Funderburg
February 2, 2024
Page 3

Sincerely,

Tamara Purvis

Tamara Purvis
Associate Environmental Planner
HWMP - Permitting Division – CEQA Unit
Department of Toxic Substances Control
Tamara.Purvis@dtsc.ca.gov

cc: (via email)

Governor's Office of Planning and Research
State Clearinghouse
State.Clearinghouse@opr.ca.gov

Dave Kereazis
Associate Environmental Planner
HWMP – Permitting Division - CEQA Unit
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

Scott Wiley
Associate Governmental Program Analyst
HWMP – Permitting Division - CEQA Unit
Department of Toxic Substances Control
Scott.Wiley@dtsc.ca.gov

Beth Thompson
Principal
De Novo Planning Group
bthompson@denovoplanning.com

## Response to Letter B: California Department of Toxic Substances Control

**Response B-1:** The commenter correctly summarizes the proposed General Plan. The commenter states that the Department of Toxic Substances Control (DTSC) has identified that the project may affect multiple sites within the project boundaries.

Please see Response B-2 regarding the sites in the Planning Area.

**Response B-2:** The commenter states that multiple active and nonactive mitigation and cleanup sites where DTSC has conducted oversight are located in the Planning Area and may be impacted by the project. The commenter also states that, due to the broad scope of the project, DTSC is unable to determine all of the locations of the proposed project site, whether they are listed as having documented contamination, land use restrictions, or whether there is the potential for the project site to be included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. The commenter concludes by stating that DTSC believes the City of Pittsburg must address these comments to determine if any significant impacts under CEQA will occur and, if necessary, avoid significant impacts under CEQA.

As noted on page 2.0-14 of Chapter 2.0 Project Description, of the Draft EIR, "The EIR evaluates the anticipated development that could occur within the Planning Area if every parcel in the city developed at the densities and intensities expected under the proposed General Plan. While no specific development projects are proposed as part of the General Plan Update, the General Plan will accommodate future growth in Pittsburg, including new businesses, expansion of existing businesses, and new residential uses. The buildout analysis utilizes a 20-year horizon, and 2040 is assumed to be the buildout year of the General Plan." The commenter is correct that the project has a broad scope.

Impacts related to hazardous sites are discussed in Section 3.8, Hazards and Hazardous Materials, of the Draft EIR. The DTSC Envirostor sites are discussed on pages 3.8-2 through 3.8-12. The Cortese List sites are discussed on pages 3.8-12 through 3.8-14. Impacts related to the multiple active and nonactive mitigation and cleanup sites where DTSC has conducted oversight are discussed in Impact 3.8-1. Overall, as described previously in the regulatory setting, hazardous materials regulations related to the use, handling, and transport of hazardous materials are codified in Titles 8, 22, and 26 of the CCR, and their enabling legislation set forth in Chapter 6.95 of the California Health and Safety Code. These laws were established at the state level to ensure compliance with federal regulations to reduce the risk to human health and the environment from the routine use of hazardous substances. These regulations must be implemented by employers/businesses, as appropriate, and are monitored by the state (e.g., Cal OSHA in the workplace or DTSC for hazardous waste) and/or the County. The haulers and users of hazardous materials are listed with the Contra Costa County Fire Authority and are regulated and monitored by the County of Contra Costa. Implementation of Title 49, Parts 171-180, of the Code of Federal Regulations would reduce any impacts associated with the potential for accidental release of hazardous materials. Future projects would be reviewed at the project-level for potential hazardous materials impacts,

consistent with the requirements of State law and policies and actions of the proposed General Plan, including Policies 11-P-5.1, 11-P-5.2, 11-P-5.3, 11-P-5.5, and 11-P-5.6 and Actions 11-A-5.a and 11-A-5.b. Therefore, implementation of the General Plan policies and actions listed in Impact 3.8-1, as well as compliance with all applicable federal, state and local regulations, would ensure that potential impacts associated with the routine use, transport, storage, or disposal or accidental release of hazardous materials would be less than significant, and no mitigation is required.

**Response B-3:** The commenter provides conclusionary statements to the comment letter. No response to this comment is warranted.

CALIFORNIA STATE TRANSPORTATION AGENCY GAVIN NEWSOM, GOVERNOR

**California Department of Transportation**

DISTRICT 4
OFFICE OF REGIONAL AND COMMUNITY PLANNING
P.O. BOX 23660, MS–10D | OAKLAND, CA 94623-0660
www.dot.ca.gov

February 8, 2024

SCH #: 2022040427
GTS #: 04-CC-2022-00735
GTS ID: 26270
Co/Rt/Pm: CC/4/22.7

John Funderburg
Assistant Director of Community and Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

**Re: 2040 Pittsburg General Plan Update – Draft Environmental Impact Report (DEIR)**

Dear John Funderburg:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the 2040 Pittsburg General Plan Update. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated, and efficient transportation system.

The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the December 2023 DEIR. C-1

**Project Understanding**

The proposed project is a programmatic General Plan consisting of an updated land use map and goals, policies, and implementation measures that will guide future development activities and actions in the City of Pittsburg. No specific development projects are proposed as part of the General Plan Update. C-2

**Travel Demand Analysis**

The project's vehicle miles traveled (VMT) analysis and significance determination are undertaken in a manner consistent with the City's adopted VMT policy. Per the DEIR, this project is found to have a significant and unavoidable VMT impact. Caltrans commends the Lead Agency in adding VMT reduction policies and actions into the City's General Plan Circulation Element. C-3

"Provide a safe and reliable transportation network that serves all people and respects the environment"

John Funderburg, Assistant Director of Community and Economic Development
February 8, 2024
Page 2

Using Caltrans' Smart Mobility Framework Guide 2020 (*link*), the proposed project site is identified as a predominately Suburban Community where community design is primarily low-density residential development and regional accessibility can vary.

Please also consider the measures listed below that have been quantified by California Air Pollution Control Officers Association (CAPCOA) and shown to have different efficiencies reducing regional VMT:

- Implementation of a neighborhood electric vehicle (EV) network, including designated parking spaces for EVs
- Participation/Formation in/of a Transportation Management Association (TMA) in partnership with other developments in the area
- Aggressive trip reduction targets with Lead Agency monitoring and enforcement
- Transit access supporting infrastructure (including bus shelter improvements and sidewalk/ crosswalk safety facilities)
- Real-time transit information systems
- Discounted transit programs
- Increased density
- Increased location efficiency
- Increased mixed-use development
- Increased transit accessibility
- Integration of affordable housing
- Pedestrian network improvements

C-3 cont'd

The City of Pittsburg may also consider encouraging fair share contributions from future development projects to multimodal projects that promote mode shift and reduce single occupancy vehicle travel to mitigate VMT impacts. Caltrans suggest the following Regional Transportation Plan (Plan Bay Area 2050) projects for future fair share contribution considerations:

| RTP ID | Project Description |
|---|---|
| 21-T10-066 | This program includes funding to implement improvements to existing County Connection bus service, including frequency upgrades (15-minute peak headways) on routes feeding BART stations. |
| 21-T10-075 | This program includes funding to implement new bus service along SR-4 between Hillcrest eBART to Brentwood Intermodal Station. Improvements include frequency upgrades (20-minute peak headways), rapid transit improvements and a new park-and-ride facility. |

"Provide a safe and reliable transportation network that serves all people and respects the environment"

John Funderburg, Assistant Director of Community and Economic Development
February 8, 2024
Page 3

**Equity Statement**
We will achieve equity when everyone has access to what they need to thrive no matter their race, socioeconomic status, identity, where they live, or how they travel. Caltrans is committed to advancing equity and livability in all communities. We look forward to collaborating with the City of Pittsburg to prioritize projects that are equitable and provide meaningful benefits to historically underserved communities. C-4

**Multimodal Transportation Planning**
Please review and include the reference to the *Caltrans District 4 Pedestrian Plan* (2021) and the *Caltrans District 4 Bike Plan* (2018) in the DEIR. These two plans studied existing conditions for walking and biking along and across the State Transportation Network (STN) in the nine-county Bay Area and developed a list of location-based and prioritized needs.

Please note that any Complete Streets reference should be updated to reflect Caltrans Director's Policy 37 (*link*) that highlights the importance of addressing the needs of non-motorists and prioritizing space-efficient forms of mobility, while also facilitating goods movement in a manner with the least environmental and social impacts. This supersedes Deputy Directive 64-R1, and further builds upon its goals of focusing on the movement of people and goods. C-5

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Llisel Ayon, Associate Transportation Planner, via LDR-D4@dot.ca.gov. For future early coordination opportunities or project referrals, please contact LDR-D4@dot.ca.gov.

Sincerely,

YUNSHENG LUO
Branch Chief, Local Development Review
Office of Regional and Community Planning

c: State Clearinghouse

"Provide a safe and reliable transportation network that serves all people and respects the environment"

## Response to Letter C: California Department of Transportation

**Response C-1:** The commenter provides introductory statements to the comment letter. No response to this comment is warranted.

**Response C-2:** The commenter correctly summarizes the project understanding. No response to this comment is warranted.

**Response C-3:** The commenter recommends that the City consider a list of measures to reduce regional vehicle-miles-traveled (VMT). The commenter also considers encouraging fair share contributions from future development projects to multimodal projects that promote mode shift and reduce single occupancy vehicle travel to mitigate VMT impacts.

The 2040 Pittsburg General Plan is a regional guiding document; it does not contain detailed information regarding future development that would occur within various zones in the City. Implementation of the California Air Pollution Control Officers Association mitigation measures is left up to each new development's transportation impact analysis.

TJKM utilized the Contra Costa Transportation Authority (CCTA) model for the VMT analysis for the Pittsburg General Plan. The model along with some off-model adjustments were made to accommodate for mitigation measures that were applicable to the General Plan.

Consistent with Goal 7-1 and Action 7-A-1.a, it is the City's intention to adopt policy guidelines to reduce VMT. It is understood that these frameworks and the measures within could be used to reduce VMT impacts and will be considered during the VMT policy formation/adoption.

It is the City's intention to continue to use local transportation Impact Mitigation Fee (TIMF) ordinances to ensure all new development pay a fair share of the cost of transportation improvements as noted in Policy 7-P-4.2. These transportation improvements will include transit prioritize in line with Goal 7-2 to promote alternatives to SOV trips and expand transit service where able.

**Response C-4:** The commenter states that the California Department of Transportation (Caltrans) is committed to advancing equity and livability in all communities. The commenter concludes by stating that they look forward to collaborating with the City of Pittsburg to prioritize projects that are equitable and provide meaningful benefits to historically underserved communities.

This comment is noted.

**Response C-5:** The commenter references the Caltrans District 4 Pedestrian Plan (2021), the Caltrans District 4 Bike Plan (2018), and Caltrans Director's Policy 37 (DP-37). The commenter also provides conclusionary statements.

The definition of Complete Streets in the proposed 2040 General Plan has been updated to better align with Caltrans' definition provided in DP-37. Section 3.14, Transportation and Circulation, of the Draft EIR has been revised to include DP-37, Caltrans District 4 Pedestrian Plan (2021), and Caltrans District 4 Bike Plan (2018) in the regulatory framework.

The City's revised Circulation Element continues to promote complete streets within the City through multiple policies and action items. The City will continue to evaluate roadway improvements as part of

the planning/development review process consistent with the current state of practice to ensure that all road users are equally prioritized.

February 9, 2024

John Funderburg, Assistant Director
of Community and Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

**VIA E-MAIL:** jfunderburg@pittsburgca.gov

**Subject: Draft Pittsburg 2040 General Plan**

Dear Mr. Funderburg:

Thank you for the opportunity to review and comment on the Draft Pittsburg 2040 General Plan (Project), dated December 2023, and the Draft EIR for the Pittsburg 2040 General Plan Update. Our Planning and Transportation staff have reviewed the draft documents and offer the following comments. The City of Concord's (City) concerns focus primarily on our shared boundary, some of which were previously provided in our comments (April 12, 2023) on the Revised and Updated Final EIR (RUFEIR) for the Faria/Southwest Hills Annexation Project, regarding potential visual and aesthetic impacts to the ridgeline area between our two cities. The City has the following specific comments: D-1

Draft Pittsburg 2040 General Plan Comments

Documents

The City notes that the City of Pittsburg's baseline reports that serve as the basis for the General Plan documents which include the Land Use Alternatives & Capacity Report, the Existing Conditions Report (November 2019), the Economic Trends Report (August 2019) and the Vision and Opportunities Report (July 2019) were all prepared in 2019, prior to the pandemic. The City of Concord encourages the updating of at least the Existing Conditions and Economic Trends Report to provide a more accurate examination of issues in particular to land use and traffic overall. D-2

Visual and Aesthetics

The City remains concerned that the established greenbelt ridgeline buffer of only 150 feet is not adequate to ensure that substantial impacts to views of the hillside area from the City of Concord would not occur. In the earlier RUFEIR document it is noted that, "*due to the extensive grading that can be expected with development of the site, the proposed project could substantially degrade the existing* D-3

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*visual character or quality of the project site and/or the site's surroundings and a significant impact would occur. The Draft EIR concludes feasible mitigation to reduce the alteration of the natural topography of the site is not available. Therefore, the impact would remain significant and unavoidable and a Statement of Overriding Considerations would need to be adopted by the City.*"

The City disagrees that feasible mitigation is not available and recommends a Pittsburg General Plan policy and associated action for a wider 250-foot buffer from the shared City boundary along the ridgeline between our cities, with specific restrictions on grading within the buffer, to reduce visual and aesthetic impacts to the ridgeline, as viewed from Concord. The lengthy stretch of low-density residential designated area (1-7 units per gross acre) along the ridgeline is of equal concern to the City and additional policies to reduce visual impact for this area are also recommended (i.e., ridgeline policies for development) for the Southwest Hills subarea, with more specific guidance provided within Policy 2-A-15.e to reduce impacts to the ridgeline. More specifically, Action 10-A-2.k (item c) is recommended to be amended as follows:

10-A-2.k Establish regulations as part of the Zoning Code update to require that:

c) Grading, B~~b~~uilding pads and structural elements ~~are located~~ shall not occur within at least **250** ~~150~~ feet (horizontally) ~~away~~ from the crest of a major ridgeline in order to preserve viewsheds of the southern hills. D-3 cont'd

It was the intent of the adopted policy from the Los Medanos Hills Working Group to ensure any development would be sensitive to the natural topography and protect view sheds. By allowing grading to occur within the greenbelt buffer area, this is contrary to the original intent of the earlier efforts. **Based on the visual simulations in Chapter 4.1 of the prior Faria/Southwest Hills Draft EIR, it appears that both grading and housing units will be visible from within Concord. This does not meet the intent of that policy and Concord strongly objects to any grading to occur within this buffer area or to have any housing units visible from the Concord city limits.**

Based on the above, City staff requests that the two Resource Conservation and Open Space policies from the Draft General Plan (below) be better aligned with Policy 2-A-15e to provide resource conservation by specifically restricting grading and development within a 250-foot-wide ridgeline buffer. Both policies are overly generalized and lack specificity around the visual impacts to the ridgeline between our two cities.

- **10-P-2.9**: Work with Contra Costa County, the EBRPD, and the City of Antioch, to expand the regional open-space system in the southern hills to preserve California annual grasslands habitat.
- **10-P-2.10**: Advocate clustering of houses to preserve large, unbroken blocks of open space, particularly within sensitive habitat areas during the design of hillside residential projects.

Transportation

West Leland Road is proposed to extend west as a 4-lane major arterial to connect to Avila Road and Willow Pass Road in the City of Concord. This connection would encourage traffic to bypass State Route 4 in favor of the Avila /West Leland Road route for through traffic. Willow Pass Road in Concord D-4

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currently experiences impacts related to cut-through traffic, and the proposed extension/connection will worsen peak period travel conditions within Concord. The City encourages consultation with staff in advance regarding the configurations of this future extension/connection, and coordinate with the City of Concord to mitigate impacts, as well as contribute fair share funding for necessary improvements. D-4 cont'd

Draft EIR Comments
Visual Analysis
Section 3.1 states the following:
"*The proposed General Plan includes measures to preserve scenic vistas and views to ridgelines from identified viewsheds and notes that preserving these ridgelines from development will help preserve the aesthetic value of the viewshed. Potential changes to scenic vistas resulting from project implementation is* ***unknown****, as the General Plan does not propose any development, in and of itself; however, future development projects would be required to comply with applicable urban design and other applicable policies and regulations related to the preservation of scenic vistas and within hillside areas*". D-5

No identified visual analysis was provided in the document or in the appendices. City staff encourages the City of Pittsburg to conduct a visual analysis to identify the impacts of development based on the General Plan designations identified for the Southwest Hills to determine the impacts and potential mitigation measures to reduce those impacts.

Draft EIR - Alternatives
Concord supports Alternative B: Core Area Employment, the Economic Development alternative designed to increase jobs in the Pittsburg core in order to reduce the severity of impacts associated with air quality, greenhouse gasses, and transportation associated with the plan or Alternative C – Reduced intensity, again to further reduce impacts. D-6

If you have any further questions you may contact Winnie Chung at Winnie.chung@cityofconcord.org in the City's Transportation Division or Joan Ryan at joan.ryan@cityofconcord.org in the City's Planning Division. D-7

Sincerely,

Kevin Marstall
Director Community Development

24ltr.008

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## Response to Letter D: City of Concord

**Response D-1:** The commenter provides introductory statements to the comment letter.

Please see Responses D-2 through D-6 which specifically address the comments in the body of the letter.

**Response D-2:** The commenter states that the baseline reports, including the Land Use Alternatives & Capacity Report, the Existing Conditions Report (November 2019), the Economic Trends Report (August 2019) and the Vision and Opportunities Report (July 2019), were all prepared in 2019, prior to the pandemic. The commenter encourages the updating of at least the Existing Conditions and Economic Trends Report to provide a more accurate examination of issues in particular to land use and traffic overall.

The Existing Conditions Report serves as an important background document for the Draft EIR. The Draft EIR includes updates to much of the information included in the Existing Conditions Report. For example, Table 4.1-1 (Pittsburg Site Cleanup and Hazardous Facilities List [Envirostor]), dated 2019, of the Existing Conditions Report was updated in Section 3.8, Hazards and Hazardous Materials, of the Draft EIR. As shown in Table 3.8-1 of the Draft EIR, the table was updated to reflect sites added or removed from the database between 2019 and 2023. Another example includes the assessed uses table (dated 2023) and the pending, approved, under construction, and completed projects tables (dated 2023) in Section 3.10, Land Use Planning and Population/Housing, of the Draft EIR. Further, the traffic analysis for the Draft EIR was completed in 2023/2024.

**Response D-3:** The commenter provides concerns about the established greenbelt ridgeline buffer of 150 feet. The commenter states that they disagree that feasible mitigation is not available and recommends a Pittsburg General Plan policy and associated action for a wider 250-foot buffer from the shared City boundary along the ridgeline between the cities, with specific restrictions on grading within the buffer to reduce visual and aesthetic impacts to the ridgeline, as viewed from Concord. The commenter also provides suggested edits and comments regarding General Plan policies pertaining to ridgelines.

Impacts related to aesthetics, including scenic vistas like ridgelines, are discussed in Section 3.1, Aesthetics and Visual Resources, of the Draft EIR. As discussed, all aesthetics-related impacts were determined to be less than significant. As such, mitigation is not warranted or required. The RUFEIR that the commenter mentions was prepared for a specific project, not for the 2040 Pittsburg General Plan, and the impact conclusions in the RUFEIR are not applicable here.

While the portions of the comment relating to General Plan policies do not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response D-4:** The commenter states that West Leland Road is proposed to extend west as a 4-lane major arterial to connect to Avila Road and Willow Pass Road in the City of Concord and this connection

would encourage traffic to bypass State Route 4 in favor of the Avila /West Leland Road route for through traffic. The commenter states that the proposed extension/connection will worsen peak period travel conditions within Concord. The commenter concludes by encouraging consultation with staff in advance regarding the configurations of this future extension/connection, and coordinate with the City of Concord to mitigate impacts, as well as contribute fair share funding for necessary improvements.

Impacts associated with transportation are discussed in Section 3.14, Transportation and Circulation, of the Draft EIR. As discussed on page 3.14-1, with the implementation of Senate Bill (SB) 743, local agencies may no longer rely on vehicular delay or capacity-based analyses for California Environmental Quality Act (CEQA) impact determinations. Instead, agencies must analyze transportation impacts utilizing vehicle miles traveled (VMT). As applicable here, VMT is a measure of the total distance traveled by vehicles for trips beginning or ending in Pittsburg on a typical weekday. VMT impacts are calculated and assessed using an efficiency metric (for example, VMT per household for residential projects or per employee for commercial projects). This is a change from the prior method of analyzing transportation impacts, which measured level of service (LOS) at intersections and roadway segments, using grades from LOS A to LOS F. While SB 743 does not allow LOS to be used to measure transportation impacts under CEQA, it may still be included in goals and policies in a local agency's general plan. As such, traffic congestion indicators, like LOS, are no longer a CEQA topic.

While the portion of the comment pertaining to the General Plan circulation system comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response D-5:** The commenter states that no identified visual analysis was provided in the document or in the appendices. The commenter encourages the City of Pittsburg to conduct a visual analysis to identify the impacts of development based on the General Plan designations identified for the Southwest Hills to determine the impacts and potential mitigation measures to reduce those impacts.

Please see Response D-3 regarding aesthetics impacts. Additionally, as noted on page 2.0-14 of Chapter 2.0 Project Description, of the Draft EIR, "The EIR evaluates the anticipated development that could occur within the Planning Area if every parcel in the city developed at the densities and intensities expected under the proposed General Plan. While no specific development projects are proposed as part of the General Plan Update, the General Plan will accommodate future growth in Pittsburg, including new businesses, expansion of existing businesses, and new residential uses. The buildout analysis utilizes a 20-year horizon, and 2040 is assumed to be the buildout year of the General Plan." There are no specific development projects that will be entitled as part of the General Plan. As such, due to the broad programmatic nature of the project, and because no development is proposed, visual analysis was provided qualitatively. In short, the Draft EIR does not assess project-specific impacts of potential future projects under the proposed General Plan, all of which are required to comply with CEQA as applicable.

**Response D-6:** The commenter expresses support for Alternative B: Core Area Employment, the Economic Development alternative designed to increase jobs in the Pittsburg core in order to reduce the severity of impacts associated with air quality, greenhouse gasses, and transportation associated with the plan or Alternative C – Reduced intensity, again to further reduce impacts.

This comment is noted and will be forwarded to the decision-makers for their consideration.

**Response D-7:** The commenter provides a conclusion statement to the comment letter. No response to this comment is necessary.

CONTRA COSTA WATER DISTRICT

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February 9, 2024

***SENT VIA EMAIL TO:*** *jfunderburg@pittsburgca.gov*

John Funderburg
Assistant Director of Community and Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
jfunderburg@pittsburgca.gov

**Re: Draft 2040 City of Pittsburg General Plan and Draft Environmental Impact Report (State Clearinghouse Number 2022040427)**

Dear Mr. Funderberg:

Thank you for the opportunity to review the proposed 2040 City of Pittsburg (City) General Plan and its Environmental Impact Report (EIR). The Contra Costa Water District (CCWD) submits the following comments, which are intended to initiate a constructive program between the City and CCWD to facilitate adequate storm drain system planning and maintenance as it pertains to water facilities either owned or operated and maintained by CCWD within the City's boundaries. E-1

**Background**

CCWD operates and maintains United States Bureau of Reclamation (Reclamation) owned water conveyance facilities and property, a significant portion of which traverse through the City of Pittsburg.

The 48-mile Contra Costa Canal (Canal), which was constructed in the 1940s, is CCWD's backbone facility that conveys water from the Sacramento-San Joaquin Delta to eastern and central Contra Costa County. It originates at Rock Slough in the City of Oakley, passing through several east county cities and communities, including the City of Pittsburg, before terminating at the Martinez Reservoir in the City of Martinez. The water supply serves 550,000 people in the central and northeastern county area, including municipalities, industrial customers, businesses, and residences. The majority of the Canal is open concrete-lined channel, including the nearly 5 miles that extends from east to west across the City of Pittsburg. The Canal resides south of Highway 4 east of Bailey Road, and resides north of Highway 4 west of Bailey Road. E-2

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CCWD also operates its Multipurpose Pipeline (MPP), a backbone treated water conveyance facility built in 2002, within the Canal right of way (ROW). The MPP is a pressurized underground 42-inch diameter welded steel pipeline that generally runs parallel to the open Canal from the Randall-Bold Water Treatment Plant in the City of Oakley to CCWD's Treated Water Service Area in the City of Concord. A significant portion of the MPP also traverses the City of Pittsburg. E-2 cont'd

**Overview of Concerns**

The Canal was constructed in the 1940s, prior to the extensive urban development that has taken place within the City since that time. This includes culverts and drainage areas that were originally constructed to convey the natural storm water occurring at the time across the Canal, but generally not designed to support runoff from urban development. Nevertheless, these culverts and pathways have become hydraulically connected to urban development, and are depended upon to properly drain these developments and prevent flooding. In addition to these smaller culverts and pathways, there are approximately 10 larger creeks and drainages within the City boundaries, also modified by urban development, that must pass through Canal ROW and MPP.

CCWD is concerned that the drainage features within the Canal ROW, designed prior to these developments, do not have sufficient capacity for existing, let alone future, storm water runoff, and that more comprehensive analysis needs to be conducted by the City and developers to ensure that there are adequate storm water facilities to handle maximum flows that could occur during large storm events. Additional planned development has the potential to increase the risk of cumulative erosion or flooding that could impact the reliability and security of the regional water supply (including the City's water supply) and integrity of CCWD's backbone Canal and MPP facilities. E-3

Due to existing issues with the stormwater drainage system, development under the City's General Plan Update will cause potentially significant flooding or erosion impacts that must be mitigated. This is consistent with the statement in the City's November 2019 Existing Conditions Report (page 5-91) that states:

> "*The storm drain facilities under the Contra Costa Canal also have the potential to become impaired if sedimentation were to occur from new upstream development. Obstruction of storm drains could cause sedimentation and debris to enter the Canal right-of-way, and potentially overtop into the Canal and/or exert pressure and damage the Canal lining or other facilities. This would result in contamination of Contra Costa Water District's potable water supply*"

Thus, CCWD offers the following comments to address our concerns and urges the City to consider these issues, consistent with its obligations under the General Plan law and CEQA.

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**CCWD's Comments on Draft 2040 General Plan and EIR**

CCWD Comment 1:

Provision 10.A.2.h is the most specific policy regarding the Contra Costa Canal within the Draft General Plan:

> ***10-A-2.h**: Require an encroachment permit from Contra Costa Water District (CCWD) for any storm drain facility crossing or encroaching onto Contra Costa Canal rights-of-way.*

CCWD appreciates the inclusion of the above Policy and requests that it be broadened as follows: E-4

> **New 10-A-2h**: Require an encroachment permit from Contra Costa Water District (CCWD) for any new storm drain facility **or anticipated runoff that will add load to existing facilities** crossing or encroaching onto Contra Costa Canal rights-of-way.

CCWD encroachment permits are required for all existing storm drainage crossings. This will include drainage areas on both the north and south side of the Contra Costa Canal.

Please note that, as a condition of an encroachment permit, CCWD may seek maintenance agreements with the City for any drainage facilities located within the Canal right of way that support and benefit urban drainage within the City.

Also, depending on the circumstances, CCWD may request that any new development that could impact the Canal ROW, CCWD facilities, or drainage facilities conduct a hydrologic study to show sufficient capacity and erosion protection of downstream facilities to accommodate the development, and any improvements needed to protect the Canal be funded by the City or the developer.

CCWD Comment 2:

Provision 10-P-4-8 addresses protection of the Contra Costa Canal from non-point sources or pollution;

> ***10-P-4.8:** Protect water quality by reducing non-point sources of pollution and the dumping of debris in and near creeks, storm drains, and Contra Costa Canal.*

In addition to sources of pollution and dumping of debris, CCWD requests this policy include that all drainage and storm runoff be re-directed away from CCWD facilities and the Canal ROW. Suggest adding a sentence to the above policy as follows: E-5

> **New 10-P-4.8:** Protect water quality by reducing non-point sources of pollution and the dumping of debris in and near creeks, storm drains, and Contra Costa Canal. **All drainage from new development should either be directed to an appropriate storm drain system that**

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**avoids CCWD facilities and Canal ROW, or obtain an encroachment permit from CCWD consistent with [New] Provision 10.A.2.h [with proposed revision and conditions identified above].** E-5 cont'd

CCWD Comment 3:

The 2040 General Plan should address and be consistent with (and restate or incorporate by reference) the more comprehensive CCWD Contra Costa Canal-related goals and policies outlined in Section 9.2 - Drainage and Erosion of the existing 2020 General Plan (specifically Goal 9-G-6 and Policies 9-P-17, 9-P-20, and 9-P-21). The 2040 General Plan should also address and be consistent with (and restate or incorporate by reference) the Resource Conservation Element goals and policies outlined in the recent and referenced Existing Conditions Report (Goals 9-G-6 and 10-G-8; Policies 9-P-15 through 9-P-17, 9-P-21, 9-P-23, 10-P-18 through 10-P-20, 10-P-23 through 10-P-28, and 10-P-30). E-6

Goal 9-G-6: Preserve and protect the Contra Costa Canal from storm drainage and runoff contaminating the City's municipal water supply.

Goal 10-G-8: Ensure that new development mitigates impacts to the City's storm drainage capacity from stormwater runoff in excess to runoff occurring from the property in its undeveloped state.

**Conclusion**

Thank you for considering CCWD's comments on the Draft 2040 General Plan and EIR. We look forward to working with the City to find mutually beneficial solutions to the regional stormwater drainage issues, so that CCWD and the City can continue to be assured of the integrity of the conveyance facilities it relies upon to deliver safe drinking water to the City and its other customers. Should you have any questions about the comments raised in this letter, please do not hesitate to contact Mark Quady at (925) 688-8312. E-7

Sincerely,

Mark Quady
Planning Manager

cc: Jeff Quimby - Assistant General Manager
Kim Lin – Director of Planning
Mark Seedall – Principal Environmental Planner

## Response to Letter E: Contra Costa Water District

**Response E-1:** The commenter provides introductory statements to the comment letter.

Please see Responses E-2 through E-6 which specifically address the comments in the body of the letter.

**Response E-2:** The commenter provides background information regarding the Contra Costa Canal and states that they operate the Canal and the Multipurpose Pipeline.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response E-3:** The commenter states concerns that the drainage features within the Canal ROW do not have sufficient capacity for existing or future storm water runoff and additional planned development has the potential to increase the risk of cumulative erosion or flooding that could impact the regional water supply. The commenter also states that the project will cause potentially significant flooding or erosion impacts that must be mitigated. The commenter reproduces a discussion from the Existing Conditions Report (2019).

As noted on pages 3.9-3 and 3.9-4 of Section 3.9, Hydrology and Water Quality, of the Draft EIR, "the storm drain facilities under the Contra Costa Canal also have the potential to become impaired, if sedimentation were to occur from new upstream development. Obstruction of storm drains could cause sedimentation and debris to enter the Contra Costa Canal right-of-way and potentially overtop into Contra Costa Canal and/or exert pressure and damage Contra Costa Canal's lining or other facilities. This could result in impacts to Contra Costa Water District's potable water supply."

As future development and infrastructure projects are considered by the City, each project will be evaluated for conformance with the General Plan, Municipal Code, and other applicable regulations. Subsequent development and infrastructure projects would also be analyzed for potential environmental impacts, consistent with the requirements of CEQA. Specifically, Chapter 13.28 (Stormwater Management and Discharge Control) of the Pittsburg Municipal Code addresses stormwater and water quality. Among other requirements, this chapter requires projects to prepare a stormwater control plan and construct and implement stormwater management and discharge control measures and comply with best management practices during project construction and operation. Compliance with the existing City regulations would ensure that impacts to the Contra Costa Canal are less than significant.

**Response E-4:** The commenter provides comments on General Plan Action 10-A-2.h pertaining to Contra Costa Water District facilities. The commenter states that encroachment permits are required for all existing storm drain crossings, including drainage areas on both the north and south of the Contra Costa Canal.

Action 10-A-2.h of the General Plan requires an encroachment permit from Contra Costa Water District (CCWD) for any storm drain facility crossing or encroaching onto Contra Costa Canal rights-of-way.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, Action 10-A-2.4 is revised to address the intent of this comment and is noted for the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response E-5:** The commenter provides comments on General Plan 10-P-4.8 which pertains to Contra Costa Water District facilities.

Policy 10-P-4.8 aims to protect water quality by reducing non-point sources of pollution and the dumping of debris in and near creeks, storm stains, and Contra Costa Canal.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, Policy 10-P-4.8 is revised to address the intent of this comment is noted for the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response E-6:** The commenter states that the General Plan should address and be consistent with Contra Costa Water District Contra Costa Canal-related goals and policies outlined in the existing 2020 General Plan, including: Goal 9-G-6 and 10-G-8, and Policies 9-P-15 through 9-P-17, 9-P-20, 9-P-21, 9-P-23, 10-P-18 through 10-P-20, 10-P-23 through 10-P-28, and 10-P-30. While this comment does not address the adequacy of the Draft EIR, the commenter's recommendations are addressed below.

Goals and policies have been streamlined and consolidated to reduce repetitive language and to streamline implementation of the General Plan.

Goal 9-G-6 is incorporated into Policy 10-P-4.8. Goal 10-G-8 is incorporated into Goal-12-7 and implementing policies and actions, including Policy 12-P-7.1 and Action 12-A-7.a.

Policy 9-P-15 of the existing General Plan is reflected in Policy 10-P-3.2 and Action 10-A-3.a.

Policy 9-P-16 is incorporated into Policy 10-P-4.10, Action 10-A-4.i, and Action 10-P-2.j.

Policy 10-P-2.7 carries forward the in-tent of Policy 9-P-17 of the existing General Plan.

Policy 10-P-2.14 and Action 10-A-4.j address the intent of Policy 9-P-20 of the existing General Plan.

Action 10-A-4.b carries forward the intent of Policy 9-P-21 of the existing General Plan.

Action 10-A-4.i of the proposed 2040 General Plan carries forward Policy 9-P-23 of the existing General Plan.

Policies 10-P-7.1 and 10-P-7.2 and Actions 12-A-7.a and 12.A.7.b were added to the proposed 2040 General Plan to carry forward Policies 10-P-18 through 10-P-20 of the existing General Plan.

Policies 9.P-7.3 through 9-P-7.7 and Action 12-A-7.c were added to the proposed 2040 General Plan to carry forward Policies 10-P-23 through 10-P-30 of the existing General Plan.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, the above policy and action revisions were made to address the intent of this comment is noted for the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response E-7:** The commenter provides conclusionary statements to the comment letter. No response to this comment is warranted.

COX CASTLE

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File No. 80440

February 9, 2024

**VIA EMAIL**

Mr. John Funderburg
Assistant Director
Community and Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
JFunderburg@pittsburgca.gov

**Re: Comments on Draft General Plan and Draft EIR (SCH# 2022040427)**

Dear Mr. Funderburg:

We write on behalf of our client Making Waves Academy ("Making Waves"), who own the following properties located in the City of Pittsburg ("City"): the approximately 4.45-acre property[1] along the waterfront south of the New York Slough ("Parcel A"); the approximately 0.34-acre property[2] located south of Parcel A ("Parcel B"); the approximately 12.72-acre property[3] located immediately to the east along the waterfront south of the New York Slough ("Parcel C"); and the approximately 20.5-acre property[4] located at 420 E. 3rd Street ("Parcel H"; and together with Parcel A, Parcel B, and Parcel C, the "Properties") at the intersection of 3rd Street and Harbor Street. (See Exhibit 1, attached hereto.) The Properties are currently vacant and are ripe for economically beneficial redevelopment that is consistent with the types of uses traditionally maintained in the vicinity of the Properties. F-1

While Making Waves generally supports the City's Draft 2040 Pittsburg General Plan ("General Plan Update") and wants to commend staff and the City for their efforts to date, we wish to express our concern regarding the potential effect of the General Plan Update and the proposed redesignations therein on the ability to redevelop the Properties. We further wish to provide comments regarding the environmental review in the Draft Environmental Impact Report ("DEIR"). These concerns and comments are detailed below.

[1] APN 073-010-007.
[2] APN 073-010-08.
[3] APN 073-010-013.
[4] APN 073-050-001.

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**1. The Properties And Their Proposed General Plan Land Use Designations**

Parcel A is designated for Marina Commercial land uses under the existing General Plan and is zoned Waterfront Commercial. While Parcel A has not been developed under the existing Marina Commercial land use designation, the General Plan Update nonetheless proposes that Parcel A would continue to be designated for Marina Commercial land uses. The General Plan Update indicates that Parcel A would also be in the City's Downtown Subarea.

Parcel C is split-designated under the existing General Plan: the western portion of Parcel C is designated for Marina Commercial land uses while the eastern portion of Parcel C is designated for Industrial uses. Parcel C is similarly split-zoned: the western portion of Parcel C is zoned Waterfront Commercial, while the eastern portion of Parcel C is zoned General Industrial. While Parcel C has not been developed under the existing designation and zoning, the General Plan Update nonetheless proposes that Parcel C would be redesignated entirely for Marina Commercial land uses. The General Plan Update indicates that Parcel C would not be in the City's Downtown Subarea. F-2

Parcel H is split-designated under the existing General Plan: the northern-most portion of Parcel H is designated for Downtown Commercial land uses, while the remainder of Parcel H is designated for Downtown Medium Density Residential land uses. Parcel H is similarly split-zoned: the north-most portion is zoned Pedestrian Commercial while the remainder is zoned Downtown Medium-Residential – Limited Overlay. The General Plan Update proposes to designate the north-most portion of Parcel H for Mixed Use/Downtown land uses (minimum 12 du/acre and maximum 30 du/acre) and the remainder of Parcel H for Downtown Medium Density Residential land uses (minimum 12.1 du/acre and maximum 18 du/acre). The General Plan Update indicates that Parcel H also would be in the City's Downtown Subarea.

**2. Requested Modifications To The Marina Commercial Land Use Designation**

Making Waves has experienced numerous hurdles to making productive use of Parcels A and C. These issues will be compounded by changing the designation of some of the area comprising Parcel C from Industrial to Marina Commercial. To help foster economic development and limit the attractive nuisance of vacant parcels, Making Waves suggests broadening the uses supported by the Marina Commercial land use designation.

Specifically, we suggest the following modifications to the description of the Marina Commercial land use designation: F-3

> **Marina Commercial** -Waterfront-oriented recreational, visitor and community uses, business and professional services, offices, convenience sales, restaurants, public marketplaces, repair services, specialty retail (such as boat sales and repair), hotel/motel with a costal orientation, recreational facilities, research and development, custom manufacturing and other light industrial uses, ~~and~~ marinas, data centers, technology and innovation, and clean energy uses and infrastructure.

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The additional proposed uses would support General Plan Policies related to economic vibrancy and renewable energy, including 2-P-1.4, 2-P-2.4, 2-P-4.5, 2-P-4.6, 2-P-6.1, and 10-P-6.1, among other policies. The proposed additional uses also are consistent with the type of uses listed in the description of the Marina Commercial land use designation, while expanding those uses in a manner that reflects today's need for technology-supporting uses and uses that help the State achieve its goal of carbon neutrality by 2045. F-3 cont'd

We also note that the Marina Commercial land use designation does not have a floor area ratio ("FAR") for all permitted land uses, namely, repair, custom manufacturing, and the proposed uses listed above. We recommend adding a catchall category to the table that lists maximum allowed FARs in the Marina Commercial designation that would cover these uses and making the FAR for the catchall category equal to 1.0, consistent with other low-employment industrial uses addressed in the General Plan.

**3. Internal Inconsistencies In The General Plan Update**

While reviewing the General Plan Update, we noted internal inconsistencies that we recommend you address as part of the Final EIR process.

The General Plan Update's Downtown Element indicates that the City intends Parcels A and C to be developed as a "waterfront activity center" open to the public, replete with "pedestrian amenities" and a "public park." (See Actions 5-A-3.a ["Develop a waterfront activity center at the terminus of Harbor Street, featuring a cluster of Marine Commercial uses, including specialty retail, services, restaurants, marine repair and docking facilities, hotels and other uses by undertaking active efforts, including land acquisition and assembly."]; 5-A-3.e ["Acquire land at the terminus of Harbor Street for the development of a public park and promenade, providing access to the waterfront and open space at the center of the new Marine Commercial center."]; and 5-A.3.f ["Encourage design of the Harbor Street terminus to provide an unobstructed view of New York Slough and a 30-foot-wide promenade to the waterfront. This linear park/promenade should function as a public square, with buildings oriented toward it and pedestrian amenities leading from East Third Street to the shoreline."].) F-4

But the General Plan Update also states that it aims to "[e]nsure that development in Northeast River [which would include a significant portion of Parcel C] is limited to employment-generating uses, including industrial activities and supporting businesses and service uses, and that development standards support emerging industries and technologies." (See Action 2-A-6.a.) Further, the Marina Commercial General Plan land use designation permits a wide variety of private commercial uses, including business and professional services, offices, convenience sales, restaurants, repair services, research and development, and custom manufacturing. (DEIR, p. 2.0-11.) Finally, Parcel C has land use controls on it that suggest it should not be used for uses, such as parks, where children spend time.

These contradictory visions for the development of Parcels A and C should be aligned. To avoid an inference that the City is attempting to lower the value of these parcels by declaring

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an intent to take them for a public park and to avoid inconsistencies, we recommend revising the following General Plan Update Implementation Actions:

- Encourage d~~D~~eveloping a waterfront activity center at the terminus of Harbor Street, featuring a cluster of Marin~~e~~a Commercial uses, including specialty retail, services, restaurants, marine repair and docking facilities, hotels and other uses by undertaking active efforts, including providing incentives to develop the land for these uses~~land acquisition and assembly~~.

- ~~Acquire land~~ Through development incentives, encourage the pedestrian access from ~~at~~ the terminus of Harbor Street through or around the property to be used for ~~the development of~~ a publicly ~~park and~~ accessible promenade, providing access to the waterfront and open space ~~at the center of~~ in the ~~new~~ Marine Commercial area~~center~~.

- Encourage design of the ~~Harbor Street terminus~~ promenade to provide a~~n unobstructed~~ view of New York Slough and a ~~30-foot-wide~~ access ~~promenade~~ to the waterfront. Encourage ~~T~~this linear ~~park/~~promenade to ~~should~~ function as a gathering place open to the public ~~square~~, with buildings oriented toward it and pedestrian amenities leading from East Third Street to the shoreline, to the extent feasible and consistent with Marina Commercial uses.

These revisions would eliminate the existing internal inconsistency related to the vision for the development of Parcels A and B.

F-4 cont'd

**4. Comments on the DEIR**

a. The DEIR Fails To Analyze Whether The General Plan Update Would Result In Blight

The DEIR fails to analyze whether the General Plan Update would result in urban decay and blight due to its inconsistent and restrictive land use vision for Parcels A and B.

The General Plan Update would maintain the existing Marina Commercial designation for Parcel A, and re-designate Parcel C so that the entirety of Parcel C would be subject to the Marina Commercial designation. Due to the significant, contradictory use restrictions described above, it is likely that Parcels A and C would remain vacant, particularly in today's challenging economic climate. Vacant sites in the Bay Area are often attractive nuisances, subject to graffiti, safety issues, and undesirable blight.

CEQA requires the analysis of a significant physical impact that may result from a social or economic effect caused by a project. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.) With respect to Parcel A and Parcel C, the General Plan Update, particularly due to its insinuation that the City plans to take these parcels by

F-5

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eminent domain, would result in urban decay and blight-like conditions, which include visual and aesthetic impacts that may accompany physical decay and deterioration at the sites and in the surrounding vicinity. The DEIR makes no mention of this potential and does not address the potential for blight or urban decay at Parcel A or Parcel C whatsoever. F-5 cont'd

Unless the General Plan Update is revised as suggested in Sections 2 and 3, above, the DEIR should be revised to analyze the significant physical impacts that would result from the inability to develop Parcel A and Parcel C under the restrictions of the proposed General Plan Update.

b. The DEIR Fails To Consider All Feasible Mitigation For Greenhouse Gases Impacts

The DEIR also fails to consider all feasible mitigation for the General Plan Update's significant and unavoidable Greenhouse Gas ("GHG") impact. (DEIR, 3.7-29 to 3.7-30.) The DEIR lists already proposed General Plan Update policies that it claims reduces GHG impacts, although several of the policies address only air quality impacts or, like Action 10-A-6.f, are superseded by existing regulations. (See BAAQMD Regulation 6, Rule 3: Wood-Burning Devices.) F-6

The DEIR must consider whether there is additional feasible mitigation given the significant and unavoidable impact conclusion. For example, the mitigation measure should add General Plan policies and actions to make it easier to construct green energy infrastructure to support State goals to make the electrical supply 100 percent carbon free. Currently, no land use designation states that it is appropriate for private green energy infrastructure. As suggested above, one feasible mitigation measure would be to allow such uses on land designated Marina Commercial. Another feasible mitigation would be to add an action to the General Plan Update directing the City to adopt a zoning ordinance allowing ministerial approval of green energy infrastructure.

c. The DEIR's Energy Resources Conclusion Is Unsupported

The DEIR's energy analysis may fail to account for the increase in electricity demand caused by State, regional, and local requirements to build mainly with only electric appliances in most new buildings. Despite the list of policies in the General Plan Update to reduce GHG emissions, the DEIR shows that new development would use a substantial amount of natural gas, suggesting that the analysis did not account for the City's Sustainability Plan (which will help the City achieve carbon neutrality by 2045) and under-reports the amount of electricity that will be required. F-7

The DEIR also does not analyze whether the General Plan Update conflicts with State or local plans for renewable energy or energy efficiency. Had the DEIR addressed this CEQA threshold, it likely would have noted the urgent need for new renewable energy resources. For example, in 2021, the California Energy Commission, California Public Utilities Commission,

and California Air Resources Board released a report concluding that to reach the State's 2045 GHG "target while electrifying other sectors to meet the state's economywide climate goals, California will need to roughly triple its current electricity grid capacity." (CEC Website.[5]) F-7 cont'd

We recommend reviewing the DEIR to ensure it accurately discloses the General Plan Update's electricity demand and analyzing whether the demand will result in the need to construct additional infrastructure to support a carbon-free energy future. To help make sure future residents can use electricity that is not wasteful or non-renewable, and is consistent with State plans for carbon neutrality, the DEIR should recommend General Plan Update policies that make it easy to construct green energy infrastructure.

**5. Conclusion**

Making Waves appreciates the opportunity to provide the City with its comments on the General Plan Update and DEIR and respectfully requests that the City consider its suggestions, which will make the General Plan internally consistent, promote technology and green energy, and support many of the goals already in the General Plan Update. F-8

Please feel free to contact me with any questions regarding this matter.

Sincerely,

Cox, Castle & Nicholson LLP

Linda C. Klein

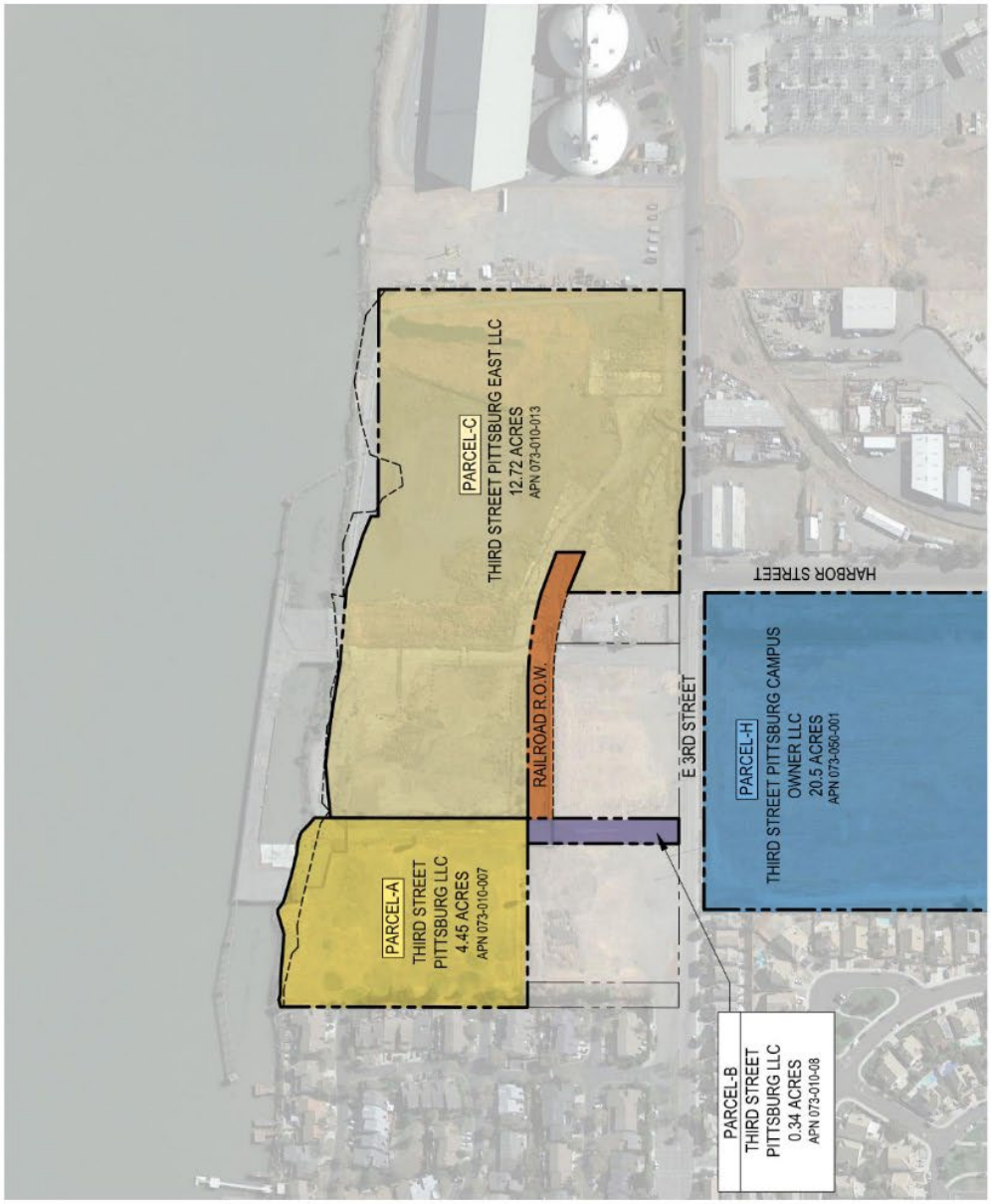
Linda C. Klein

080440\17353854v10

[5] Available at https://www.energy.ca.gov/news/2021-03/california-releases-report-charting-path-100-percent-clean-electricity.

# EXHIBIT 1

PROPERTY DIAGRAM
1" = 200'-0"
4 MARCH 2021
THIRD STREET LLC
PITTSBURG
Studio
Bondy
Architecture


PARCEL-A
THIRD STREET
PITTSBURG LLC
4.45 ACRES
APN 073-010-007
PARCEL-C
THIRD STREET PITTSBURG EAST LLC
12.72 ACRES
APN 073-010-013
RAILROAD R.O.W.
E 3RD STREET
PARCEL-H
THIRD STREET PITTSBURG CAMPUS
OWNER LLC
20.5 ACRES
APN 073-050-001
HARBOR STREET
PARCEL-B
THIRD STREET
PITTSBURG LLC
0.34 ACRES
APN 073-010-08

## Response to Letter F: Cox, Castle & Nicholson LLP (Making Waves Academy)

**Response F-1:** The commenter provides introductory statements to the comment letter. No response to this comment is necessary.

**Response F-2:** The commenter provides land use and zoning information for parcels located along E 3rd Street to the north and to the west of the intersection of Harbor Street, referred to as Parcels A, C, and H and shown in an attachment to the letter.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response F-3:** The commenter provides requests for modifications to the Marina Commercial land use designation.

The Marina Commercial land use designation allows a 1.5 floor area ratio for hotels and other waterfront-oriented uses. While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response F-4:** The commenter provides perceived inconsistencies in the General Plan policies and actions as they relate to Parcels A and C. The commenter also provides recommended revisions to three General Plan Actions.

References to "Marine Commercial" in the proposed Downtown Element were corrected to "Marina Commercial."

Actions 5-A-3.e and 3.f were revised, to an extent, and the intent of these actions is to support publicly-oriented recreation uses in the area and to ensure projects provide access to the waterfront.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response F-5:** The commenter states that the Draft EIR fails to analyze whether the General Plan Update would result in urban decay and blight due to its inconsistent and restrictive land use vision for Parcels A and B. The commenter further states that, "With respect to Parcel A and Parcel C, the General Plan Update, particularly due to its insinuation that the City plans to take these parcels by eminent domain, would result in urban decay and blight-like conditions, which include visual and aesthetic impacts that may accompany physical decay and deterioration at the sites and in the surrounding vicinity."

The City does not plan to take the subject parcels by eminent domain and neither the General Plan nor the Draft EIR state that. The General Plan also does not propose or entitle development projects on the subject parcels. Instead, the proposed General Plan designates land uses throughout the Planning Area and provides a framework for the planning of sites.

The proposed General Plan land use designation for the commenter's referenced parcels, Marina Commercial, allows for various uses, such as: Waterfront-oriented recreational, visitor and community uses, business and professional services, offices, convenience sales, restaurants, public marketplaces, repair services, specialty retail (such as boat sales and repair), hotel/motel with a costal orientation, recreational facilities, research and development, custom manufacturing, and marinas.

With respect to urban decay, under CEQA, an EIR should only consider direct and indirect physical effects of projects. Section 15064(d) of the CEQA Guidelines states that, "In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which is caused by and immediately related to the project." Section 15064(d)(3) further states that, "An indirect physical impact is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable." In addition, CEQA requires that a determination that a project may have a significant environmental effect must be based on substantial evidence (CEQA Guidelines §15064(f)).

On the secondary socioeconomic effects of projects, Section 15131(a) of the CEQA Guidelines indicates that, "Economic and social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes." In other words, economic and social changes are not, in themselves, considered under CEQA to be significant effects on the environment.

Since only physical effects are to be considered under CEQA, economic and social changes resulting from a project may be considered if they in turn produce changes in the physical environment. To fully satisfy the requirements of an EIR, an economic analysis must start with the economic impacts. The analysis would then follow the causal chain to assess the likelihood of new retail space causing long-term vacancies in existing retail space and ultimately leading to urban decay and physical deterioration of existing retail centers and nodes.

In recent years, the California courts have identified the term "urban decay" as the physical manifestation of a project's potential socioeconomic impacts and have specifically identified the need to address the potential for urban decay in environmental documents for large retail projects, or mixed use projects with a notable retail component. In Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, which the commenter cites, the court set aside two environmental impact reports for two proposed Wal-Mart projects that would have been located less than five miles from each other. This was the first court decision to use the term "urban decay," as opposed to the term "blight." The court quoted "experts [who] are now warning about land use decisions that cause a chain reaction of store closures and long-term vacancies, ultimately destroying existing neighborhoods and leaving decaying shells in their wake." (*Id*. at p. 1204.) The court also discussed prior case law that addressed the potential for large retail projects to cause "physical deterioration of [a] downtown area" or "a general deterioration of [a] downtown area." (*Id*. at pp. 1206, 1207). The *Bakersfield* court also described the circumstances in which the duty to address urban decay issues arise.

It is unclear how the Marina Commercial land use on the subject parcels would result in urban decay. The majority of the subject parcels are not currently developed or were formerly developed but have since been demolished.

There are multiple opportunities for how the property can be developed under the proposed 2040 General Plan land uses. The proposed 2040 General Plan would expand the land use opportunities allowed under the Marina Commercial rather than restricting uses. Any concerns about blight are purely speculative and CEQA does not require analysis of speculative concerns.

**Response F-6:** The commenter states that the Draft EIR does not consider all feasible mitigation for the significant and unavoidable impact related to greenhouse gas emissions. The commenter suggests adding policies and actions that make it easier to construct green energy infrastructure to support State goals to make the electrical supply 100 percent carbon free. The commenter further suggests allowing green energy infrastructure within the Marina Commercial land use, and/or adopting a zoning ordinance allowing ministerial approval of green energy infrastructure.

This comment is noted. Energy-related uses are allowed in the Employment Center Industrial land use designation, as noted in the Land Use Element: "Fosters vibrant, diverse, and dynamic employment hubs that accommodate technology, advanced manufacturing, logistics, and other sectors that generate substantial employment opportunities; uses may also include administrative, financial, business, professional, medical and public offices, business incubators, research and development, custom and light manufacturing, limited assembly, warehousing and distribution, data centers, technology and innovation, energy, hospitals and large-scale medical facilities, services, light and heavy automobile services, and supporting commercial uses."

Additionally, the proposed General Plan includes the following policies and actions which support energy development and green-energy development:

- 2-P-4.5: Support office, business, and industrial land uses that will improve the City's employment base through high-quality, well-paid jobs that attract the technology, energy, and industrial sectors desired by the community.
- 2-P-9.2: Promote revitalization and redevelopment in the area bounded by Railroad Avenue, E. Leland Rd, Harbor St, and State Route 4 as an innovation center, fostering new and emerging industries, businesses in technology, medical, and sustainable energy sectors, supporting start-up enterprises, and increasing high quality jobs near the Pittsburg Center BART station.
- 2-P-10.1: Promote creation of an innovation district or a hub for technology, energy, medical, and other skilled employment opportunities in the area designated Employment Center Industrial.
- 2-A-10.b: Update the Railroad Avenue Specific Plan to:
    - Include the Employment Center Industrial as an innovation center, fostering new and emerging industries, businesses in technology, medical, and sustainable energy sectors, supporting start-up enterprises, and increasing high quality jobs near the Pittsburg Center BART station.
- 2-P-17.1: Support the remediation and revitalization of this site as a master-planned community with sustainable and resilient design that provides opportunities to work, live, and

play and addresses Pittsburg's jobs/housing balance, recreation, economic development, and public use needs:

- Providing community-oriented recreation and commercial entertainment facilities, including:
  - Community-gathering areas with an open air markets and venues for community events,
  - Riverfront access with extension of the adjacent Riverview Park and a continuous public-access riverwalk with parks, seating, and viewing areas for pedestrians and cyclists,
  - Provisions for water-oriented recreational activities, such as boating and kayaking,
  - A community recreation uses, including potentially including aquatic center, sports facilities, or other community-wide recreational uses, that serve the broader Pittsburg community,
  - Commercial and entertainment uses, with space allocated for waterfront or waterview dining, retail, as well as grocery, shopping, restaurants, offices, and services located away from the water.
- Multi-modal transit opportunities, including a ferry terminal to improve jobs access, and connections to BART and local transit.
- An economic opportunity hub, providing high-quality and skilled employment opportunities including research and development, office, sustainable energy, and manufacturing, with connections provided to transit, and spaces for business incubators to foster startups and innovation.
- Mixed residential neighborhoods, including a significant proportion of workforce and affordable housing to maintain socioeconomic diversity and promote equitable opportunities, that are served by on-site neighborhood-oriented parks, schools, and commercial uses.
- Provide at jobs/housing ratio of at least 2.5 jobs per household.
- Permanent open space managed to support climate adaptation through maintaining and enhancing existing wetlands and marsh areas and to provide educational and passive recreational opportunities.
- Green infrastructure, sustainable and resilient design, and climate adaptation elements, including elevated construction, natural barriers, managed retreat, bioswales, permeable pavements, and rain gardens to manage stormwater and provide flooding resiliency.
- Ensure remediation of site meets or exceeds California Department of Toxic Substance Control and U.S. Environmental Protection Agency standards in all areas proposed for residential, employment, recreational, and other uses that may expose humans to hazards associated with former uses of the site.

Further, the proposed General Plan includes ample policies and actions aimed to reduce the impact related to greenhouse gas emissions. While there is no State or other requirement to include additional policies and actions that make it easier to construct green energy infrastructure to support State goals to

make the electrical supply 100 percent carbon free, the Employment Cener Industrial land use designation allows energy-related uses and the Industrial land use designation has been revised to allow energy-related uses. Policy 10-P-6.14 is added to the Resource Conservation & Open Space Element to support green and clean energy. These land use designations will accommodate all energy-related infrastructure, including green energy. Furthermore, the local utility's renewable energy percentage (i.e. it's carbon intensity) is regulated through the California Public Utilities Commission (CPUC) through the State's Renewable Portfolio Standard (RPS), which requires the State to achieve 60% of its energy from renewable sources by the year 2030, and achieve requires all of the electricity to come from carbon-free sources by year 2045. The electric utility serving the City of Pittsburg is also subject to these requirements; the City itself has limited to no ability to influence how quickly the electric utility can meet this goal. Nevertheless, the electric utility serving the City of Pittsburg is already required to meet this goal by 2045. Lastly, there is no further feasible and enforceable mitigation that can be imposed in connection with this programmatic EIR, as no specific development projects are proposed. The mitigation measure proposed by the commenter to adopt a zoning ordinance allowing ministerial approval of green energy infrastructure is not feasible on a broad scale for a programmatic document. As noted previously, the Industrial land use designation has been revised to allow energy-related uses. . The City has contemplated and included all feasible mitigation in the Draft EIR. No further response to this comment is warranted.

**Response F-7:** The commenter states that the Draft EIR energy analysis does not account for the increase in electricity demand caused by State, regional, and local requirements to build mainly with only electric appliances in most new buildings. The commenter also states that the Draft EIR does not analyze whether the General Plan Update conflicts with State or local plans for renewable energy or energy efficiency.

This comment is noted. The proposed project is a General Plan update that is required to comply with all existing State and local regulations and plans adopted to address renewable energy and energy efficiency and has been prepared to support and implement the City's Sustainability Plan. The General Plan has been designed to do so from the ground up, and as described under Impact 3.7-2 of Section 3.7: Greenhouse Gas Emissions, Climate Change, and Energy.

Specifically, as described in pages 3.7-36 and 3.7-37 of the Draft EIR:

> "Policy 10-P-5.2 requires the City to ensure that new development is consistent with the energy objectives and targets identified by the City's Sustainability Plan. Additionally, Safety and Resiliency Element Policy 11-P-2.1 requires the City to consider climate change impacts and adaptive responses in long-term planning and current development decisions consistent with the policies and programs of the City's Sustainability Plan and Local Hazard Mitigation Plan."

Furthermore, the electricity and natural gas consumption associated with the 2040 General Plan is estimated on page 3.7-34 under Impact 3.7-2 of Section 3.7: Greenhouse Gas Emissions, Climate Change, and Energy. As described therein:

> "According to the California Energy Commission, the total electricity and natural gas usage in Contra Costa County in 2022 (latest year of data available) was approximately 8,338 GWh, and approximately 895 millions of therms, respectively (California Energy Commission, 2023). Up to approximately 15,576 new residential units and 26,089,499 square feet of non-residential uses

would be accommodated under General Plan buildout conditions. Based on publicly available data, the average residence uses approximately 10,800 kWh per year (SolarReviews, 2023), and 400 therms per year (UC Irvine, 2007). Separately, based on publicly available data, the amount of kWh and therms per non-residential square feet is 22.5 kWh/sf (IotaComm, 2023) and 70.4 MBtu/sf (U.S. Energy Information Administration, 2022), respectively. Based on the up to 15,576 new residential units and 26,089,499 square feet of non-residential uses would be accommodated under General Plan buildout conditions, buildout of the General Plan could therefore generate a total of approximately 755 GWh per year, and 24.6 millions of therms per year. This is only approximately 3% of the total electricity and 9% of the total natural gas of Contra Costa County, which represents a small percentage of the County's overall energy usage. Therefore, based on the long-term buildout horizon of the General Plan, that future capacity would be available to serve anticipated development projected by the General Plan."

As described in the Draft EIR, development associated with the General Plan Update is estimated (based on recently available data for Contra Costa County and other available literature from UC Irvine, SolarReviews, and the U.S. Energy Information Administration), to be approximately 3% of the total electricity and 9% of the total natural gas of Contra Costa County, which represents a small percentage of the County's overall energy usage. This estimate is based on preexisting patterns of electricity and natural gas consumption. Should natural gas consumption be reduced in the future compared with existing uses (as projected by the City's Sustainability Plan), electricity consumption would be required to increase to compensate. However, such an increase in electricity consumption would be anticipated to be approximately proportional to the reduction in natural gas consumption. Therefore, under such a scenario, at the extreme, it can be reasonably assumed that the increase in electricity consumption associated with the General Plan Update would be approximately 12% of the total electricity in Contra Costa County (rather than just 3%), while the increase in natural gas consumption would be 0% (rather than 9%), under the condition that no natural gas consumption would be developed in the future and would require replacement by electricity. Nevertheless, even a 12% increase in electricity consumption in Contra Costa County (associated with buildout of the General Plan Update) would be manageable, given the approximately 20-year buildout horizon associated with the General Plan Update.

Furthermore, as described on page 3.7-11 of the Draft EIR, a large driver of renewable sources of energy in California is the state's current Renewable Portfolio Standard (RPS), which requires the state to derive at least 60 percent of electricity generated from renewable resources by 2030 and to achieve zero-carbon emissions by 2045 (as passed in September 2018, under AB 100). This requirement mandates that available renewable energy is available by the General Plan Update buildout year to provide sufficient clean energy to serve the State of California in the future, including buildout of the City associated with the General Plan Update. This requirement is already mandated by State law and is under the purview of the CPUC and the PG&E, not the City of Pittsburgh. Moreover, as previously stated, the 2040 General Plan includes numerous policies and actions to support energy conservation and renewable energy, as provided in page 3.7-36 of the Draft EIR, which would ease pressure on the CPUC and PG&E.

It should also be noted that energy efficiency is anticipated to increase in the future. For example, the California Green Building Code is continually updated to increase energy efficiency over time, and is anticipated to be substantially stricter in ensuing years (over the course of General Plan Buildout). Moreover, the City's Sustainability Plan itself contains numerous energy efficiency measures, that would further reduce electricity consumption compared with historical patterns.

Overall, the General Plan Update is consistent with the State's goals to achieve a carbon-free energy future, based on its consistency with all applicable plans for renewable energy and energy efficiency. Therefore, even if electricity demand per capita would be higher under development associated with the General Plan Update compared with historical development patterns (such as if natural gas consumption in new development is dramatically curtailed or absent), despite substantial anticipated improvements relating to energy efficiency in the future, implementation of the General Plan Update would not conflict with any State or local plans for renewable energy or energy efficiency (including the City's Sustainability Plan), or result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. No further response to this comment is necessary.

**Response F-8:** The commenter provides conclusionary statements to the comment letter. No response to this comment is necessary.

Delta Stewardship Council
A CALIFORNIA STATE AGENCY

715 P Street, 15-300
Sacramento, CA 95814

916.445.5511
DELTACOUNCIL.CA.GOV

CHAIR
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EXECUTIVE OFFICER
Jessica R. Pearson

February 9, 2024

John Funderburg
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Delivered via email: jfunderburg@pittsburgca.gov

**RE: Comments on the Draft Environmental Impact Report for the City of Pittsburg General Plan 2040 Update, SCH# 2022040427**

Dear John Funderburg:

Thank you for the opportunity to review and comment on the City of Pittsburg Draft Environmental Impact Report (DEIR) for the City of Pittsburg General Plan 2040 Update (General Plan 2040). The Delta Stewardship Council (Council) recognizes the objective(s) of the City of Pittsburg General Plan Update (project) are to determine the extent and types of development needed to achieve the community's long-range vision for physical, economic, social, and environmental goals, achieve compliance with applicable State and regional policies, and provide the basis for establishing and setting priorities for detailed programs. G-1

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009. (Wat. Code, § 85000 et seq.; Delta Reform Act) The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem. (Wat. Code, § 85054)

The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh. (Wat. Code, § 85300) The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, title 23, section 5001 et seq. Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of State or local public agencies that take place in whole or in part in the Delta. (Wat. Code, §§ 85210, 85225, 85225.10). A state or local public agency that proposes to undertake a covered action is required to prepare a written Certification of Consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that certification to the Council prior to implementation of the project. (Wat. Code, § 85225) The Delta Reform Act also directs the Council to review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents with the Delta Plan. The Council's input includes, but is not limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs. (Wat. Code, § 85212) G-1 cont'd

**COVERED ACTION DETERMINATION AND CERTIFICATION OF CONSISTENCY WITH THE DELTA PLAN**

Based on the project location and project description provided in the DEIR, the project appears to meet the definition of a covered action. Water Code section 85057.5(a) states that a covered action is a plan, program, or project, as defined pursuant to the California Environmental Quality Act (Pub. Resources Code, § 21065) that meets all of the following conditions: G-2

> ***(1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh;*** The General Plan planning area includes lands within and surrounding the City of Pittsburg. A portion of the planning area is located within the Delta, and, thus, the project would occur in part within the boundaries of the Delta.

> ***(2) Will be carried out, approved, or funded by a State or a local public agency;*** General Plan 2040 and DEIR would be approved and carried out by the City , a local public agency.
> ***(3) Is covered by one or more of the provisions of the Delta Plan.*** As described below, the project is covered by, though likely consistent with, multiple Delta Plan regulatory policies.
> ***(4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta.*** The project may have a significant impact on the achievement of the coequal goal to protect, restore, and enhance the Delta ecosystem and the implementation of government sponsored flood control programs in the Delta.

G-2 cont'd

The State or local public agency approving, funding, or carrying out the project must file a Certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(k)(3))

**POTENTIALLY APPLICABLE DELTA PLAN POLICIES**

The following section describes the Delta Plan regulatory policies that may apply to the project based on the information provided in the DEIR.

### *Governance Policy 1: Detailed Findings to Establish Consistency with the Delta Plan*

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002) specifies what must be addressed in a Certification of Consistency by a project proponent of a project that is a covered action. The following is a subset of policy requirements that a project must fulfill to be considered consistent with the Delta Plan:

G-3

### *Mitigation Measures*

> Delta Plan Policy **G P1(b)(2)** (Cal. Code Regs., tit. 23, § 5002(b)(2)) requires covered actions not exempt from the California Environmental Quality Act (CEQA) to include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018, (unless the measures are within the exclusive jurisdiction of an agency other than the agency that files the Certification of Consistency), or substitute mitigation measures that the agency finds are equally or more effective. These

mitigation measures are identified in Delta Plan Appendix O and are available at: https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf.
The DEIR does not propose mitigation measures for the project. Rather, the DEIR considers that all potentially significant impacts are minimized to the greatest extent feasible through General Plan policies and actions, and that no feasible mitigation is available. Under this self-mitigating approach, **G P1(b)(2)** would not apply to the project. Should this approach change prior to the adoption of the project, the City should review Appendix O and include any applicable feasible mitigation measures adopted and incorporated into the Delta Plan or identify substitute mitigation measures that the City finds are equally or more effective.

### *Best Available Science*

Delta Plan Policy **G P1(b)(3)** (Cal. Code Regs., tit. 23, § 5002(b)(3)) requires actions subject to Delta Plan regulations to document the use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines best available science as "the best scientific information and data for informing management and policy decisions." (Cal. Code Regs., tit. 23, § 5001(f).) Best available science is also required to be consistent with the guidelines and criteria in Appendix 1A of the Delta Plan https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf) and in the Delta Plan regulations (Cal. Code Regs., tit. 23, appen. 1a). G-3 cont'd

This policy generally requires that the process used by the City to analyze project alternatives, impacts, and mitigation measures for the project be clearly documented in the DEIR and supporting record, and effectively communicated to foster improved understanding and informed decision-making.

### *Delta as Place Policy 1: Locate New Urban Development Wisely and Risk Reduction Policy 2: Require Flood Protection for Residential Development in Rural Areas*

Certain Delta Plan regulatory policies establish specific criteria and categories that would exempt actions from portions of the Council's regulatory authority. One such exemption is for actions occurring within Contra Costa County's 2006 voter-approved urban limit line. Those proposed actions are exempted from Delta Policy

**DP P1,** which places geographic restrictions on new urban development (Cal. Code Regs., tit. 23, § 5010) and Delta Plan Policy **RR P2,** which requires a minimum level of flood protection for residential development in rural areas (Cal. Code Regs., tit. 23, § 5013).

Based on our review, Council staff has not identified any specific inconsistency between the DEIR and the Delta Plan, pursuant to Water Code section 85212 at this time. Furthermore, notwithstanding the exemptions identified above, General Plan 2040 policies appear to support provisions of **DP P1** and **RR P2**. For example, Land Use Element goals, such as 2-G-1 to maintain compact urban development and ensure that lands not environmentally suitable for development remain open space and 2-G-6 to provide incentives for development using infill, reuse and revitalization of land, would advance the achievement of **DP P1** and **RR P2**.

Council staff further notes and concurs with the following statements in the DEIR (p. 3.10-27):

> *The proposed 2040 General Plan includes actions which address consistency and compliance with the Delta Plan. Specifically, Action 10-A-2.d requires review of all projects located within or adjacent to the Delta Primary Zone and other priority habitat restoration areas to ensure consistency with the criteria and policies of the Delta Stewardship Council's Delta Plan. Additionally, as noted above, the proposed 2040 General Plan includes Action 10-A-2.e, which states: "As applicable, provide opportunities for review of and comment by the California Department of Fish and Wildlife, Reclamation Districts, the Delta Stewardship Council, Delta Protection Commission, SWRCB, and San Francisco Bay Conservation and Development Commission (BCDC) during project review, and consult with the California Department of Fish and Wildlife to ensure that any impacts do not have a significant effect on primary habitat restoration areas as described in the Bay Plan and the Delta Plan." Further, Action 10-A-4.a requires review and regulation of new development to ensure consistency with Federal and State flood and floodway requirements, including Sacramento-San Joaquin River Delta Plan policies, the City's Green Stormwater Infrastructure Plan, and the Contra Costa Clean Water Program's Resource Conservation Plan as applicable and as opportunities arise. The proposed 2040 General Plan does not conflict with the Delta Plan.*

G-3 cont'd

The Council appreciates the City's efforts to incorporate these and other provisions of the Delta Plan in General Plan 2040, notes that the City has continued to refer projects to the Council for review as described above, and thanks the City for its continued engagement in our Delta Adapts Climate Adaptation Plan. We encourage the City to submit a Certification of Consistency to the Council using these and other goals and actions to demonstrate how the General Plan is consistent with the Delta Plan. G-3 cont'd

## CLOSING COMMENTS

More information on covered actions, early consultation, and the certification process can be found on the Council website, https://coveredactions.deltacouncil.ca.gov. Council staff are available to discuss issues outlined in this letter as the City of Pittsburg proceeds in the next stages of its project and approval processes. Please contact Pat Kelly at patricia.kelly@deltacouncil.ca.gov with any questions. G-4

Sincerely,

Jeff Henderson, AICP, Deputy Executive Officer

## Response to Letter G: Delta Stewardship Council

**Response G-1:** The commenter provides introductory statements to the comment letter pertaining to the Delta Stewardship Council responsibilities and statutory requirements. No response to this comment is warranted.

**Response G-2:** The commenter states that the project meets the definition of a covered action under the California Water Code. The commenter also states that the State or local public agency approving, funding, or carrying out the project must file a Certification of Consistency with the Council prior to project implementation.

This comment is noted. The City will file a Certification of Consistency as required by State law.

**Response G-3:** The commenter provides Delta Plan regulatory policies that may apply to the project. The commenter states that they have not identified any specific inconsistency between the Draft EIR and the Delta Plan, pursuant to Water Code section 85212 at this time. Furthermore, the commenter states that, notwithstanding the exemptions identified in this comment, General Plan 2040 policies appear to support provisions of DP P1 and RR P2. The commenter concurs with a statement made in the Draft EIR regarding the Delta Plan. The commenter concludes by stating that they encourage the City to submit a Certification of Consistency to the Council using these and other goals and actions to demonstrate how the General Plan is consistent with the Delta Plan.

This comment is noted. The proposed General Plan has been prepared with the intent to be consistent with the Delta Plan and support long-term stewardship of the Delta. The City will file a Certification of Consistency with the Council.

**Response G-4:** The commenter provides conclusionary statements to the comment letter. No response to this comment is warranted.

State of California – Transportation Agency GAVIN NEWSOM, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
Contra Costa Area
5001 Blum Road
Martinez, CA 94553
(925) 646-4980
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)

Governor's Office of Planning & Research
Jan 30 2024
STATE CLEARINGHOUSE

January 29, 2024

File No.: 320.15668.16431

City of Pittsburg Community and Economic Development Department
65 Civic Avenue
Pittsburg, CA 94565

RE: SCH #2022040427

The Contra Costa Area of the California Highway Patrol received the "Notice of Completion" of the Environmental document for the 2040 Pittsburg General Plan Update for State Clearinghouse (SCH) number 22022040427. After review, we have concerns with the potential impact this project could have on traffic congestion, distracted driving, and increased response times for emergency services. H-1

Our concern relates to: (1) the proposed zoning for construction of 2.0 FAR zoning consistent with the Transit Oriented Development high-density housing standards promulgated by AB 2923 (2018) (2-P-9.3, 2-A-9.a); (2) new construction of freeway interchange/overpass at State Route 4 (SR-4) and Range Road (4-A01.3, 4-A01.3, 7-A-4.f); and (3) the revision of sign regulations to allow larger freestanding commercial use signs along SR-4 (4-A-3.a). Currently, SR-4 through the city of Pittsburg is among the most congested stretches of freeway for commute traffic in the county of Contra Costa. The congestion is at its worst during the weekday morning commutes and spans the entire length of SR-4 through the city of Pittsburg.

The proposed zoning of 2.0 FAR would allow for the construction of dwelling unit structures comprising up to two times the square footage of the lots they are built upon. The goal of such zoning includes high-density housing consistent with AB 2923 density standards. This is to be located in close proximity to SR-4, which is the major transportation route for all cities in east Contra Costa County, such as Antioch, Oakley, Brentwood, and Pittsburg. State Route 4 connects these cities to the rest of Contra Costa County and the greater Bay Area to their west. In addition to the potential increase of traffic congestion due to the increased high density of population, the addition of another freeway interchange could further increase commute traffic, as more vehicles would be accessing the freeway at the same time than presently are. Furthermore, revision of sign regulations to allow larger freestanding commercial use signs along SR-4 could be an unsafe distraction for motorists traveling on SR-4. As a result, this project could have a negative impact on our operations due to the increased traffic congestion and distracted driving, which could necessitate the need for additional traffic control measures to H-2

*Safety, Service, and Security* *An Internationally Accredited Agency*

mitigate the potential increase in traffic collisions and increased response times for emergency services within our jurisdiction. H-2 cont'd

If you have any questions regarding these concerns, please contact me at (925) 646-4980. H-3

Sincerely,

S. GARSIDE, Captain
Commander
Contra Costa Area

## Response to Letter H: Department of California Highway Patrol

**Response H-1:** The commenter provides an introductory statement to the comment letter.

Please see Response H-2 regarding the specific concerns.

**Response H-2:** The commenter provides comments regarding congestion along State Route 4 (SR-4). The commenter states that the Project could increase traffic congestion along SR-4.

It is acknowledged that SR-4 through Pittsburg is among the most congested stretches of freeway for commuter traffic in Contra Costa. This congestion extends within the City's arterial network. The provision for the overpass, which is consistent with the current 2020 General Plan (2020 GP, Policy 7-P-17, p. 7-19), is intended to help alleviate conditions at SR-4 access points at Railroad Avenue, Bailey Road, and San Marco Boulevard.

The Draft EIR for the 2040 General Plan Update identifies three significant and unavoidable impacts related to transportation and circulation. The significant and unavoidable impacts are associated with the increase number of roadway users (drivers, pedestrians, bicycles, and those using transit) and VMT due to added density. Though the crash rate may potentially decrease as identified (notwithstanding regression-to-the-mean effects, emerging trends, or accounting for changes in severity), crash frequency may increase due to the total added VMT and miles of added roadway. It is noted that Caltrans' Local Roadway Safety Manual establishes that both crash rate and frequency may be used in identifying safety hotspot and in establishing a high-injury network.

In terms of predictive crash modeling, the American Association of State Highway and Transportation Officials' (AASHTO's) Highway Safety Manual includes methods for estimating crash frequency using average annual daily traffic volumes as one of two primary metrics. The General Plan Update intends to ensure that new developments consider all users equally and promote safe environment based on plans and guidelines already established by the City (such as Pittsburg Moves) and future plans and guidelines to be established (Safe Routes to School, Transportation Demand Management, Neighborhood Traffic Calming, Vision Zero, etc.).

The provision of higher density would mean lower Vehicle Miles Traveled (VMT) per resident or per employee, as the closer proximity of projects mean shorter travel distances for residents to travel to goods and services. The higher density residential zoning is also a byproduct of meeting California Regional Housing Needs Assessment (RHNA) requirements.

Additionally, as noted on page 3.14-1 of Section 3.14, Transportation and Circulation, of the Draft EIR, with the implementation of Senate Bill (SB) 743, local agencies may no longer rely on vehicular delay or capacity-based analyses for CEQA impact determination. Instead, agencies must analyze transportation impacts utilizing vehicle miles traveled (VMT), a measure of the total distance traveled by vehicles for trips beginning or ending in Pittsburg on a typical weekday. VMT impacts are calculated and assessed using an efficiency metric (for example, VMT per household for residential projects or per employee for commercial projects). This is a change from the prior method of analyzing transportation impacts, which measured level of service (LOS) at intersections and roadway segments, using grades from LOS A to LOS F. While SB 743 does not allow LOS to be used to measure transportation impacts under CEQA, it may still be included in goals and policies in a local agency's general plan. As such, LOS, a traffic congestion metric, is no longer a CEQA topic.

Future projects, including highway interchanges, overcrossings/undercrossings, development projects, and billboards, will be reviewed for project-specific impacts, including hazards, pursuant to CEQA at the time the projects are designed and proposed for the City's consideration.

**Response H-3:** The commenter provides conclusionary statements to the comment letter. No response to this comment is warranted.

February 7, 2024

John Funderburg, Assistant Director jfunderburg@pittsburgca.gov

Community and Economic Development

Hello John:

Thank you very much for your time and explanation during our lunch meeting this week. I wanted to put together my own brief listing of what we discussed then and add a few 'citizen' responses I have heard here too.

First of all,,, the 20-Year Pittsburg plan is quite a document and your whole staff deserves accolades for their hard work on this: very well done!

Here are a few of my comments on our development plans: I-1

**Roads, Corridors and Main Access in and out of Pittsburg –**

The main thoroughfares (excluding Highway 4) are Kirker Pass to Railroad Avenue to the River, Buchanan Road to Antioch, Harbor Street-Buchanan to River, Leland Road, East/West Antioch to Bay Point, Pittsburg-Antioch Highway to Bay Point via 10th Street, Willow Pass Road, Railroad to Bay Point.

All of these main arteries deserve attention in terms of heavy traffic flow, speeding, poor road conditions, lack of boundaries/ sidewalks, plantings, fences, lighting and signage. They are what define us to those traveling in and out of Pittsburg and shouldn't give the impression that one is entering a 'poor' town with garbage and litter, graffiti, general neglect, poor traffic regulation and lack of lighting. Additionally, fences need attention: many are broken or falling over and have very different looks to them. We ought to move to uniformity for each area and NOT put the cost of the building of fences or repair, or adding plantings on nearby property owners, but take it on as a city-wide project. These different corridors deserve attention now. And the walkways through them too. The dangers to pedestrians and bicyclists on Railroad Avenue alone is significant when looking at our 'accident' numbers. And, from citizens' comments to me personally, this is one of the most important and urgent issues that needs city attention, with **TRAFFIC, SAFETY, LIGHTING, and CLEAN-UP** at the top of that list. A long-term plan that says the unknown impact to our roadways will be **'significant and unavoidable'** does nothing to improve the belief that this city is uninterested in making our streets safer and more navigable in the future; the time for this is now. I-2

**Community Information & Signage**

As our types of media evolve, so must our ideas on getting important news out to our public. There is no 'one way' that people receive information now; we have no local city newspaper that people read daily and our local news coverage, be in through television or social media, does not cover everything for everyone. Signs at this point are very important and electronic sign-boards placed along our main corridors are a must now. Understandably, they are expensive, but necessary. There is no ONE way people receive information here and we shouldn't be catering to only group or access point for information. We have to do a better job, than what has been done in the past of getting critical information to ALL of our citizens, and also updating and changing our image to those outside of this community…, it's a two-sided coin,,, the need for stronger internal information, and the reach to those outside of our area; all to better aide in positive growth and the enticement of potential new business and jobs to the area. Our city website needs a thorough update and attention to our use of 'calendars' everywhere, needs to be up-to-date and simplified. As it is now, information is outdated and hard to navigate. This can be done with mailed calendars, updated website, differing social media and signs. I-3

**A Move Away from Poor Town**

For those of us who grew up in Pittsburg, attended local schools and are active now in civic organizations, churches or local businesses and services, are very familiar with the comments from those outside of Pittsburg.

***"You live in Pittsburg? Aren't you afraid of the violent crime there? Where do you shop? Is it safe to even park my car there? I don't see a reason to even go to Pittsburg!"*** And while these are insulting comments to hear, they have a basis in truth. We do have a long history of crime here, and are still combatting this daily. We do not have much 'shopping' here now… and it seems to be getting less rather than more with large and small stores and businesses closing and moving away. For example,,, the downtown area doesn't even have a notable grocery store and one must travel 'out of town' to shop for many items. Every single person I have asked about shopping habits told me they leave town to buy groceries. I-4

Taken together, in order to attract more businesses here, this image has to be changed. Our high level of 'low-income' housing is admirable, but it doesn't do a thing to attract large and even small businesses to Pittsburg if there isn't a perceived consumer base to support those businesses. And this starts with good publicity around what is truly happening in this city, not the negative rumors that will swirl around filling the void of its absence. All of this comes back to putting strong information out there for all to see.

**Marina and Old Town**

We have a gold mine in our Deep Water port in Pittsburg, with a beautiful, huge updated Marina and its ability to berth large motor craft as well as deep draft sailboats,,, this is a unique marina feature, and add to that a 'gas dock' not available for miles in either direction. Our waterfront, sadly, has often been overlooked but could be our most important draw to this community. This is an area that needs attention and clean-up now. We draw huge numbers of boaters moving from San Francisco to Sacramento, nearly year 'round, but do little to promote our high-scale Marina and leave visitors with the idea that the Marina is not safe and the area ignored. This is a lost opportunity. It must be cleaned up and made safe and any help the city can provide to give it the look and attention it deserves. I-5

Additionally, Old Town, right now is going through more changes, deserves support and ease in attracting small and large businesses to establish here. It could be a big part of our 'destination' plans, but contact with city officials that aide in this growth, needs to be simplified and made public. It shouldn't be a big chore to get in touch with those who can help facilitate a new business to locate here and more effort needs to go into searching out and enticing new businesses to locate here… and that means all types of businesses, as we are very diverse and vibrant population who deserves the same in goods and services.

**Small things matter**.

Alongside the big plans for more growth one sees the small things that for some may mean nothing, but for others are big issues and even problems.

As a 'river town' many people who live here, fish, hunt and enjoy our beautiful waterways as often as possible. Many have boats in our Marina, but many others have boats and recreational vehicles of all sorts at their home. For those of us in older homes, there is no access to moving a boat or motorhome 'out of sight' behind a house or garage or a high fence, and the cost of storage, (when it can be found) is staggering for many. The Municipal Code that demands that such boats and vehicles be 'hidden' to prevent the neighborhood from looking 'junky' is pure prejudice. For many of us, owning a boat or RV is a dream come true, and not to be considered a blight that must be hidden. We are a town built on a waterway and about one in ten homes (or many more) have either a boat or RV. There isn't enough storage in the whole county for these. The Municipal Code ought to be changed to fairly delete that for older neighborhoods which do not have 'hidden' storage, and make it fair to all. We shouldn't be favoring only those in the newer, richer areas to keep their boats or RVs on their bigger, wider lots, which older neighborhoods do not have. I-6

I-6 cont'd

I could go on and on here about the need to give attention to the 'small things' such as our low-rent Atchinson building on Railroad creating fears that the traffic will come to a stand-still on Railroad Avenue, that crime seems to be growing, not shrinking, and our Police Department needs more support and a larger staff, or the absolute need to shop and work out of town, with big and small businesses closing or re-locating elsewhere. There are a lot of fears here, that are legitimate and worrisome to many. This is just a sampling of things that ought to be highly considered when finalizing this 20-year plan for the City of Pittsburg.

Sincerely,

Donna M. Smith, resident of Pittsburg

## Response to Letter I: Donna Smith

**Response I-1:** The commenter provides an introductory statement to the comment letter.

Please see Responses I-2 through I-6 regarding the specific concerns.

**Response I-2:** The commenter expresses concerns regarding heavy traffic flow, speeding, road conditions, lack of sidewalks, and lack of lighting and signage. The commenter concludes by expressing concerns regarding the significant and unavoidable impact pertaining to roadways.

This comment is noted. While some of the issues raised by the commenter reflect existing conditions and perceptions of the City, and not environmental impacts of the proposed 2040 General Plan, the proposed 2040 General Plan includes ample policies and actions relating to traffic flow, road conditions, lack of sidewalks, plantings, lighting, and signage.

Some of the policies and actions are included below:

7-P-1.1: Ensure that the City's circulation network is a well-connected system of streets, roads, highways, sidewalks, trails, and paths that effectively and safely accommodate all users in a manner that considers the context of surrounding land uses.

7-A-3.d: Continue to look for opportunities to eliminate sidewalk and bike lane gaps that limit connectivity between existing neighborhoods and ensure new connections are provided with all new developments.

7-A-3.c: Repair or replace crosswalks and bike lane markings that are faded or damaged. Review of the existing roadways conditions should be assessed periodically.

7-P-1.6: Design streets to operate with vehicle speeds that are safer for all users, especially pedestrian and bicyclists, while providing adequate access for emergency vehicles. Speed reductions strategies should include reduced lane widths and application of traffic calming measures on local and collector streets and especially near parks, schools, trails, and in the Downtown core.

7-A-1.e: Use traffic calming tools and speed reduction strategies in new development and the design of roadway improvements to assist in implementing complete street principles; possible tools include roundabouts, raised intersections, curb extensions, reduced roadway width, and high visibility crosswalks.

4-A-1.a: Develop a gateway and landmark program that establishes the design, location, and extent of gateway improvements at key entry points into the City and addresses the design and location of landmark features at significant community gathering nodes. The program shall include:

(i) Use of archways, landscaping, signs, banners, sculptures, decorative lighting, and other visual features to announce the gateways along regional roadways and landmarks at community focal areas. Time installation before or concurrently with construction of new projects.

(ii) Use of steel in historic areas to reflect Pittsburg's steel production history. Consider steel in the fabrication of pedestrian furniture, such as benches, trash and recycling receptacles, throughout the City's public right of ways.

4-A-4.a: Update the Zoning Ordinance to:

- Establish standards for landscaping and fencing for all districts/use categories, with a focus on unified design and character throughout Pittsburg.
- Encourage use of native plant species and locally-recognized non-native species with low watering and maintenance requirements in linear parks, landscaped medians, and other quasi-public landscaping applications to enhance the City's overall identity.
- Require landscaped screening for utility boxes, loading areas, and large facilities such as tanks in multifamily, mixed use, and non-residential developments.
- Require landscaping and tree planting along key roadways, arterials, and collectors.

Impacts associated with transportation are discussed in Section 3.14, Transportation and Circulation, of the Draft EIR. As discussed on page 3.14-1, with the implementation of Senate Bill (SB) 743, local agencies may no longer rely on vehicular delay or capacity-based analyses for California Environmental Quality Act (CEQA) impact determination. Instead, agencies must analyze transportation impacts utilizing vehicle miles traveled (VMT), a measure of the total distance traveled by vehicles for trips beginning or ending in Pittsburg on a typical weekday. VMT impacts are calculated and assessed using an efficiency metric (for example, VMT per household for residential projects or per employee for commercial projects). This is a change from the prior method of analyzing transportation impacts, which measured level of service (LOS) at intersections and roadway segments, using grades from LOS A to LOS F. While SB 743 does not allow LOS to be used to measure transportation impacts under CEQA, it may still be included in goals and policies in a local agency's general plan. As such, traffic flow indicators, like LOS, are no longer a CEQA topic.

However, as noted by the commenter, impacts pertaining to the following would be significant and unavoidable: vehicle-miles-traveled (VMT); conflicts with a program, plan, policy, or ordinance addressing the circulation system, including transit, bicycle, and pedestrian facilities; and increased hazards due to a design feature, incompatible uses, or inadequate emergency access.

This comment is noted and will be forwarded to the decision-makers for their consideration.

**Response I-3:** The commenter expresses concerns regarding community information and signage.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, the General Plan includes goals, policies and actions that address the issues raised by the commenter, including but not limited to:

Goal-8-1: Consider and respond to environmental justice issues as they relate to City plans, policies, and projects to ensure disadvantaged and vulnerable communities are engaged and represented in the decision-making process, to protect disadvantaged and vulnerable communities from environmental hazards, and to ensure that such communities have access to recreation, transportation, education, community amenities, healthy foods, and safe and decent housing.

8-P-1.5: Administer materials and strive for broad outreach on public hearings that affect the environment in languages used by the community.

8-P-1.10: Promote broad and balanced public participation in City decision-making efforts in order to ensure that all residents have the opportunity to participate in the decision-making process. This includes City decisions that affect community health and well-being such as planning, roadway, parks, infrastructure, jobs access, and utility projects and participation in City planning efforts, including the Sustainability Plan, Pittsburg Moves Action Transportation Plan, and Economic Development Strategy.

8-A-1.e: Encourage public participation in local planning decision making, especially by those that are traditionally underrepresented by offering multi-lingual outreach material, communicating with key cultural entities, and hosting events in areas of varying socio-economic contexts. This effort shall include development of and updates to the Urban Forest Management Plan, Sustainability Plan, Capital Improvement Program, Brownfields Revitalization Plans, and specific plans.

8-A-1.f: Ensure that low income and minority populations have equal opportunities to participate in and influence the land use decision-making process by utilizing culturally appropriate approaches to public participation and involvement.

5-A-2.d: Develop a “way-finding” system for Downtown Pittsburg to the Marina and other local attractions. Install uniform signage and banners informing visitors of major attractions, including directions to Downtown from State Route 4 and to the waterfront from Downtown.

This comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response I-4:** The commenter expresses concerns regarding shopping options, safety, and crime.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, the General Plan includes goals, policies and actions that address the issues raised by the commenter, including but not limited to:

6-P-1.2: Pursue strategies that support the attraction and retention of diverse industries, a diverse workforce, and a diversity of municipal revenue sources.

6-P-1.3: Achieve and maintain a balance of land uses within the City that assures residential development is complemented by expanded local employment opportunities, retail and commercial services, and recreation and entertainment venues; and that the City-wide mix of land uses provides a balanced variety of housing and business types and balances uses that produce revenues and those that require public expenditures.

6-P-1.4: Ensure that the City's revenue and fiscal base is not overly dependent on any one type of land use, development, or revenue source.

6-P-1.5: Maintain competitive rates and fees for City services and resources that reflect the cost to the City but do not inhibit desired growth and do not result in inequitable access to City services and facilities.

6-P-1.6: Maximize the City's public financing tools and consider opportunities for enhancement in order to fund the various economic development initiatives outlined in this Element.

6-P-1.7: Build the City's capital improvement and business assistance funds in order to be in a position to leverage, borrow, and fund key projects.

6-P-1.8: Promote local purchase of goods and services by residents, workers, businesses and City government in order to retain spending within the local economy and generate revenue for the City.

This comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response I-5:** The commenter provides suggestions regarding attracting support and encouraging business establishment in the Marina and Old Town.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, the General Plan includes goals, policies and actions that address the issues raised by the commenter, including but not limited to:

5-P-1.1: Emphasize Downtown, including Old Town, as Pittsburg's historic center, providing an identity and a sense of place for the entire city by establishing a focused revitalization strategy that integrates the initiatives of the Economic Development Strategy.

5-P-1.6: Provide a variety of recreational facilities to serve visitors to the Downtown, Old Town, and residents of surrounding neighborhoods.

5-A-3.a: Develop a waterfront activity center at the terminus of Harbor Street, featuring a cluster of Marina Commercial uses, including specialty retail, services, restaurants, marine repair and docking facilities, hotels and other uses by undertaking active efforts, including land acquisition and assembly.

5-A-3.b: Pursue the dedication of public open space during the redevelopment of infill sites within the Downtown, particularly adjacent to the waterfront area.

5-A-3.c: Provide a wide path right-of-way, way-finding signage, landscaping, interpretive plaques, and street lighting that connects key areas of the Downtown (John Buckley Square, commercial core area, Eighth St. greenbelt, Marina Walk Park, etc.) to the waterfront.

5-A-3.d: Develop a detailed design plan for the City's new Marina Commercial center, featuring:

- Mixed-use village atmosphere;
- Creation or enhancement of points of interest based on the Marina Plan;
- Walkable layout, with pedestrian amenities;
- Public access to the shoreline and views of Browns Island; and
- Focus on visitor attractions, as well as traditional marine services.

5-A-3.e: Acquire land at the terminus of Harbor Street for the development of a publicly-oriented park or similar recreational use and promenade, providing access to the waterfront and open space at the center of the new Marina Commercial center.

5-A-3.f: Encourage design of the Harbor Street terminus to provide an unobstructed view of New York Slough and a 30-foot-wide promenade to the waterfront. This linear park/promenade should function as a publicly-oriented square, with buildings oriented toward it and pedestrian amenities leading from East Third Street to the shoreline.

This comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response I-6:** The commenter expresses concerns regarding Municipal Code requirements for storage of boats and vehicles to be "hidden" and suggests changes to the Code on this topic. The commenter provides conclusionary statements to the comment letter.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

EAST BAY
MUNICIPAL UTILITY DISTRICT

February 2, 2024

John Funderburg, Assistant Director of Community and Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, California 94565

Re: Notice of Availability Draft 2040 Pittsburg General Plan and Environmental Impact Report, Pittsburg

Dear Mr. Funderburg:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report for the 2040 Pittsburg General Plan and Environmental Impact Report for the City of Pittsburg (City). EBMUD has the following comments. J-1

**EBMUD MOKELUMNE AQUEDUCTS**

EBMUD's Mokelumne Aqueducts (Aqueduct) right-of-way (owned in fee) is located through the portions of the City (see Attachment A – Map of EBMUD Aqueducts in the City). Any projects being planned within or immediately adjacent to EBMUD property will need to follow EBMUD's Procedure 718 – Authorized Uses of Pipeline Rights-of-Way (see Attachment B for a copy of the procedure).

Design drawings for any project encroachment (roadway, utility, facility, etc.), restoration projects crossing, or within the Aqueduct right-of-way will need to be submitted to EBMUD for review of possible drainage, site grading, fencing, construction access, and/or other conditions that may impact EBMUD property. EBMUD requires a full set of drawings to be submitted electronically in PDF format. All submittals shall be sent to the attention of Vincent H. Pon, P.E., Superintendent of Aqueduct Section, (vincent.pon@ebmud.com). Additional information and an encroachment package are included in EBMUD's Procedure 718. Applications for non-EBMUD uses will not be processed unless accompanied by the appropriate application fees outlined in the current applicable Water and Wastewater System Schedule of Rates and Charges and Fees. Contractors must secure an encroachment permit from EBMUD Aqueduct Section prior to mobilizing and starting construction work. A pre-construction meeting with EBMUD is mandatory. J-2

When a project involves the construction of a retaining wall and fence along the property line; these must be constructed completely outside of EBMUD property, including all footings. The project sponsor shall contact EBMUD's Survey Section to coordinate identifying, locating, and marking correct property lines.

375 ELEVENTH STREET . OAKLAND . CA 94607-4240 . TOLL FREE 1-866-40-EBMUD

John Funderburg, Assistant Director of Community and Economic Development
February 1, 2024
Page 2

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981. J-3

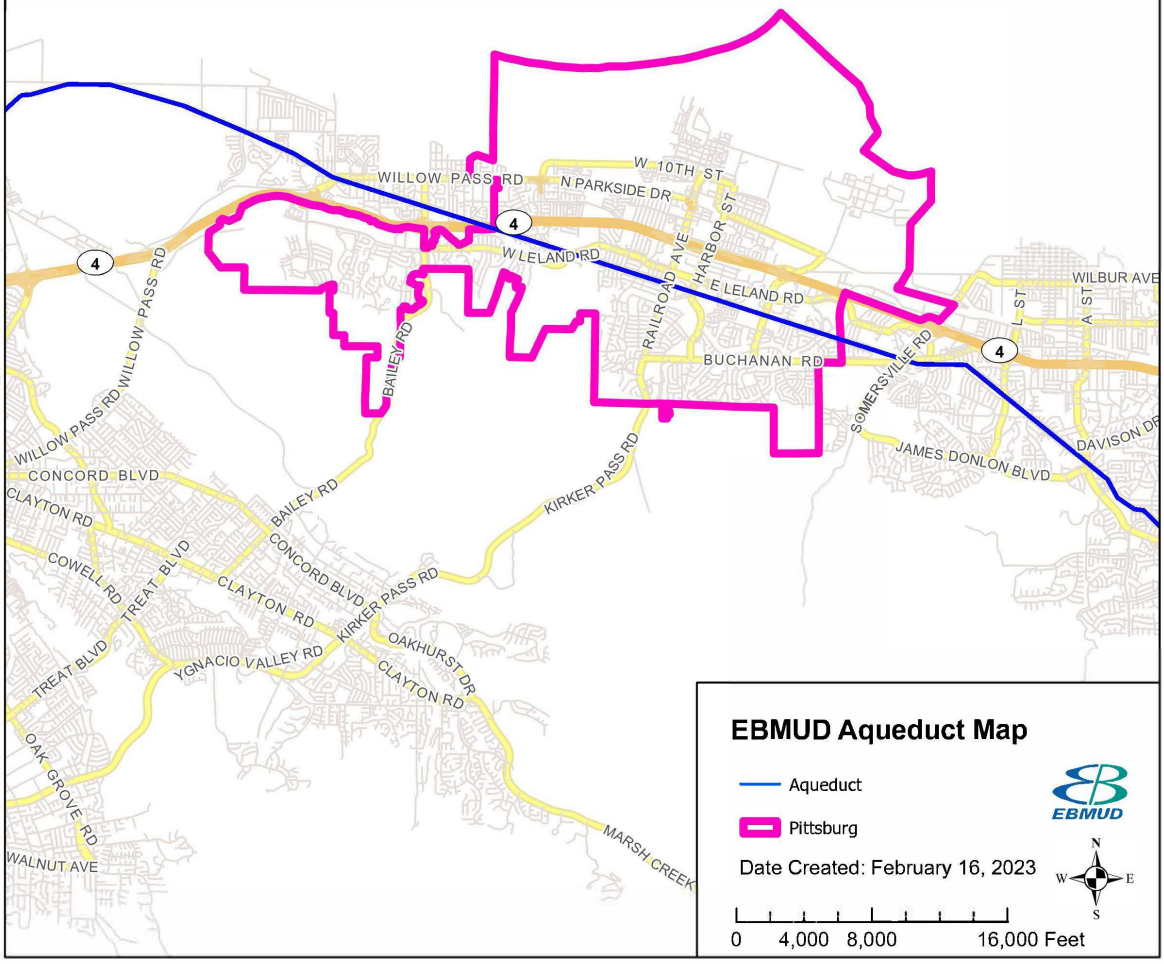
Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:WTJ:kn
wdpd24_14 2040 Pittsburg General Plan.doc

Attachments: A – EBMUD Aqueduct Map
B – EBMUD Procedure 718

Attachment A



EBMUD

# Procedure 718

| | |
|---|---|
| EFFECTIVE | 13 DEC 22 |
| SUPERSEDES | 08 JUL 20 |
| LEAD DEPARTMENT | O&M |

## AUTHORIZED USES OF PIPELINE RIGHTS-OF-WAY

**PURPOSE** – To establish procedures and criteria for review and authorization of overhead, surface, and sub-surface use of District-owned and easement established property containing raw and distribution water aqueducts and pipelines ("pipelines") for purposes other than installation, maintenance, and operation of District pipelines.

**Forms Used**

| | |
|---|---|
| L-14 | Limited Land Use Permit |
| K-47 | Work Request Agreement |
| N-15 | Certificate of Public Liability Insurance |
| N-17 | Certificate of Workers' Compensation Insurance |
| | Application for Use of EBMUD Property or Request for Information |
| | General Fund Receipts for Miscellaneous Payments |

**Authority and Responsibility**

Use, development, and control of fee-owned and easement established rights-of-way for District and non-District uses must be consistent with the District's operations, maintenance, security, and the rights and obligations of the District. District and non-District uses of District-owned pipeline rights-of-way may be permitted, at the District's sole discretion, only if the uses conform to Policy 7.01 - Aqueduct and Distribution Pipeline Rights-of-Way Maintenance and the requirements of this Procedure.

- No use of District pipeline rights of way or property by others will be permitted as a condition to meet city/county zoning requirements or to obtain any land use permit, approval, or entitlement affecting properties not owned by the District.
- No use of District properties by others will be permitted except under terms of a written agreement.
- Use of pipeline rights-of-way for District purposes shall have the concurrence of the Director of Operations and Maintenance and shall include all applicable protections required for similar third-party use.
- The Board of Directors has exclusive authority to approve any proposed right-of-way use requiring the adoption and implementation of one or more mitigation measures to minimize potentially significant environmental impacts.
- The decision whether to authorize any party other than the District to use District-owned property containing pipelines for any non-District purpose is a legislative act undertaken at the sole discretion of District staff. No notice or hearing is required to consider an application for use of such property, and staff's decision is not subject to appeal.

Acceptable long-term uses of the pipeline rights-of-way include but are not necessarily limited to: utility crossings, road crossings, limited agriculture, equestrian and pedestrian trails, parks, oil and gas leases, and District-owned ground water wells. Acceptable long-term uses of rights-of-way and easements for future pipelines will be evaluated upon facility completion. Such uses will be authorized in writing. All approved uses will conform to the requirements and limitations described in the attached EBMUD Requirements for Entry or Use of Pipeline Rights-of-Way (Requirements for Entry or Use) and all other conditions as specified in the written approval.

The Water Supply Division and the Water Treatment and Distribution Division are each primarily responsible to implement this Procedure with respect to proposed uses of rights-of-way containing a facility "owned" by that Division. Facility "ownership" for this purpose is determined based on which Division has "Overall Responsibility" for the facility according to Table 1 of Procedure 706 – Facilities: Inspection, Maintenance and Repair. Wherever this Procedure allocates responsibility to both Divisions in the

alternative, the responsibility shall rest with the Division which owns the facility within the right-of-way which is proposed to be used.

The Water Supply or the Water Treatment and Distribution Divisions are responsible for monitoring permitted uses and detecting and preventing unauthorized uses of pipeline rights-of-way, respectively.

The Office of General Counsel and the Manager of Real Estate Services will be consulted when an unauthorized user will not voluntarily desist.

The Water Supply or the Water Treatment and Distribution Divisions are responsible for coordinating the development of recommendations with respect to the terms and conditions to be stipulated when a District or non-District use of a pipeline right-of-way is to be permitted.

The Director of Engineering and Construction shall be consulted as necessary to provide location analysis or to determine what structural, grading, drainage, corrosion protection or other engineering measures are required and to obtain estimates of engineering, design and inspection costs.

**Inquiries and Applications for Use**

Applications and inquiries for use of pipeline rights-of-way shall be processed by the Water Operations Department. Applications for non-District uses will not be processed unless accompanied by the appropriate application fees specified in the District's "Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, and Other Fees".

The **Water Operations Department** is responsible for:

- Providing requirements for use of the District's pipeline rights-of-way to applicants requesting use of the right-of-way. See the attached Requirements for Entry or Use.
- Providing requirements to applicants for proposed work located adjacent to the District's pipeline rights-of-way which has the potential to impact the District's pipelines (e.g., proposed excavations that may include use of tiebacks that could result in a vertical encroachment and/or excavations that have the potential for ground movements that could damage District pipelines).
- Checking for completeness of any permit (e.g., Encroachment Permit Application) to ensure compliance with the requirements for entry or use of pipeline rights-of-way contained in Requirements for Entry or Use plus any other conditions applicable to the proposed use.
- Collecting engineering, plan review and construction inspection costs and documentation of insurance coverage, if necessary.
- Monitoring existing encroachments and inspection of the construction of new approved encroachments.
- Providing information to the Engineering and Construction Department for technical input regarding additional permit requirements or special restrictions that may be applicable (in addition to those outlined in the Requirements for Entry or Use).
- Assuring proper environmental documentation for proposed uses through consultation with the Water Distribution Planning Division, when appropriate. Policy 7.01 - Aqueduct and Distribution Pipeline Rights-of-Way Maintenance, requires the District to ensure that any construction impacts from third-party use of District rights of way are mitigated to the level of "no significant impact."

**Real Estate Services** is responsible for:

- Advising the Manager of Water Supply or the Manager of Water Treatment and Distribution of any real estate matters which relate to a specific proposed use.
- Collecting application fees and charges, preparing and executing limited land use permits, leases, easements, and all other property-related agreements (except for revocable licenses and temporary entry permits) and recommending fees and charges appropriate to the property use allowed, and for securing payment. See the current applicable Water and Wastewater System Schedule of Rates and Charges and Fees.
- Maintaining records relating to rights-of-way crossings and use, and providing information to the Engineering and Construction Department for the update of District pipeline drawings and GIS applications.

**Types of Permit License or Easement**

The Manager of Water Supply or Manager of Water Treatment and Distribution shall keep available the forms listing the general requirements set forth in Requirements for Entry or Use for each of the following:

Temporary Entry/Temporary Construction Permit

For temporary access to pipeline rights-of-way such as for surveying, potholing, construction, for temporary access via the District's right-of-way to property adjacent to the right-of-way, and other similar short-term situations.

Revocable License and Revocable Landscape License

For pipelines, sewers, storm drains, overhead and underground cables, public trails, landscaping and other crossings or lateral encroachments.

Limited Land Use Permit

Provides for agricultural or other surface use of the right-of-way for a period not to exceed one year (vehicular parking is prohibited). These permits are renewable annually if inspection reveals satisfactory conformance to conditions of permit.

Easement

For streets, highways, large diameter pipelines, canals and railroads, and other permanent publicly-owned encroachments. Easements are officially recorded with the county having jurisdiction. The consideration for the easement (e.g., fee) will be based on the value of the property being encumbered.

The Manager of Water Supply or Manager of Water Treatment and Distribution shall request review of any proposed revisions to application forms and lists of requirements from the Engineering and Construction Department, Real Estate Services Division, Office of General Counsel, and the District's Pipe Committee.

**Processing Applications**

Temporary Entry Permits and Temporary Construction Permits

The Manager of Water Supply or Manager of Water Treatment and Distribution (or designee) may issue temporary entry and construction permits including imposing standard and temporary conditions relating to the use. The Manager of Real Estate Services and the Office of General Counsel will be consulted regarding unusual circumstances.

Revocable Licenses

The Manager of Water Supply or Manager of Water Treatment and Distribution (or designee), if warranted, shall conduct a field investigation to determine pipeline protection requirements and in consultation with the Design Division or the Pipeline Infrastructure Division, will set forth the engineering and operating requirements.

The Manager of Water Supply or Manager of Water Treatment and Distribution (or designee), shall then specify any and all requirements, including special conditions to the applicant, and discuss the terms and conditions of the license agreement as well as any processing, design and inspection costs and license fee. The Manager of Water Supply or Manager of Water Treatment and Distribution may then enter into a standard license agreement with relevant special conditions on behalf of the District. The Manager of Real Estate Services and the Office of General Counsel shall be consulted regarding any unusual circumstances.

Copies of all revocable licenses issued by the Water Supply Division or the Water Treatment and Distribution Division shall be provided to the Manager of Real Estate Services.

Copies of all licenses or leases issued by the Manager of Real Estate Services on Pipeline Rights-of-Ways shall be provided to the Water Supply Division or the Water Treatment and Distribution Division.

Limited Land Use Permits

The Manager of Water Supply or Manager of Water Treatment and Distribution (or designee), shall convey the District's requirements to the applicant and investigate to determine any special conditions.

Real Estate Services shall prepare the Limited Land Use Permit (Form L-14) in duplicate, including special conditions or stipulations, accompanied by a District-prepared location sketch that will refer to pipeline stationing and other appropriate location identifiers, including adjacent pipeline structures.

Engineering and Construction Department shall prepare the location sketch.

After payment of the stipulated consideration determined by Real Estate Services, the Manager of Water Supply or Manager of Water Treatment and Distribution (or designee) shall review and execute the permit. These copies are then returned to the Manager of Real Estate Services, together with any stipulated consideration.

Forty-five days before expiration of a Limited Land Use Permit, the Manager of Real Estate Services shall notify the Manager of Water Supply or Manager of Water Treatment and Distribution, who shall investigate the permittee's operations. If renewal of the permit is recommended, the permit will be renewed by letter from the Manager of Real Estate Services.

**Authorized Uses For Pipeline Rights-of-Way**

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Leases and Easements

The Water Supply or Water Treatment and Distribution Divisions shall conduct a field investigation to determine requirements for pipeline protection and, in consultation with the Design Division or Pipeline Infrastructure Division, if necessary, will set forth the engineering and operating requirements.

If structural or corrosion protective facilities are required, the Manager of Water Supply or Manager of Water Treatment and Distribution (or designee) shall request the Manager of Design Division or Pipeline Infrastructure Division to proceed with the required design or plan reviews. (During design, the designer will communicate with the applicant's engineer.) Upon completion of design, the plans will be delivered to the applicant via the Manager of Water Supply or Manager of Water Treatment and Distribution (or designee), who will arrange for inspection as required.
The Manager of Real Estate Services shall discuss with the applicant the terms of the agreement and the amount of the consideration, including any processing, design, and inspection costs. Real Estate Services shall obtain an appraisal and engineering estimates, if necessary.

Upon agreement with the applicant, the Manager of Real Estate Services, shall draft, for review and approval by the Manager of Water Supply Division or the Manager of Water Treatment and Distribution Division and Office of General Counsel, an agreement granting the applicant the property interest under the terms and for the consideration as approved. Real Estate Services shall assure that evidence of insurance is provided, if required. The lease or easement shall be submitted to the District's Board of Directors for approval, if required by Procedure 108 - Real Estate Transactions. Two copies of the lease or easement shall be sent to the applicant with instructions to sign and return the copies, together with the consideration, to the Manager of Real Estate Services. Easements shall be recorded and the applicant shall provide the Manager of Real Estate Services with the recording data.

**Approvals**

District and non-District uses of pipeline rights-of-way shall be confirmed in writing, listing any special conditions which may apply to the proposed use to the requesting District departments or third parties by the Manager of Water Supply or Manager of Water Treatment and Distribution (or designee).

**Terminations**

Any third-party use of the District's pipeline property may be terminated at the District's sole discretion, so long as the termination is authorized by and done in a manner compliant with the terms and conditions of the permit, license, or lease that governs the use. If the Water Supply Division or the Water Treatment and Distribution Division terminates any permit or license, the Manager of Real Estate Services and the Design Division shall be so notified by memo. The Office of General Counsel may be consulted before undertaking a termination which may affect the District's legal interests.

**Terms and Conditions**

The final determination of generally applicable terms and conditions appropriate for District uses of pipeline properties rests with the Director of Operations and Maintenance.

A specific third-party applicant for use of pipeline property may be required, as a condition of approval of the application, to comply with the generally applicable terms and conditions, or with different or additional terms and conditions that are determined to be in the District's best interest. The decision to approve or deny an application, and the selection of terms and conditions of any approval, shall rest with the Director of Operations and Maintenance. There is no right to an administrative appeal or hearing, and the decision of the Director or designee is final.

**Authorized Uses For Pipeline Rights-of-Way**

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**Records**

The Manager of Real Estate Services shall maintain a file containing copies of all documents relating to right-of-way crossings or uses, except for temporary encroachment permits, and is responsible for the assignment of right-of-way crossing numbers to approved documents.

The Engineering and Construction Department shall maintain as-built and right-of-way drawings and other information of pipelines. Updates to these drawings shall be made following:

1. Grant of Revocable License or Easement. Notice to be supplied by the Manager of Real Estate Services.
2. Completion of crossing construction covered by license or easement. Notice, including "as built" location data, to be supplied by the applicant to the Water Supply Division or Water Treatment and Distribution Division for transmittal to the Engineering and Construction Department. This notice will be routed through the Engineering and Construction Department, as necessary, then to the Manager of Real Estate Services.
3. Termination of any pipeline right-of-way use. Notice to be supplied by the Manager of Real Estate Services.

Drawings of right-of-way crossings and uses within the service area will be updated in GIS applications by Mapping Services based on information provided from Real Estate Services.

**Required Fees**

Pipeline right-of-way fees for the processing of applications and documents related to proposed uses are included in the "Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, and Other Fees". The Manager of Water Supply and Manager of Water Treatment and Distribution are responsible for periodic review and updating of Requirements for Entry or Use. The Manager of Real Estate Services is responsible for review and updating of Fees and Documentation Charges, Use of Aqueduct and Distribution Pipeline Rights-of-Way by Others.

**References**

Policy 7.01 – Aqueduct and Distribution Pipeline Rights-of-Way Maintenance
Procedure 108 – Real Estate Transactions
Procedure 436 – Miscellaneous Accounts Receivable and Cash Receipts
Procedure 706 – Facilities: Inspection, Maintenance and Repair
Requirements for Entry or Use of Pipeline Rights-of-Way (attached)
Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, and Other Fees (as updated periodically)

EBMUD

**EBMUD REQUIREMENTS FOR**
ENTRY OR USE OF **PIPELINE RIGHTS-OF-WAY**

**East Bay Municipal Utility District**

1. Requests for encroachment rights or for other uses of the District's raw and distribution water aqueduct and pipeline ("pipeline") properties shall be directed to the Manager of Water Supply, 1804 West Main Street, Stockton, California 95203. Property uses shall only be permitted subject to appropriate written permit, license, easement, or lease agreement.

2. Requests for property uses shall be in writing and accompanied by a completed application, application fees, plan and profile drawings of the area and work involved. District pipeline stationing and adjacent above-ground structures must be shown. Applicant's horizontal and vertical control must be correlated to the District's. Drawings and maps shall be ANSI D size (22x34 inch) or ANSI B size (11x17 inch) and must also be provided in electronic .pdf format. Application must include complete insurance documentation.

3. The applicant must indemnify, defend, and hold harmless the District and associated personnel from and against any claims, losses, and liability arising by reason of the applicant's use of District's property or the applicant's acts or omissions pursuant to any permit or approval issued by the District, on such terms as the District may require. The applicant may be required to provide evidence of insurance coverage.

4. All requests for uses of District property must be consistent with requirements and limitations set forth by Procedure 718 and will be reviewed and approved on a case-by-case basis.

5. District land and facilities shall be restored to a condition as good as that which existed before applicant's entry on the right-of-way.

6. Applicant's use of property shall not increase District costs or interfere with District access, operations, maintenance, or repair of its facilities.

7. The applicant must pay the District the appraised value of the easement or lease, if appropriate, for the rights granted to the applicant. Appropriate environmental documentation must be completed in accordance with the California Environmental Quality Act before the rights can be granted. The District may require the applicant to prepare the documentation at its expense before the application will be considered for approval. The District will review the environmental documentation to determine whether it (i) adequately describes the applicant's project, (ii) contains a detailed disclosure and analysis of the project's impacts, (iii) describes feasible measures to mitigate any construction impacts to the District's right-of-way to a level of no significant impact, and (iv) is otherwise legally sufficient. The District may rely on any existing environmental documentation for the applicant's project if the District determines that the existing documentation meets the above-described standards.

8. For any District-approved encroachment, the applicant must pay the District for any of the following measures, as determined necessary by the District:

   a. Design of structural protective measures
   b. Design of fences or other structures
   c. Corrosion control protective measures
   d. District engineering, plan review, and inspection of activities
   e. Environmental documentation
   f. Application, permit or license fees.

9. The plan for the execution of the work must be approved by the District.

10. The type and weight of equipment working over the pipelines must be approved by the District.

11. The use of vibratory compaction equipment is prohibited on the pipeline right-of-way unless otherwise approved by EBMUD. Allowable compaction effort, allowable equipment, and maximum depth of each lift of fill shall be subject to District review and approval before start of construction.

12. A minimum of 48 business hours' notice must be given to the District before work commences on District pipeline right-of-way. Contact information will be provided in permit.

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13. A preconstruction meeting is required prior to start of work.

14. No building or portions of buildings shall be constructed on the property. No other types of structures shall be constructed unless specific approval is given by the District.

15. No longitudinal encroachments such as drainage ditches; gas, phone, or electrical lines; pipelines, or roads will be permitted. All property line fences (including footings) must be located completely outside District property lines.

16. District staff shall monitor pile driving or other work which can result in vibration and occurs within 100 feet of the aqueducts. District staff shall also monitor other work located within 100 feet of the pipeline right-of-way, if such work has the potential to result in ground movements that could damage the District's facilities (i.e., large excavations with potential for horizontal or vertical ground deformations within the District's rights-of-way).

17. Railroad, freeway and highway crossings of the pipeline right-of-way shall be on permanent bridges with a minimum vertical clearance of 14 feet 6 inches between the finished ground surface and the underside of the bridge. Crossings of pipeline rights of way, on grade will be over structurally-encased aqueducts with a sleeve for a fourth aqueduct.

18. Street and road crossings constructed on grade shall incorporate protection of the pipelines. Protective measures will be designed by applicant's licensed engineer to District standards with specific District approval of each design.

19. Existing pipeline protective measures such as concrete slabs shall not be cut, penetrated, or otherwise disturbed. If a protective measure is cut, penetrated, or disturbed, it shall be replaced with a new protective measure, designed by applicant's licensed engineer to District standards with specific District approval of design.

20. Traffic control fences or approved barriers shall be installed along each side of the street, road or trail before opening to the public.

21. Temporary construction fences and barricades shall be installed by contractor as directed by the District.

22. No geotechnical exploration such as drilling or boring shall be allowed on an pipeline right-of-way without prior written approval from the District.

23. Any changes in finished grade in the pipeline right-of-way must be approved by the Aqueduct Section. Earth fills or cuts on adjacent property shall not encroach onto District property except where authorized for vehicular crossings on grade and where the District determines that there will be no detrimental effect on or maintenance of the pipelines.

24. Crossings shall be perpendicular to the pipelines and on a constant grade across District property.

25. Sanitary sewers, water lines, petroleum product lines, or other lines crossing above the pipelines must be encased in a steel, polyvinyl chloride (PVC), or reinforced concrete pipe conduit or be imbedded in reinforced concrete with a minimum vertical clearance of two (2) feet between the casing/embedment and the top of District pipelines. The casing shall extend the entire width of the pipelines right-of-way.

26. All pipelines crossing below the pipelines must be encased in a steel or reinforced concrete conduit and provide a minimum of three (3) feet of clearance between the casing and the bottom of the District pipelines.

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27. Trenchless construction methods such as horizontal directional drilling or jack-and-bore between the top of the pipelines and the bottom of the protective structure (slab) are prohibited.

28. On pressurized pipe crossings, shutoff valves shall be provided outside and adjacent to both sides of District property.

29. At the point of crossing, steel pipeline crossings and steel casings shall incorporate electrolysis test leads, bond leads, and leads necessary for interference testing. Corrosion control devices, when required, must be approved by the District.

30. Cathodic protection for steel encasements must be installed as follows:

    - Provide a dielectric coating to the exterior surface of the steel casing within the District's right-of-way, 16 mil epoxy or equivalent.
    - Provide galvanic protection to the portion of the steel casing within the District's right-of-way in accordance with the National Association of Corrosion Engineers RP-01-69.
    - If the carrier pipe is constructed of ductile iron or steel, provide electrical isolation between the carrier and casing using casing insulators; redwood skids are not permitted.
    - Provide test results to the District demonstrating the adequacy of the cathodic protection system, and the adequacy of the electrical isolation of the carrier (if metallic) from the casing. The District reserves the right to witness any such tests.

31. Gravity drainage of District property shall be maintained. Open channels constructed across the right-of-way shall be paved with reinforced concrete. Headwalls, inlets, and other appurtenances shall be located outside District property. Drainage facilities shall be provided outside the District's property at the top and/or toe of fill slopes or cuts constructed adjacent to District property to assure adequate drainage.

32. Overhead electrical power conductors across the property shall be a minimum of 30 feet above ground. Communication and cable TV crossings shall be a minimum of 20 feet above the ground. Supporting poles or towers shall be located outside the pipelines right-of-way.

33. Buried electrical cables passing over the pipelines shall be installed in PVC conduit and encased in red concrete across the entire width of the right-of-way. In some cases, PVC-coated steel conduit with a red concrete cap may be substituted. All other buried cables shall be installed in conduits and marked in the appropriate Underground Service Alert (USA) colored marking materials and with surface signs installed at 4-foot intervals that include the utility name, type, and emergency contact information across the entire width of the right-of-way. The minimum vertical clearance between the conduit and the top of the District's pipelines is two (2) feet.

34. Electrical or telecommunications cables shall not be allowed to pass under the pipelines.

35. Vehicular parking and storage of equipment or material on aqueduct or distribution pipelines property are prohibited.

36. All District survey monuments and markers shall be undisturbed. If any District survey markers or monuments must be disturbed, they will be replaced or relocated by the District at applicant's expense prior to the start of any ground disturbing work.

37. All pipeline crossings involving mechanical excavation on the right-of-way require potholing of all pipelines at the site of the proposed crossing. Visible reference markings showing the pipeline alignments and depths to top of pipe shall be maintained for the duration of any mechanical excavation on District property. Excavations within two (2) feet of pipelines shall be made by hand. Entry permits are required for pothole work.

38. All grading or excavating of the right-of-way requires USA notification and the maintenance of a current inquiry identification number.

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39. Certified six-sack mix is the minimum acceptable concrete batch to be used on the pipelines right-of-way. Concrete compression strength shall be 3,000 per square inch (PSI) or better at 28 days. If samples do not reach 3,000 PSI at 28 days, the entire section of slab or encasement related to that sample must be removed and replaced at applicant's expense.

40. Each truckload of concrete to be placed on the right-of-way may be sampled by the District. No water may be added to the mix after sampling.

41. Maximum allowable slump is three inches. All concrete exceeding three inches will be rejected and cannot be used on the right-of-way.

42. No traffic will be allowed over protective slabs until 3,000 PSI is reached.

43. All work areas shall be inspected by the District for final approval. As-built drawing submittals are required for District approval.

44. No work is allowed on weekends or District-recognized holidays unless otherwise authorized in the required permit.

## Response to Letter J: East Bay Municipal Utility District

**Response J-1:** The commenter provides an introductory statement to the comment letter.

Please see Response J-2 regarding the specific concerns.

**Response J-2:** The commenter discusses the East Bay Municipal Utility District (EBMUD) Mokelumne Aqueducts and discusses the project requirements for design for encroachment, crossings, or construction within the Aqueducts right-of-way.

Should a future project in the Planning Area require the encroachment, crossings, or construction within the Aqueducts right-of-way, the plans would be submitted to EBMUD.

**Response J-3:** The commenter provides conclusionary statements to the comment letter. No response to this comment is warranted.

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February 9, 2024

John Funderburg
Assistant Director of Community and
Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
jfunderburg@pittsburgca.gov

Re: Comment on 2040 Pittsburg General Plan Draft EIR

Dear Mr. Funderburg:

Our office represents Discovery Builders, Inc. We write to comment on the City's Draft Environmental Impact Report for the Pittsburg 2040 General Plan Update (the "GPU DEIR").

We commend the City and its consultant for their extraordinary efforts in evaluating buildout of the General Plan, which is no easy task, but there are two flaws in the analysis that could have a chilling effect on development in the City.

In particular, the GPU DEIR's analyses of **water supply** and **transportation hazards** are incongruent with existing evidence and guidelines, which demonstrate that both impacts will in fact be less than significant. The GPU DEIR's conclusions are also incongruent with every single one of the City's existing environment review documents for pending development projects, including currently circulating draft environmental impact reports and mitigated negative declarations. If these issues are not remedied, the GPU DEIR's current flawed methodologies and conclusions, which find significant and unavoidable impacts resulting from alleged "insufficient water supplies available to serve the City" (Impact 3.15-1), conflicts with circulation plans (Impact 3.14-2), and an increase transportation hazards (Impact 3.14-3), will have the following consequences: K-1

- **At least five draft environmental impact reports and mitigated negative declarations for pending projects within the City will have to be recirculated**, thereby delaying and endangering the entitlement of numerous industrial facilities and at least one major housing project. The housing project, in particular, is of concern, given the present housing crisis.

- **The City will no longer, as a practical matter, be able to exempt development projects under the California Environmental Quality Act (CEQA) or use mitigated negative declarations**, effectively requiring lengthy, costly, and labor-intensive review of projects (on behalf of both City planning staff and development teams) that truly don't require such review. Accordingly, the pending projects that currently are evaluated with

K-2

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mitigated negative declarations likely will need to begin anew with environmental evaluations.

Importantly, **simple changes may be made to the GPU DEIR that would not require recirculation or any significant delays.**

The good news is that there is ample evidence for the City to alter its GPU DEIR conclusions because all the necessary information required is already in the existing GPU DEIR. Recirculation is only required when: (1) a significant new impact is identified; (2) a significant impact is found to be substantially more severe than first identified; (3) new information shows a feasible alternative or mitigation measure would clearly lessen impacts and the project proponent declines to adopt them; or (4) a draft EIR is so fundamentally and basically inadequate and conclusory that public comment on that draft EIR is essentially meaningless. (CEQA Guidelines, § 15088.5(a).) None of those circumstances exist here, and the downgraded significance determinations we are suggesting below are changes the City can easily include in the General Plan Update's Final Environmental Impact Report. K-2 cont'd

**The City's 2020 Urban Water Management Plan Includes Measures to Fully Mitigate All Projected Water Shortages.**

The GPU DEIR's analysis of the 2040 General Plan's impacts on future water supplies relies on water projections in the 2020 Urban Water Management Plan ("UWMP"), which are based on the most recently available data. In fact, the UWMP was in fact created in very anticipation of the development forecast under the 2040 General Plan. (GPU DEIR, p. 3.15-11). As the GPU DEIR notes, in projecting a multitude of future water use scenarios, the 2020 UWMP models a worst-case circumstance in which the City, during an extended drought period of five years, would experience a six percent shortfall in water supply by 2045. On the basis of this single model, the GPU DEIR concludes that development under the 2040 General Plan will have a significant and unavoidable impact, concluding that insufficient water supplies will be available in multiple dry year scenarios.

However, there is slightly more to the story, which is clearly documented in the UWMP and a number of other public documents.

K-3

To this end, the City has previously planned for, and satisfactorily addressed, the shortfalls projected in the 2020 UWMP models. The GPU DEIR's analysis and subsequent conclusion entirely disregard the City's Water Shortage Contingency Plan ("WSCP"), which is included an appendix to the 2020 UWMP, and which sets forth concrete steps to address potential shortfalls of water supply. As the GPU DEIR itself notes, "the City's WSCP includes shortage response action that may be implemented during a water shortage." (GPU DEIR 3.15-6). As the attached Memorandum from West Yost indicates (attached hereto as **Attachment 1**), the shortage response actions outlined in the WSCP are more than adequate to address the worst-case scenario — i.e., the projected 6 percent shortfall in water supply — and in fact are designed to address much deeper shortfalls of 10 to 20 percent.

Given the availability of these existing, detailed water shortage response actions in the 2020 UWMP, there is no basis to conclude that the 2040 General Plan will have a significant and unavoidable impact on water supply. That potential worst-case shortfall is wholly avoided by the City's compliance with General Plan Policy 12-P-1.2, which directs the City to use the UWMP

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(which includes the WSCP) as a "mechanism for detailed water supply planning, water distribution planning, implementation, and conservation." (GPU DEIR, p. 3.15-12). To the extent the City does not believe that General Plan Policy 12-P-1.2 directs the City to implement water shortage response actions in the WSCP if water supplies fall below City demand, it may include, as an additional mitigation measure, a requirement to do so. After all, the water shortage response actions in the WSCP are known, feasible mitigation measures which will entirely avoid the significant impact that the GPU DEIR currently concludes is "unavoidable." (CEQA Guidelines, § 15126.4). K-3 cont'd

We can appreciate that, many times, a programmatic environmental impact report identifies an impact as significant and unavoidable based on worst-case scenarios, but leaves the option open for individual projects to demonstrate their impacts are not significant. **That option does not exist here.** The analysis, as constructed, essentially determines the City will not have sufficient water supplies in multiple dry years, meaning no individual project could prove otherwise unless it could demonstrate it had extraordinary access to a water supply the City could not identify in its UWMP. Such expectations are far-fetched. They are also needless. Again, the very information contained in the UWMP includes a successful plan for solving water shortages in all scenarios, even during an extended drought period of five years.

Water supply impacts should be deemed less than significant in the GPU DEIR, and the information supporting this conclusion is already contained in the very UWMP upon which the GPU DEIR relies. Accordingly, the City's programmatic environmental review document can be easily tweaked to reach a conclusion of insignificance without fear of recirculation.

**The City's Methodology in Analyzing Transportation Impacts is Flawed, and Available Data Suggests that the Transportation Hazards will not Increase.**

The GPU DEIR's approach to evaluating transportation hazards:

- Relies on an analytical framework that disregards the methodology outlined under Appendix G of the CEQA Guidelines;
- Relies on flawed methodology and is contradicted by considerable academic analysis of traffic safety; and
- Reaches a conclusion that is contradicted by important trends in Citywide traffic accident history. K-4

The GPU DEIR appears to determine that further development under the 2040 General Plan would add vehicle trips to the road and, on that sole basis, assumes that in increase in overall vehicle trips will result in more collisions and, by extension, result significant and unavoidable transportation impacts. As noted above, this approach is at clear odds with the directives of Appendix G of the CEQA Guidelines.

Appendix G directs the City to analyze, in relevant part, whether: (1) implementation of the 2040 General Plan will interfere with the implementation of a transit, bicycle, or pedestrian program by preventing planned routes or services; and (2) the 2040 General Plan's circulation system, in interfacing with the surrounding circulation network, would result in dangerous intersection, a

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dangerous curve, or other ill-considered road geometry that would present safety risks. These Appendix G inquiries are reflected in the GPU DEIR's own stated thresholds of significance, which purport to analyze whether the General Plan will (1) conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities; or (2) substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). (GPU DEIR, p. 3.14-25).

The GPU DEIR, however, takes a novel — but extremely flawed — approach. This approach not only creates problems with the instant environmental review, but will needlessly plague individual projects for years to come. At the same time, the GPU DEIR contains substantial evidence to support less-than-significant conclusions under the Appendix G methodologies.

First, Impact 3.14-2 of the GPU DEIR (evaluating harmony with transit, bike, and pedestrian plans) specifically finds that the "General Plan Update includes policies and actions that help make the circulation system, including transit, bicycle, and pedestrian facilities, consistent with applicable programs, plans, policies, and ordinances and address the needs of growth accommodated by the proposed General Plan." (GPU DEIR 3.14-30). **This information is all that is needed to find impacts are less than significant.** K-4 cont'd

Second, the discussion of Impact 3.14-3 (traffic safety) does not identify any unsafe design features or dangerous road geometry as a result of the proposed circulation under the 2040 General Plan. Instead, the GPU DEIR notes that all modifications to the City's transportation network will comply with applicable design standards to minimize traffic conflicts and collisions, and will implement traffic calming measures where appropriate. (GPU DEIR 3.14-34). **This alone is sufficient for the GPU DEIR to conclude that no *geometric design feature* of the 2040 General Plan will result in increased hazards.**

There is not a single City program, plan, policy, or ordinance that requires the City to maintain the number of Citywide collisions between vehicles, pedestrians, and bicyclists at current or lower levels, so the GPU DEIR's cursory discussion of predicted collisions is out of place in its discussion of Impact 3.14-2. There is good reason Appendix G does not make such tall demands of traffic safety analyses.

First, despite decades of analysis, no traffic engineer has been able to conclusively demonstrate that increased traffic congestion leads to an increased number of accidents causing serious injuries or fatalities. There are, in fact, a multitude of factors that affect traffic accident volumes, and in particular accidents that result in severe injury and fatalities. These factors include weather (perhaps the biggest factor), policing levels, road conditions, transportation funding, the availability of alcohol and other drugs in a given jurisdiction, driver distraction, economic conditions (e.g., recessions), demographics (i.e., what percentage of drivers on the road are in a younger age bracket), and road design. These factors are extensively recognized in numerous, oft-cited traffic studies from reputable journals,[1] which conclude that identifying a causal

[1] *Current Understanding of the Effects of Congestion on Traffic Accidents*, International Journal of Environmental Research and Public Health, Washington D.C., September 2019, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6766193/ and incorporated herein by this reference; and *Decline in Traffic Congestion Increased Crash Severity in the Wake of Covid-19,* Transportation Research Record*:* Journal of the Transportation Research Board, April 2023,

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relationship between traffic congestion and traffic accidents is problematic, at best. Establishing a correlations is thus a fraught endeavor, and many studies show that more congestion in fact results in lower vehicles speeds, which in turn *result in fewer accidents.*

Furthermore, even if it were proper for the City to analyze the incidence of traffic collisions as an environmental impact, the City does not establish any evidence for its suggestion that an increase in vehicular traffic will necessarily result in increased hazards. The GPU DEIR chooses to focus entirely on a purported increase in total number of collisions that may result from the population increase under the 2040 General Plan. However, the GPU DEIR never attempts to quantify the number of collisions that will occur of provide evidence of a causal link. As the GPU DEIR itself notes,

> The Highway Safety Manual (American Association of State Highway and Transportation Officials, 2010) shows that fatal and injury crash frequencies generally decrease with decreasing speed. Thus, as congestion increases and vehicle speed decreases, collision rates may decrease.

To the extent public agencies ever attempt to account for added trips and their relationship to hazardous conditions or a degradation of traffic safety, focus has been on accident *rates*, not the total numbers of collisions. As detailed in the attached Memorandum from Abrams and Associates (**Attachment 2**), the California Department of Transportation (Caltrans) bases its analysis and review of safety on this approach and, to the extent it is possible to evaluate Citywide data (which is extremely difficult), the best evidence demonstrates that that the rate of collisions in the City decreased between 2018 and 2022 from 0.78 collisions per million vehicle miles(c/mvm) to 0.44 c/mvm, even as the population significantly increased during that time by percent. K-4 cont'd

The City's adoption of the present GPU DEIR methodology would commit the City, in all future individual projects, to determine traffic safety impacts are significant and unavoidable. No future project would be able to show a change in circumstances or some unique project feature that would make a difference. Further, this methodology, while simple in concept to understand (and perhaps intuitive), is contradicted by a number of respected traffic reports which indicate the causal relationship between congestion and accident numbers cannot truly be mapped. Future project applicants would be required to prepare traffic reports that are inherently speculative in nature, and would yield no meaningful information and no mitigations having any practical effect.

There are legal prescriptions against this.

For instance, requiring speculative studies violates CEQA, When no accepted methodology exists to assess an environmental impact, the lead agency should properly conclude that the impact is too speculative to reliably evaluate. (See *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1993) 6 C4th 1112, 1137). Moreover, as indicated above, the GPU DEIR approach flatly contradicts the directives in Appendix G of the CEQA guidelines.

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available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10149483/ and incorporated herein by this reference.

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The GPU DEIR approach also has constitutional infirmities. Individual project reports based on suspect methodologies would result in tenuous studies that require ineffective, meaningless mitigations, which violate constitutional prohibitions against unlawful exactions, as well as the California Mitigation Fee Act. Simply, due to a failure of substantial evidence, there would be no true nexus between these projects' impacts and any identified mitigations. K-4 cont'd

However, as noted above, the City already has included enough information the GPU DEIR to determine traffic safety impacts are less than significant, as envisioned under the framework in Appendix G.

**Failure to Correct the Flaws in the GPU DEIR Conclusion Would be Catastrophic for Planned and Future Development in Pittsburg.**

Recirculation of Pending Environmental Impact Reports.

The GPU DEIR's findings of significant and unavoidable impacts with respect to water supply and traffic safety, which are effectively determinations the City does not have adequate water supplies and cannot solve its traffic safety problems, will require recirculation of all current Draft environmental impact reports and mitigated negative declarations for pending projects in the City (the "Pending EIRs and MNDs).

With respect to water supply, and as documented in the below table, numerous pending projects have relied on consistency with the 2020 UWMP or the General Plan and its water use projections to determine that the project will have a less than significant impact on water supply. However, the City's GPU DEIR analysis suggests that consistency with the 2020 UWMP *cannot* be used as a basis for such a conclusion. This determination mean that none of the below projects can rely on consistency with the 2020 UWMP as a basis for a less than significant impact determination, and the Pending EIRs and MNDs must instead be revised to reflect a significant and unavoidable impact. Such amendments would result in a new, significant impact in each of those studies, requiring recirculation under CEQA. (CEQA Guidelines, § 15088.5(a).) K-5

With regard to traffic safety, and as noted above, the GPU DEIR concludes that increased development will cause increased traffic collisions, and that the increase in traffic collisions is a significant and unavoidable environmental impact. Each of the Pending EIRs and MNDs listed below, meanwhile, concludes that there will be no significant impacts due to increased transportation hazards by virtue of carefully reviewed geometric design features and harmony with established transit, bicycle, and pedestrian plans. If the GPU DEIR's analysis were correct, then each of the below projects would be assumed to increase traffic collisions by virtue of the mere fact they constitute new development increasing vehicular traffic. Such amendments would result in a new, significant impact in each of those studies, requiring recirculation under CEQA. (CEQA Guidelines, § 15088.5(a).)

In sum:

- If the GPU DEIR methodology is not changes, each of the below projects will need to revise the Pending EIRs to reflect the new information provided by the GPU DEIR's analysis of water supply and transportation hazards.

- As a result, each of these projects will have new significant project and cumulative impacts.

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February 9, 2024
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- Accordingly, the necessary revisions to the Pending EIRs will constitute new information concerning a new significant impact of the project, and therefore will require recirculation of each of the Pending EIRs. (*See, e.g., Residents Against Specific Plan 380 v. Cty. of Riverside*, 9 Cal. App. 5th 941, 964 (2017); 14 Cal. Code Regs. § 15088.5).

- For those project utilizing mitigated negative declarations, the environmental review process would have to begin anew. A mitigated negative declaration cannot be used where a project will have significant and unavoidable impacts, because it would not satisfy the associated fair argument test under CEQA.

| Project Name | Type of Project | Pending EIR Date | Approval Date | Water Supply Determination | Transportation Hazards Determination |
|---|---|---|---|---|---|
| **HASA NorCal Project** | Manufacturing and Distribution Facility | October 2023 | Not approved | Less than significant, based on consistency with 2020 UWMP. (IS/MND pp. 74-75) | Less than significant, no discussion of collisions. (IS/MND p. 68) |
| **Oakstone Northern California Expansion Project** | Expansion of industrial facility | October 2023 | Not approved | Less than significant, based on consistency with the General Plan. (IS/MND, p. 87) | Less than significant, no discussion of collisions. (IS/MND p. 82-83) |
| **H Cycle Pittsburg Renewable Hydrogen Project** | Renewable hydrogen facility | January 2024 | Not approved | Less than significant, based on consistency with 2020 UWMP. (EIR, pp. 3.17-6 to 3.17-11; 3.17-17) | Less than significant, no discussion of collisions. (EIR, pp. 3.16-7 to 3.16-8) |
| **LMK Petro Convenience Store, Gas Station, and Car Wash Project** | Gas Station with convenience store and car wash | October 2022 | No approval date listed | Less than significant, based on consistency with 2020 UWMP. (IS/MND, pp. 83-84) | Less than significant, no discussion of collisions. (IS/MND, pp. 78-80, 81) |
| **Harbor View Project** | 227 residential units | March 2023 | Not approved | Less than significant, based on consistency with 2020 UWMP. (EIR, pp. 4.0-6, 4.4-21) | Less than significant, no discussion of collisions. (EIR, pp. 4.5-21, 4.5-24) |

K-5 cont'd

Alternatively, the GPU DEIR could be corrected to: (1) conclude that the 2020 UWMP and associated WSCP and water shortage response actions contain sufficient measures to address any water supply shortfalls due to dry years; and (2) focus the study of transportation impacts on the thresholds of significance in Appendix G, instead of evaluating the increase in total

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collisions. This approach would be in line with the City's existing analyses in the Pending EIRs, and would not result in mandatory recirculation.

All Future Projects will have Significant Unavoidable Impacts, and will be Ineligible for CEQA Exemptions.

The GPU DEIR's findings will also impact the viability of future projects.

In essence, the GPU DEIR concludes that the combined impact of all foreseeable projects in the City will consist of significant and unavoidable impacts on the City's water supply and traffic hazards. As a result, all future projects will likely have significant project level impacts under CEQA, and almost certainly have significant an unavoidable cumulative impacts and, absent a showing that the incremental impacts of a particular project are not cumulatively considerable. (CEQA Guidelines Section 15064(h)(4)). Under the methodology set forth in the GPU DEIR, making a showing that a project is not cumulatively considerable will be near impossible for any project that either requires water or will result in any measurable increase in vehicle traffic. Unlike the GPU DEIR's findings of significant impacts for other CEQA topics, such as construction noise, there is almost no room for an individual project to demonstrate that its project-level impacts will be less than significant, or that its contributions to the cumulative significant and unavoidable impact will be minimal with adherence to best practices or imposition of reduction measures. By rejecting the ability of the 2020 UWMP to adequately ensure water supply, and by assuming that any increase in traffic will necessarily lead to increased collisions, there are no project-level features that would prevent the significant and unavoidable impacts detailed in the GPU DEIR. Essentially, the GPU DEIR has guaranteed that any future project will have at least two significant and unavoidable impacts. Such will make it virtually impossible for City staff to determine that future projects could utilize a negative declaration or mitigated negative declaration under CEQA, and each project would need to include a statement of overriding considerations to be approved. K-5 cont'd

The GPU DEIR will also all but guarantee that future projects within the City will not be able to use common CEQA exemptions to streamline review for beneficial or minor projects. Almost all CEQA exemptions, including the Class 1 exemption for alterations of existing facilities, the Class 3 exemption for small conversions and small construction, and the often-used Class 32 exemption for infill development, are subject to a list of "exceptions" which preclude use of the exemptions. One such exception states: "All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." (CEQA Guidelines, § 15300.2).

The disintegration of the Class 32 exemption should be especially alarming. This exemption, for infill housing projects, was created to allow for streamlined review of well-sited urban projects that maximize smart development, contribute much needed housing to combat the ongoing affordability crisis, and minimize environmental impacts by locating projects in developed areas. The City's inability to use it will pose significant obstacles to the City's approval of housing projects during its current Housing Element Cycle, and may require review and update of the City's Housing Element.

The economic costs of the GPU DEIR approach are untold. If every project moving forward requires an environmental impact report, entitlement costs for development will multiply by orders of magnitude. The time that City staff will have to spend, too, will multiply.

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* * *

As is stands, the City's finding of significant and unavoidable impacts to water supply and transportation hazards (Impact 3.15-1; Impact 3.14-2; and Impact 3.14-3) will present an incredible obstacle to pending and future development in the City. Whether intentional or not, the GPU DEIR essentially declares that no development can occur in the City without imposing significant and unavoidable impacts on the City's water quality and transportation safety.

However, this need not be the case. As outlined above, the weight of the evidence, the CEQA guidelines, and the language of the GPU DEIR's own significance thresholds all suggest that future development can occur without such impacts, thanks in large part to work the City has already done in the 2020 UWMP and the 2040 General Plan. Correcting the GPU DEIR to reflect that Impact 3.15-1, Impact 3.14-2, and Impact 3.14-3, which can be done with minimal effort (as noted above, all the right information is already in the GPU DEIR) will ensure that pending and future development within the City is not needlessly slowed, and that the City will not be forced to expend more time and resources to address issues which it already has thoroughly addressed in the 2020 UWMP and the 2040 General Plan. K-6

Sincerely,

Sean Marciniak
Partner

Niran Somasundaram
Attorney

CC: Donna Mooney, City of Pittsburg, City Attorney (DMooney@pittsburgca.gov)

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**ATTACHMENT 1**

WEST YOST
Water. Engineered.

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## MEMORANDUM

DATE: February 7, 2024

Project No.: 623-60-22-02
SENT VIA: EMAIL

TO: Louis Parsons, Discovery Builders

CC: Sean Marciniak, Hanson Bridgett LLP

FROM: Elizabeth Drayer, PE, RCE# 46872

SUBJECT: Water Supply Impact Level of Significance in the 2040 Pittsburg General Plan Draft EIR

The purpose of this memorandum is to evaluate the finding with regard to the level of significance of the water supply impact presented in the 2040 Pittsburg General Plan Draft EIR (General Plan Draft EIR). As described in this memorandum, the analysis included in the General Plan Draft EIR is based on the City of Pittsburg's 2020 Urban Water Management Plan (2020 UWMP), and its quantitative analyses. However, the analysis does not appear to account for the effectiveness of water demand reduction and conservation measures outlined in the City's 2020 UWMP and the City's 2020 Water Shortage Contingency Plan (WSCP) in determining the resulting level of significance of the water supply impact. Table 1 presents a summary of the findings from the General Plan Draft EIR.

**Table 1. Water Supply Impact Level of Significance**

| Environmental Impact | Level of Significance without Mitigation | Mitigation Measures | Resulting Level of Significance |
|---|---|---|---|
| 2040 Pittsburg General Plan Draft EIR (Table ES-2)<br>Impact 3.15-1: General Plan implementation would result in insufficient water supplies available to serve the City and reasonably foreseeable future development during normal, dry and multiple dry years | Potentially Significant (PS) | Minimized to the greatest extent feasible through General Plan Policies and Actions. No feasible mitigation is available. | Significant and Unavoidable (SU) |

As shown in Table 1, the water supply impact described in the General Plan Draft EIR is shown to be Significant and Unavoidable and that no feasible mitigation is available. The General Plan Draft EIR (page 3.15-11) indicates its analysis is based on the City's 2020 UWMP, and accounts for multiple dry year scenarios where water supply shortfalls could be as much as 863 acre feet per year. The General Plan Draft EIR then briefly states that the City of Pittsburg (City) and Contra Costa Water District (CCWD) (the City's wholesale water supplier) have demonstrated in recent years that, during dry periods, they can

address deficits by reducing demand in their service areas. The City's 2020 Water Shortage Contingency Plan (WSCP) is summarized in the General Plan Draft EIR (page 3.15-6), but it is seemingly not considered as a mitigation to address the water supply impact. The General Plan Draft EIR also states that the 2040 General Plan includes a range of policies and actions to ensure that the City's water supply plans are updated to address development and land use changes in order to ensure that future supply levels meet demands. Yet, as shown in Table 1, the General Plan Draft EIR states that no feasible mitigation is available to address the water supply impact and that the resulting level of significance for the water supply impact is Significant and Unavoidable.

The City's 2020 UWMP and 2020 WSCP demonstrate that, in fact, the City will have adequate water supply through 2045 and in all scenarios (e.g., single dry and multiple-dry years). These documents also provide for substantial evidence supporting a conclusion that impacts to water supply from General Plan buildout will be less than significant.

More specifically, the City's 2020 UWMP shows water supply shortages of up to 6 percent in some dry years. Accordingly, in multiple dry years, the water shortfall is estimated to be up to 863 acre feet per year (the same shortfall identified in the General Plan Draft EIR). The City's 2020 WSCP, which is an appendix with the City's 2020 UWMP, includes staged responses to water shortages. The staged responses are intended to allow the City to meet future water conservation needs through targeted actions aimed at achieving between 10 percent and more than 50 percent water conservation goals. In the event that the City experiences a water supply shortfall, as anticipated by the 2020 UWMP for the fourth and fifth years of a five-year multiple dry year period, the City would implement applicable responses to ensure that sufficient supply is available to serve the City's demand, including demand reduction measures such as prohibiting irrigation and outdoor water usage water rate structure changes, or water supply service adjustments; and operation changes, including improving water usage consumption and tracking, changes to fire hydrant testing frequencies, and expedited water leak repairs.

As described in the City's 2020 UWMP, the City experienced multiple-year drought conditions in 1967-1977, 1987-1992, 2007-2009 and again in 2013-2015. Water conservation strategies implemented by the City in partnership with CCWD during the latest set of multi-year drought conditions, resulted in reduced water demand and no significant impacts with respect to water supply. Information in the City's 2020 WSCP, supported by historical data (WSCP pages 15-16), indicates the City can reduce water demand during Level 2 and Level 3 water shortages by 10 to 20 percent. Given the 2020 UWMP forecasts at most a 6 percent shortfall, demand reduction measures would be sufficient to make up that shortfall.

The foregoing available demand reduction actions and the documented historical success in reducing water demands during drought conditions support that the water supply impact described in the General Plan Draft EIR can feasibly be mitigated and that the resulting level of significance should be Less than Significant.

**ATTACHMENT 2**

Abrams Associates
TRAFFIC ENGINEERING, INC.

**February 9, 2023**

Louis Parsons
Discovery Builders, Inc.
3240 Stone Valley Road
Alamo, CA 94507

**Re: Review of Annual Accident Rates in the City of Pittsburg**

As per your request, we have conducted an analysis of the accident rates in the City of Pittsburg over the past five years. The accident rate in the City of Pittsburg has been calculated using data on accidents from the California Highway Patrol's database, which is known as the Statewide Integrated Traffic Records System (SWITRS). This accident data was combined with information on the total VMT in the City of Pittsburg from the Contra Costa Transportation Authority's Travel Demand Model. Based on this data, it was determined that the accident rate in the City of Pittsburg has *decreased* during the five-year period that was analyzed, from 2018 to 2022. An analysis using the above data sources indicates that the accident rate in the City of Pittsburg actually decreased from about 0.78 collisions per million vehicle miles in 2018 to 0.45 collisions per million vehicle miles in 2022. During this same period U.S. Census data indicates the population increased by about 8%. This equates to an average population increase of about 1.6% per year during this five-year period. Based on this data it can be concluded that the accident rate in the City would most likely continue to go down with future development and the associated growth in population and congestion that is forecast to occur with approval of the General Plan Update.

Our review indicates that an increase in total collisions in the City of Pittsburg should not be equated to an increase in hazardous conditions or a degradation of traffic safety. In fact, our review of available data indicates that an expanding population and associated development will lead to reduced travel speeds, improved traffic safety, and a reduction the severity of accidents. This assumes that the General Plan will require future development in the City to be designed so that it does not significantly degrade traffic safety or introduce unsafe design features.

The *total* number of collisions in a City is not what would normally be used to make conclusions about traffic safety or hazardous conditions. The California Department of Transportation (Caltrans) bases analysis and review of safety on collision *rates*, not the total number of accidents. The collision rates Caltrans uses to evaluate safety and hazardous conditions are based on the number of accidents per vehicle miles traveled on a roadway or within a jurisdiction. A straight proportional increase in the total number of accidents, in relation to the total vehicle miles traveled, would not necessarily indicate a decrease in safety or an increase in hazardous conditions. A decrease in safety could potentially be assumed to have taken place

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when there is a significant increase to the accident rate (per million vehicle miles travelled, or MVM) on a roadway, or in a jurisdiction.

This finding is consistent with studies on traffic congestion that indicate that once traffic volumes reach certain levels, there is a gradual decrease in accident rates, likely as a result of increased congestion resulting in decreased speeds. Based on the above data, it can be concluded that an increasing population would result in increased congestion and decreased speeds on some roadways, which would then translate into reduced accident rates as the General Plan Update is implemented. However, as noted above, this assumes that development under the General Plan Update does not result in an increase in unsafe design features and/or hazardous conditions. If it is assumed that, on balance, there would not be a significant increase in unsafe design features and/or hazardous conditions resulting from buildout of the General Plan Update, then there is no expectation that the accident rate would increase during non-peak hours and therefore there should be a net decrease in accidents with population growth in the City. This is because most projects of any significant size would be required to undergo a transportation impact analysis, in which any safety issues would be analyzed and mitigated

It is our understanding that the policies and provisions included in the existing General Plan and the Update would effectively preclude the development of projects with unsafe design features or incompatible uses. The General Plan Update would also be expected to preclude any projects that would result in inadequate emergency access, which is typically evaluated as part of project approvals. By definition, the policies in the General Plan Update should ensure that the vast majority of resulting developments and improvements associated with the General Plan Update would be done in a manner that prioritizes safety instead of worsening it. There is also nothing included in the General Plan Update that would be expected to result in development of uses that are incompatible with the City's traffic safety goals, or uses that would result in the creation of hazardous conditions or emergency access problems. Therefore, it our conclusion is that implementation of the General Plan Update would not be forecast to degrade traffic safety or increase hazards due to unsafe design features, incompatible uses, or inadequate emergency access.

Please don't hesitate to contact me if you have any questions or need additional information.

Sincerely,

Stephen Abrams

Stephen C. Abrams
President, Abrams Associates
T.E. License No. 1852

## Response to Letter K: Hanson Bridgett LLP (Discovery Builders, Inc.)

**Response K-1:** The commenter provides introductory statements to the comment letter. The commenter states that the Draft EIR's analyses and conclusions of water supply and transportation hazards are incongruent with evidence, guidelines, and one of the City's existing environmental review documents. The commenter refers to the significant and unavoidable impacts resulting from "insufficient water supplies available to serve the City" (Impact 3.15-1), conflicts with circulation plans (Impact 3.14-2), and an increase transportation hazards (Impact 3.14-3). The commenter further discusses these Draft EIR impacts in Comments K-2 through K-5.

Please see Responses K-2 through K-5 which address the specific comments raised regarding these specific Draft EIR impacts.

**Response K-2:** The commenter states that at least five Draft EIRs and Mitigated Negative Declarations (MNDs) for pending projects in the City will have to be recirculated. The commenter also states that the City will no longer be able to exempt projects under CEQA or use MNDs. The commenter further states that simple changes can be made to the GPU Draft EIR that would not require recirculation or significant delays.

There is no basis why EIRs and MNDs that already have been prepared and, in several cases, certified or adopted, would need to be recirculated. The Draft EIR for the 2040 General Plan is a programmatic EIR that is later in time than earlier EIRs and MNDs for specific projects, and the goals of the documents are different. The 2040 General Plan EIR is not intended to assess specific projects. In contrast, EIRs prepared for individual projects "focus primarily on the changes in the environment that would result from the development project [and] examine all phases of the project including planning, construction, and operation." (CEQA Guidelines, Section 15161; In re Bay Delta etc. (2008) 43 Cal.4th 1143, 1169.) As a result, conclusions in the 2040 General Plan EIR cannot be applied retroactively to earlier projects. Finally, to the extent that the referenced EIRs and MNDs already have been certified or adopted, respectively, they are presumed valid.

The significant and unavoidable impacts pertaining to water shortages and transportation hazards are discussed in Responses K-3 and K-4. A more detailed response regarding the City's ability to use CEQA exemptions is provided in Response K-5.

**Response K-3:** The commenter states the City's 2020 Urban Water Management Plan (UWMP) includes measures to fully mitigate all projected water shortages within the City's Water Shortage Contingency Plan (WSCP). The commenter concludes by stating that water supply impacts should be deemed less-than-significant in the GPU Draft EIR.

The 2040 General Plan EIR is a is a program EIR, defined in Section 15168 of the CEQA Guidelines as: "[An EIR addressing a] series of actions that can be characterized as one large project and are related either: (1) Geographically; (2) A[s] logical parts in the chain of contemplated actions; (3) In connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental impacts which can be mitigated in similar ways." As a result, it analyzes potential impacts of buildout under the 2040 General Plan but does not analyze individual projects. A program EIR can be used as the basic general environmental assessment for broad policy document such as the 2040 General Plan that is intended to be developed over a several-year

planning horizon. A program EIR allows the lead agency to look at the broad, regional impacts of a program of actions before its adoption and eliminates redundant or contradictory approaches to the consideration of regional and cumulative effects. As a programmatic document, this EIR presents a comprehensive assessment of the potential impacts of the proposed 2040 General Plan at a broad level. It is not intended to, and does not, assess project-specific impacts of potential future projects all of which are required to comply with CEQA as applicable.

Future development and growth in the City accommodated under the 2040 General Plan would result in an increased demand for water supplies, including water conveyance and treatment infrastructure. The proposed 2040 General Plan includes policies and actions to ensure that water supplies are provided at acceptable levels and to ensure that development and growth does not outpace the provision of available water supplies.

As noted on page 3.15-11 of Section 3.15, Utilities and Service Systems, indicated in Table 3.15-5, deficiencies ranging from 33 AF (fourth year dry year in 2040) to 863 AF (fifth year dry year in 2045) may occur. Under multiple year drought conditions, the City may be required to implement water reduction actions to mitigate potential supply shortfalls. The 2020 UWMP water use projections were based on land use map scenarios prepared for consideration during the General Plan Update process and were prepared prior to adoption of the 2040 General Plan. At the time of the preparation of the 2020 UWMP, the City was in the process of selecting a General Plan Land Use Alternative to be included in the finalized 2040 General Plan. The existing and General Plan Land Use Alternative maps, extracted from the City's 2040 General Plan Land Use Alternatives Report, are provided in Appendix B of the 2020 UWMP and are considered a reasonable basis for future water system planning. One of the Land Use Alternatives included in Appendix B of the 2020 UWMP was Alternative D, which is the preferred alternative that the proposed 2040 General Plan was based on. The proposed land use acreages and types for Alternative D are substantially similar to the proposed 2040 General Plan land use map. Further, the population projections for the proposed 2040 General Plan are within the population estimates included in the 2020 UWMP. Additionally, as part of the UWMP, a per capita water use factor of 120 gallons per day per capita was applied to the projected population, resulting in a total projected demand of 13,824 acre-feet.[1] Using the same water use factor as the UWMP and the proposed future population for the proposed project (93,011), the proposed General Plan would result in a total projected demand of approximately 12,502 acre-feet. As such, the proposed 2040 General Plan water demand is comparable to the 2040 water demand used in the 2020 UWMP.

Water use projections in the UWMP will be re-evaluated in future UWMP updates, based on the new regulations and to evaluate changes to the City's growth projections and/or allocation of land use.

The City's WSCP is discussed on pages 3.15-5 and 3.15-6 of Section 3.15 of the Draft EIR.

As noted by the commenter, while the proposed 2040 General Plan includes a range of policies designed to ensure an adequate water supply for development and to minimize the potential adverse effects of increased water use, it is anticipated that the City would have a slight deficiency in water supplies during multiple dry years if full buildout under the 2040 General Plan occurs at the end of the planning horizon covered by the document (that is, by 2040). Therefore, impacts associated with sufficient water supplies are considered to be significant and unavoidable. This conclusion in the Draft EIR is conservative and

[1] City of Pittsburg. City of Pittsburg 2020 Urban Water Management Plan. September 2021. Page 4-3.

consistent with the findings described in the 2020 UWMP. This conclusion for the 2040 General Plan does not imply that each potential, future individual project that may be proposed will result in a significant and unavoidable impact. Again, the impact conclusion in this EIR is based on an assumption of worst-case waster scenarios, after full buildout across the City, over 15 years in the future.

In addition, the 2040 General Plan EIR does not change any impact conclusions for projects already included in the 2040 General Plan Baseline Assumption. For example, the Faria Southwest Hills Master Plan project is included in the 2040 General Plan Baseline Assumption for utilities services, which includes current pending, approved, under construction and completed residential projects. The Faria project is thus considered part of the baseline for the 2040 General Plan and the 2040 General Plan EIR does not imply that a project like Faria, which the City already approved after thorough review and which is in the pipeline, is a future project.

Please see Response K-5 regarding CEQA Exemptions.

**Response K-4:** The commenter provides feedback regarding the transportation hazard methodology and conclusion. The commenter states that Impacts 3.4-2 and 3.4-3 should be less than significant. The commenter also states that the adoption of the present GPU DEIR methodology would commit the City, in all future individual projects, to determine traffic safety impacts are significant and unavoidable.

The Draft EIR for the 2040 General Plan Update is a program EIR. As stated on pages 1,0-2 and 1,0-3 of Chapter 1.0, Introduction, of the Draft EIR, CEQA Guidelines Section 15168 states:

> "A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:
>
> 1) Geographically;
> 2) As logical parts in the chain of contemplated actions;
> 3) In connection with issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or
> 4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

The program-level analysis considers the broad environmental effects of the proposed project. The EIR will be used to evaluate subsequent projects and activities under the proposed project.

EIR is intended to provide the information and environmental analysis necessary to assist public agency decision-makers in considering approval of the proposed project, but not to the level of detail to consider approval of subsequent development projects that may occur after adoption of the General Plan.

Additional environmental review under CEQA may be required for subsequent projects and would be generally based on the subsequent project's consistency with the General Plan and the analysis in this EIR, as required under CEQA. It may be determined that some future projects or infrastructure improvements may be exempt from environmental review. When individual subsequent projects or activities under the General Plan are proposed and are subject to CEQA, the lead agency that would approve and/or implement the individual project will examine the projects or activities to determine

whether their effects were adequately analyzed in this program EIR (CEQA Guidelines Section 15168). If the projects or activities would have no effects beyond those disclosed in this EIR, no further CEQA compliance would be required.

Please see Response K-5 regarding future CEQA analysis for projects in the Planning Area.

The Draft EIR for the 2040 General Plan Update identifies three significant and unavoidable impacts. The significant and unavoidable impacts are associated with the increase number of roadway users (drivers, pedestrians, bicycles, and those using transit) and VMT due to added density. Though the crash rate may potentially decrease as identified (notwithstanding regression-to-the-mean effects, emerging trends, or accounting for changes in severity), crash frequency may increase due to the total added VMT and miles of added roadway. It is noted that Caltrans' Local Roadway Safety Manual establishes that both crash rate and frequency may be used in identifying safety hotspot and in establishing a high-injury network.

In terms of predictive crash modeling, the American Association of State Highway and Transportation Officials' (AASHTO's) Highway Safety Manual includes methods for estimating crash frequency using average annual daily traffic volumes as one of two primary metrics. The General Plan Update is not intended to prohibit development but instead ensure that new developments consider all users equally and promote safe environment based on plans and guidelines already established by the City (such as Pittsburg Moves) and future plans and guidelines to be established (Safe Routes to School, Transportation Demand Management, Neighborhood Traffic Calming, Vision Zero, etc.).

As with the response to the commenter's comments regarding potential impacts to water supply over the full planning horizon and based on full buildout under the 2040 General Plan (see Response K-3), the Draft EIR's analysis of potential transportation hazards is not project specific. It is a conservative, worst-case scenario that assumes full buildout under the 2040 General Plan. As a programmatic EIR, the 2040 General Plan considers the potential implications of full buildout at a broad level but cannot, by definition, evaluate the potential impacts of any given project.

Please see Response K-5 regarding CEQA Exemptions.

**Response K-5:** The commenter states the GPU DEIR's findings of significant and unavoidable impacts with respect to water supply and traffic safety will require recirculation of all current Draft environmental impact reports and mitigated negative declarations for pending projects in the City. The commenter provides a list of five pending projects in the City and states that each of these projects will have new significant project and cumulative impacts. The commenter states that all future projects will have significant and unavoidable impacts, will be ineligible for CEQA exemptions, and will need to include a statement of overriding considerations to be approved.

The significant and unavoidable impacts pertaining to water shortages and transportation hazards are discussed in Responses K-3 and K-4. Please see Response K-2 for an explanation of why the 2040 General Plan EIR does not lead to a supported conclusion that previously prepared MNDs or EIRs must be revised and recirculated.

As future development and infrastructure improvements and projects are considered by the City, each individual project will be evaluated for conformance with the General Plan, Municipal Code, and other applicable regulations. To the extent CEQA is required, subsequent development and infrastructure

projects also will be analyzed for potential environmental impacts on traffic and water, as well as other topics.

As discussed on page 1.0-3 of Chapter 1.0, Introduction, of the Draft EIR, additional environmental review under CEQA may be required for subsequent projects and would be generally based on the subsequent project's consistency with the General Plan and the analysis in this EIR, as required under CEQA. It may be determined that some future projects or infrastructure improvements are exempt from environmental review. When individual subsequent projects or activities under the General Plan are proposed, the lead agency that would approve and/or implement the individual project will examine the projects or activities to determine whether their effects were adequately analyzed in this program EIR (CEQA Guidelines Section 15168). If the projects or activities would have no effects beyond those disclosed in this EIR, no further CEQA analysis would be required. Even if future environmental analysis is required, the conclusions in the 2040 General Plan EIR do not mandate or fairly suggest that every possible future project will be required to be analyzed in an EIR. Such a conclusion is not supported by the EIR itself, but is at odds with one of the overarching purposes of a programmatic EIR, which is to "allow for a reduction in paperwork." (CEQA Guidelines, Section 15168(b)(5).) "With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required." (CEQA Guidelines, Section 15168(c)(5).)

A Statement of Overriding Considerations will be completed for the 2040 Pittsburg General Plan Draft EIR pertaining to the significant and unavoidable impacts. Subsequent projects in the City will have several paths forward. One path is use of a Program EIR with later activities (CEQA Guidelines Section 15168[c]), and another is use of a Program EIR with subsequent EIRs and Negative Declarations (CEQA Guidelines Section 15168[d]). Both of those approaches review projects based on the effects of the later project. Further, CEQA Guidelines Section 15183 addresses projects consistent with a community plan or zoning; this section streamlines review of subsequent projects and would be an appropriate path for many future development projects in the Planning Area. Finally, the 2040 General Plan EIR does not foreclose that future projects may be exempt from CEQA review for various reasons (such as because CEQA is not required by law or because they fall within a statutory or categorical exemption).

Finally, it is also noted that it is not uncommon for a General Plan Update EIR to conclude that significant and unavoidable impacts may result and for individual, future projects still to proceed without need for another full EIR.

**Response K-6:** The commenter provides concluding statements to the comment letter. The commenter states that the City's finding of significant and unavoidable impacts to water supply and transportation hazards (Impact 3.15-1, Impact 3.14-2, and Impact 3.14-3) will present an incredible obstacle to pending and future development in the City. The commenter refers to the discussions in Comments K-2 through K-5 pertaining to Impacts 3.15-1, 3.14-2, and 3.14-3.

Please see Responses K-2 through K-5 which address the specific comments raised regarding these specific Draft EIR impacts.

PITTSBURG UNIFIED SCHOOL DISTRICT
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February 8, 2024

Via Electronic Mail Only
JFunderburg@pittsburgca.gov

John Funderburg
Assistant Director of Community and
Economic Development
City of Pittsburg
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Re: Draft 2040 Pittsburg General Plan and 2040 Pittsburg General Plan Draft Environmental Impact Report

Dear Mr. Funderburg:

Thank you for the opportunity to comment and make suggestions about the Draft Program Environmental Impact Report ("DEIR") for the Draft 2040 General Plan ("proposed General Plan"). We appreciate that the City intends to value the input of its partners serving the public. We look forward to cooperation and coordination throughout this process so that the public is made aware of the impact of the proposed General Plan on the educational system in Pittsburg.

The Pittsburg Unified School District ("District" or "PUSD") consists of 8 elementary schools, 3 junior high schools and 2 high schools and serves approximately 11,500 students. The District's schools and boundary are plotted on **Exhibit A**. The District has analyzed the DEIR and proposed General Plan through the lens of concerned parents and educators who want to understand all the impacts flowing from approved residential development projects and projected projects out to 2040, and the City's decision not to reserve any land on the General Plan for new PUSD schools. L-1

**The Influx Of Students**

The DEIR reflects that there are between 9,735 - 9,741 residential houses/units that are part of **current** housing projects that are "pending approval, approved or under construction."[1] If each one of these homes/units includes two children, that means there will be between **19,470 – 19,482** students needing a neighborhood school soon.

The DEIR projects that throughout the years leading up to 2040 there will be an additional 13,769 homes/units added to the City, thereby increasing the number of students needing a neighborhood school to **27,538** students.[2]

**And yet, the proposed General Plan does not reserve any land for PUSD school sites.**

PUSD's facilities do not have the capacity to serve all these incoming students. The District has been pondering these challenging questions: L-2

- Where is there suitable land to locate new elementary schools or a high school?
- How will we be able to fund purchases? How will we fund construction? How will we increase capacity at existing schools?
- What modifications can we make to existing schools to accommodate these additional students? How will we fund this construction?
- How will these new students get safely to new schools or existing schools?
- What environmental impacts will be suffered as a result of this influx of students:
    - Who have no neighborhood school they can attend or
    - Who must attend overcrowded schools or
    - Who must travel further (whether inside or outside the boundaries of the City or PUSD) to find a school that is not overcrowded or
    - Who must endure construction noise and traffic and related impacts while their existing school gets expanded.

[1] See page 3.10-7 of the DEIR. The totals reflect 9,765-9,771. PUSD subtracted 30 units because the Los Medanos (Veteran's Square Housing) is already "built."

[2] See page 2.0-15 of the DEIR. The figure is actually 15, 576 if units constructed within the Sphere of Influence/Planning Area. Currently, PUSD has students that live in those areas that attend their schools.

The proposed General Plan and the Draft EIR do not assist in answering any of these questions which would inform the public about the consequences of the Plan. The General Plan does not reserve land for PUSD new schools and does not sufficiently evaluate the direct and indirect impacts of that decision and the influx of these new students.

The California Legislature made its intent clear: cities and school districts are to coordinate their efforts related to planning for school sites when preparing a General Plan. (Gov. Code § 65352.2(a).) There is a specific statutory provision recommending that these parties discuss:

> "options for the siting of new schools and whether or not the local city or counties existing land use element appropriately reflects the demand for public school facilities, and ensures that new planned development reserves location for public schools in the most appropriate locations."

(Gov. Code § 65352.2(d)(3).)

The City has a duty as the lead agency putting forward the proposed General Plan to analyze direct and indirect impacts of intense residential developments that do not include educational facilities and do not address the lag between school financing and construction and students generated by residential sales. The use of streamlined processes to address the housing crises and the lack of school funding have exacerbated this gap. L-2 cont'd

School districts have limited opportunities during the long-range planning process to focus city/ county planners on the impacts surrounding the perpetual struggle between facilities funding and students generated by residential development. The General Plan process is one of those opportunities. Finding a school site and constructing a school can take up to five years or more, particularly if the bond process is involved. School districts retain consultants with expertise in facilities planning and financing, school construction and student enrollment projections and related statistical analyses. These experts conduct studies, review data and prepare detailed facilities needs reports and facilities master plans to support various financing and funding endeavors. Based on the supporting data of its consultants, the PUSD Trustees earnestly express the funding and capacity concerns set forth in this letter.

By not fully understanding the District's concerns and creating a General Plan with no designated land for PUSD schools, the City has effectively eliminated the District's voice from the planning process. The community needs to know what the future looks like. This DEIR needs to include a serious analysis of these very real indirect impacts so there is community understanding about the lack of educational facilities despite the push for dense residential development. Overcrowding has been repeatedly tied to low test scores and student performance. These are everyday operational struggles for school districts that cannot be ignored.

**PUSD Requests That Land For PUSD Schools Be Identified/Reserved In The General Plan**

The District respectfully requests that the City reserve PUSD school sites on the proposed General Plan to provide for the future needs of students living in Pittsburg. If no land is designated in the General Plan, and developers do not agree to pay additional fees (through contract or Mello Roos), the cost of new schools to serve these students will need to be subsidized by the current citizens of the City of Pittsburg through local school bonds. This could make it difficult to provide the same level of service and quality facilities that currently exist in the City of Pittsburg.

PUSD requests that, in coordination with the District, the City designate PUSD school sites on the General Plan and include "policies and standards" for such use thereby authorizing the City to require a subdivider to reserve sites for PUSD's use as a condition of approval of future tentative maps. Pittsburg Municipal Code § 17.32.100 titled "Reservations" provides:

> "A. General. Where a park, recreational facility, fire station, library, or other public use is shown on the general plan or specific plan, and the plan contains policies and standards for those uses, the city may require a subdivider to reserve sites for those uses, as a condition of approval of a tentative map. (Government Code Section 66479.)
>
> * * *
>
> C. Acquisition. The public agency for whose benefit an area has been reserved shall at the time of final or parcel map approval enter into an agreement to acquire the area within two years, or longer by mutual agreement. (Government Code Sections 66480, 66481.)"

L-3

The District welcomes a conversation with the City to assist in effectuating this Code provision. As noted further herein, the District, in conjunction with a specialized consultant, has been exploring certain sites and is interested on collaborating in this identification effort.

In addition, PUSD requests that the City include an "Action" in the General Plan that requires a subdivider to dedicate land to PUSD to construct an elementary school under the circumstances outlined in Pittsburg Municipal Code § 17.32.030 titled "School Facilities."

Municipal Code § 17.32.030 provides, in pertinent part,:

> "A. Fee or Dedication. If the school district has levied a fee or other requirement on development, the subdivider shall present to the city a certificate of compliance from the district before a building permit is issued. (Government Code Sections 53080, 65995.)
>
> B. Elementary School Site. The city may require a subdivider to dedicate to the school district land sufficient to construct such elementary schools as are necessary to assure adequate public school service to the residents of the subdivision. The requirement is terminated if the school district does not offer to enter into an agreement to accept the dedication and to repay the subdivider for the land in conformance with Government CodeSection 66478.
>
> C. Interim Classroom Facilities. The city may require a subdivider to dedicate land or pay fees instead, or a combination of both, for interim classroom and related facilities for elementary or high schools to alleviate conditions of overcrowding caused by new residential development, in conformance with Government Code Sections 65970 through 65980."

L-3 cont'd

The District needs new elementary school sites to keep up with the influx of new students. As noted further herein, the District has retained a real estate consultant who has been exploring sites that would potentially be suitable for elementary schools as statistical data reflects that this grade level has the greatest facilities needs. The District would like to partner with the City in locating suitable elementary school sites and appreciates any action supporting this goal.

PUSD cannot endorse or approve of the General Plan "as is" without land being identified / reserved and/or dedicated as described above. If the City refuses to designate land, at a minimum, future development should be subject to mitigation agreements with PUSD, which provide for funding in advance of the issuance of building permits.[3] Developments can provide for student facilities through various means including phased payments, and/or the formation of Mello-Roos districts. Without adequate mitigation, students from the new development, as well as students from existing homes, will suffer from a reduction in the quality of school facilities that can be provided.

[3] Mt. Diablo Unified School District made this same demand in its May 4, 2022 Comment Letter submitted in connection with the Notice of Preparation stating, "Any amendments to the General Plan relating to housing will result in significant financial and substantial adverse physical hardships for the Mt. Diablo Unified School District. Any approval of amendments will be subject to mitigation agreements with Mt. Diablo Unified. The agreements will need to be resolved and funded prior to permitting in order for the school district to get ahead of the necessary student housing that will need to be built prior to students moving into the proposed homes." [DEIR, Appendix A, Notice of Preparation and NOP Comments.]

**The General Plan Goals Will Not Be Met Without Land Being Reserved For PUSD Schools**

One of the Core Values that the community wanted to preserve in the General Plan fails without the designation of lands for schools. The community expressed, "[t]he need for new and improved schools…" and "the need to develop and refine methods to upgrade the schools, ensure that the City's schools are well-ranked, and increasing education and recreation services available to youth, from young children through teenagers." [Proposed General Plan pg. 1-3.] That does not happen without advance planning and designated land on the General Plan. The District is concerned about whether the following General Plans Goals can even be achieved without a designation of land for schools:

Community Health & Environmental Justice

Goal-8-1: Consider and respond to environmental justice issues as they relate to City plans, policies, and projects to ensure disadvantaged and vulnerable communities are engaged and represented in the decision-making process,… to ensure that such communities have access to recreation, transportation, **education**, community amenities, healthy foods, and safe and decent housing. [8-4.]

Recreation & Youth

L-4

Goal-9-4: Provide a diversity of recreational, cultural, **educational**, and other opportunities and **facilities** targeted toward local youth residents. [9-7.]

Goal-9-6: Support the continued learning of all Pittsburg residents by providing **high quality public** and private **educational opportunities and facilities**. [9-9.]

Economic Development

Goal 6-1: Ensure that the City's General Plan sustains and promotes a vibrant, fiscally sustainable economy that fosters strong economic growth, a stable revenue base, availability of local goods and services to meet the City's, high quality employment opportunities, and quality of life for all residents. [6-3]

Goal 6-2: Facilitate attraction, retention, and expansion of businesses that meet the City's economic development objectives and maintain a desirable climate for conducting business in and with the City. [6-5]

Goal 6-5: Strengthen the City's economic base and reputation for being a competitive location through installation of needed capital improvements, state-of-the-art infrastructure, and proactive assistance with environmental remediation. [6-12.]

An EIR is an informational document designed to inform decision-makers and the public about the potential significant effects of proposed projects and to disclose to the public the reasons for approval of a project that may have significant environmental effects. (Cal. Code Regs., tit. 14, §15002, (a)(1) and (a)(4).); see Guidelines, §§ 15151, 15121. We appreciate that the DEIR has been prepared to evaluate the environmental impacts associated with implementation of the proposed General Plan with the purpose of fully informing decision-makers and the general public of the potential environmental consequences of approval and implementation of the General Plan. [DEIR, ES-1.] L-4 cont'd

**<u>The DEIR Does Not Fully Analyze Impacts Resulting From The Influx Of Development And The Lack Of School Sites And Fails As An Informational Document</u>**

Based on the CEQA Guidelines[4], Appendix G, the proposed General Plan will be deemed to have a significant impact on public services if it will result in:

> • Substantial adverse physical impacts associated with the provision of (or the need for) new or physically altered educational facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable performance objectives for schools. [DEIR, 3.13-15.]

DEIR Section 3.13-3 contains the entire two page analysis supporting the determination that the impacts to educational services and school facilities were "l**ess than significant**." [DEIR, pgs. 3.13-22 thru 13-24.] The DEIR provides that the development and growth accommodated in the General Plan **will result** "in increased demand for public services, including schools." [DEIR, pg. 3.13-22; Emphasis added.] PUSD agrees. But then the City asserts that the increased demand for educational services and facilities is no reason for concern because: L-5

> The General Plan includes policies and actions to ensure that public services are provided at acceptable levels and that the City will maintain and implement public facility master plans, in collaboration with appropriate outside service providers and other agencies, to ensure compliance with appropriate regional, state, and federal laws and to provide efficient public facilities and services to Pittsburg. [DEIR, pg. 3.13-22.]

This is the same boilerplate paragraph that was inserted for every public service: fire protection, police protection, park facilities and other public facilities. [DEIR pgs. 3.13-15, 3.13-19, 3.13-22, 3.13-24, & 3.13-30.] In fact, the analysis of all five public services addressed in the DEIR includes the same six formulaic paragraphs and perfunctorily concludes that, "[t]herefore, impacts related to the provisions and need for (insert: fire protection facilities, police protection services, school facilities, park and recreational facilities and other public facilities) **are less**

[4] (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387).

**than significant**, and no mitigation is required." [DEIR pgs. 3.13-16, 3.13-19, 3.13-23, 3.13-26 & 3.13-31.] These sections are devoid of any meaningful analysis.

The following proposed General Plan policies and action reportedly will "ensure" that educational services are provided at acceptable levels thereby resulting in less than significant impacts:

> Policies 9-P-6.1 thru 6.3
>
> • **Ensure** that school facilities maintain adequate capacity to provide for current and projected enrollment.
>
> • Work with Mount Diablo Unified School District to ensure that the timing of school construction and/or expansion is coordinated with phasing of new residential development.[5]
>
> • Work cooperatively with local school districts to explore all local and State funding sources to secure available funding for new school facilities and programs and **to identify possible sites** for the construction of new school facilities.
>
> ACTION: 9-A-6.a: As part of development review for residential subdivisions, require new development to pay applicable school and public facility impact fees **and work with developers and the school districts to ensure that adequate school and related facilities will be available**.

L-5 cont'd

[DEIR pg. 3.13-24; Emphasis added.] Regarding the "ACTION," it is not clear what type of "work" the City is going to do with developers and school districts that will "ensure" that school facilities maintain adequate capacity to provide for current and projected enrollment. In this way, the DEIR has failed its essential purpose which is to educate the public about the potential environmental impacts.

In the two page analysis, the DEIR acknowledges that: (1) the development and growth called for in the proposed General Plan will cause an increased demand for educational services and schools, (2) new or expanded school structures will be needed, (3) there will likely be a need to address acceptable service ratios, class sizes, and other performance standards; and, (4) there will likely be environmental impacts associated with the construction or expansion of the facilities needed to provide these increased services. [DEIR Section 3.13, pgs. 3.13-22 thru 24.] And still, the proposed General Plan did not designate specific sites for new PUSD schools. [Id.]

[5] It is unknown why there is no separate policy stated for PUSD. At a minimum, a similar policy should be included guaranteeing that the City will do the same for PUSD.

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Instead of analyzing potential environmental impacts in any detail, the DEIR provides that all potential impacts to school facilities are deemed fully mitigated by the developer's payment of school impact fees pursuant to Government Code section 65996 as providing full and complete mitigation of a project's potential impact on school facilities. [DEIR pgs. 3.13-23.] And that is where the City's environmental impact analysis started and, apparently, ended. But CEQA requires more. L-5 cont'd

**The DEIR Is Required To Study Indirect Impacts Caused By The Lack Of Sufficient School Facilities In The Project Area**

By statute, the payment of developer's fees[6] is the exclusive method of considering and mitigating impacts on school facilities that occur or might occur as a result of the development of land. (Gov. Code § 65996 (a).) This statute has been interpreted to mean that the following impacts are "excused" from any EIR discussion, analysis or mitigation: (1) adverse physical changes to the school grounds and school buildings; and, (2) "any school-related consideration relating to a school district's ability to accommodate enrollment." (*Chawanakee Unified School Dist. v. County of Madera* (2011) 196 Cal.App.4th 1016, 1028.)("*Chawanakee*").

L-6

The proposed General Plan broadly states that, "as a matter of law, California Government Code Section 65996 identifies the payment of school impact fees[7] as providing full and complete mitigation of a project's potential impact on school facilities." [DEIR 3.13-12.] But that is not the end of the story.

Importantly, the *Chawanakee* court made it clear that there were impacts that were not excused from EIR consideration, analysis and mitigation. Specifically, an EIR must address "indirect impacts on parts of the physical environment that are not school facilities…" (*Id.*)

The Court explained:

> "Applying this statutory construction leads us to conclude that an impact on traffic, even if that traffic is near a school facility and related to getting students to and from the facility, is not an impact "on school facilities" for purposes of Government

[6] Education Code section 17620 authorizes the governing board of any school district to levy a charge against any construction within the boundaries of the district for the purpose of funding construction or reconstruction of school facilities if certain statutory requirements are met including the submission of enrollment and impact data. There are caps on school impact fees. Beginning this year, the cap on residential construction is $5.17 per square foot of development. (Gov. Code, § 65995, subd. (b)(1), (2).) The caps are adjusted every two years for inflation. (*Id.*, subd. (b)(3).) Generally speaking, across California, developer fees only cover a small percentage of the costs of construction. School districts hope to make up the balance through local and state funding.

[7] The proposed General Plan and DEIR refers to these fees as "school impact fees." This is a misnomer since they are not payment for indirect impacts.

> Code section 65996, subdivision (a). From both a chronological and a molecular view of adverse physical change, the additional students traveling to existing schools will impact the roadways and traffic before they set foot on the school grounds. From a funding perspective, the capped school facilities fee will not be used by a school district to improve intersections affected by the traffic. Thus, it makes little sense to say that the impact on traffic is fully mitigated by the payment of the [developer's] fee. In summary, we conclude the impact on traffic is not an impact on school facilities and, as a result, the impact on traffic must be considered in the EIR."

(*Id.* at 1029.)

Regarding the "construction of additional school facilities (either temporary or permanent) at an existing site," the court concluded that "the reasonably foreseeable impacts of **that** construction on the non-school physical environment" were required to be considered in the EIR. (*Id.* Emphasis in original.)

Indirect impacts required to be studied that might result from the construction include "dust that degrades air quality and noise caused by construction activity." (Id. at 1029; see also, Cal. Code Regs. tit. 14, § 15358, subd. (a)(2) [indirect effects caused by the project].) "These types of impacts to the non-school physical environment are caused *indirectly* by the project and should be considered in the EIR." (*Id.*) L-6 cont'd

In applying this requirement, the *Chawanakee* Court found that the EIR failed to adequately analyze, "the project's potential environmental impacts during the period when students from the new development would attend existing off-site schools (i.e., before schools are built within the project area to accommodate those students)" which impacts include:

> (1) "traffic from private and school bus trips to existing schools outside the project area pending the construction of schools within the project area increases in traffic near and on the way to existing schools," and,
>
> (2) "environmental effects from any construction of additions, either temporary or permanent, to existing schools prior to the construction of schools in the project area."

(*Id.* at 1019, 1029.)

In this instance, it is more likely than not that PUSD will not have the funding necessary to build new schools when they are required. Due to school district finances, there is a reasonable probability that needed schools will not be constructed in coordination with the residential developments that populate PUSD's boundaries. Under that scenario, new students would continue to be served at PUSD's existing schools with facilities modifications (temporary or

permanent) made to accommodate the additional students if funding becomes available. Alternatively, students would be served by schools outside of PUSD's boundaries, but in the Planning Area or the Sphere of Influence. The indirect environmental impacts of these reasonably foreseeable fact patterns have not been fully studied. Thus, the public has been deprived of necessary information about the future of local educational systems. L-6 cont'd

**The DEIR Has Not Studied The Reasonably Foreseeable Indirect Physical Changes That May Be Caused By The Proposed General Plan**

In evaluating the significance of an environmental effect of a project, "the lead agency shall consider" both "direct physical changes" and "reasonably foreseeable indirect physical changes" in "the environment that may be caused by the project." (Cal. Code Regs. tit. 14, § 15064(d).) Such indirect or secondary impacts can be "later in time or farther removed in distance" and "may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems." (Cal. Code Regs. tit. 14, § 15358(a)(2).)

It is reasonably foreseeable that existing school facilities will need to be expanded to accommodate the influx of new students from the proposed General Plan. The DEIR failed to fulfill its informational purpose because it did not disclose all potential indirect environmental impacts to the non-school physical environment caused by the Proposed General Plan. L-7

There are limited options for districts facing overcrowding concerns. Over the years the established pattern and practice is that districts rely on portable classrooms or otherwise expand the capacity of existing facilities or change attendance boundaries within their district if some other schools have seats. Bussing comes into play if attendance boundaries are revised. One or more of these options will be used until funding and land are available for a new school. These options will affect traffic and noise levels, air quality, loss of greenspace and/or play areas. A school district's reasonably foreseeable environmental concerns must be studied otherwise, the public is deprived of the information needed to make informed choices.

**Short Term Indirect Impacts Were Not Studied Despite Being Reasonably Foreseeable**

The DEIR cannot ignore reasonably foreseeable information (impending near-term development) and also disregard reasonably foreseeable short-term indirect impacts that are required to be studied. (Cal. Code Regs. tit. 14, § 15126.2 (a).) The City did not analyze short-term impacts resulting from the lack of coordination between the timing of residential development and construction of the schools that would be needed within PUSD's boundaries. A city cannot avoid analyzing environmental impacts just because they are eliminated by some later phase of a project. L-8

No short-term impacts were studied here. Despite having project pipeline data for all "pending, approved and under construction projects," there was no analysis of indirect environmental impacts from those projects. There was no information provided about when these pipeline projects would be completed and students generated.

L-8 cont'd

This directly contradicts the CEQA Guidelines, which state that an EIR must give "due consideration to both the short-term and long-term effects" of a project. (Cal. Code Regs. tit. 14, § 15126.2 (a)) ("Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects." Cal. Code Regs. tit. 14, § 15126.2(a).) The only indirect or secondary impacts that need not be identified, described and evaluated are those that are "speculative or unlikely to occur." (Cal. Code Regs. tit. 14, § 15064 (d)(3).) While foreseeing the unforeseeable is not possible, an agency must use its "best efforts" to find out and disclose all that it reasonably can. (*Tiburon Open Space Committee v. County of Marin* (2022) 78 Cal.App.5th 700, 726–727.) That was not done here.

**The City Did Not Use Its Best Efforts To Identify And Analyze All Indirect Impacts Given Probable Development Patterns**

The City used its "best efforts" to identify and analyze all that it reasonably could about these probable indirect impacts. The EIR analysis must reflect a good faith effort to provide an adequate and complete analysis, but it need not be exhaustive. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516.) Only after a "thorough investigation" and a finding that a particular impact is too speculative for evaluation, is a lead agency excused from preparing an EIR impact analysis. (Cal. Code Regs. tit. 14, § 15145.)

The proposed General Plan anticipates full build-out of the Plan would occur within 17 years.[8] The forecasting projections reportedly used to analyze all the environmental impacts of the Plan were built on a 17 year model. Still, the DEIR did not include any information about sequencing or phasing of development despite that timing is directly related to the indirect impact analysis. Apparently, the DEIR assumed that all residential construction would take place gradually and funding for school sites would fantastically match that timeline.

L-9

However, a lead agency must "make informed judgments as to probable future" outcomes. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 399.) More specifically, "when evaluating the potential environmental impact of a project that has growth inducing effects, an agency is not excused from environmental review simply because it is unclear what future developments may take place. It must evaluate and consider the

[8] While the process of updating the proposed General Plan began in 2019, most of the data the District reviewed appears to be from 2023.

environmental effects of the most probable development patterns." (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 292–293, internal quotation omitted.)

L-9 cont'd

With all the emphasis on increased density and the housing shortage and streamlined project permitting, the speed with which these residential units will come to market has likely increased. Still, there is no phasing analysis included. The City simply assumes that PUSD will have simultaneously located, purchased and constructed suitable neighborhood schools at the same time the need arises. But that is not the most probable development pattern.

**The DEIR Should Not Presume That Funding Will Permit New Schools To Be Constructed At A Pace That Matches Residential Development**

Funding schools is always challenging as there are only limited sources: state funds, bonds and developer fees. The current and historical deficiencies in state funding are verifiable. Historical data is a reliable predictor of the future. Developer fees only cover a fraction of the cost of building a new school or remodeling a school to expand capacity. Future funding cannot be presumed any more than future water sources can be presumed. (See, e.g. *Napa Citizens for Honest Gov't v. Napa Cnty. Bd. of Supervisors*, 91 Cal. App. 4th 342, 373–74 (2001)(Without information about anticipated sources or a guarantee that the resources now identified in the FSEIR will be available, a meaningful assessment of the potentially significant environmental impacts cannot be conducted.)

PUSD Currently Lacks Funding To Construct New Schools

L-10

Currently, PUSD has no funds to allocate towards purchasing and constructing facilities. All remaining bond funds are reserved to complete the modernization/additions to Hillview Jr. High. This project will be completed by August of 2026. There are no other facilities funding sources and there is no bond authorization. The voters passed bond Measure L in 2010, bond Measure N in 2014 and bond Measure P in 2018; all those funds have been utilized over the years for the purchase of portables, the construction of additional classrooms, portable replacement construction and new construction. Hillview Jr. High will deplete the last funding from Measures N and P.

Cost Of Construction

On average, the cost to construct an elementary school in California ranges from $440 - $480 per square foot. On average, the cost to construct a high school in California ranges from $450 - $595 per square foot. (Neither of these average cost estimates include the costs of property acquisition.) Beginning this year, the State Allocation Board has determined that a school district that can justify development impact fees using statutory processes and supporting data may receive development impact fees in the amount of $5.17 for every square foot of residential property developed within its boundary.

School impact fees generally only pay for about one-third the cost of anticipated new schools. These figures demonstrate the shortfall that is perpetually experienced statewide. L-10 cont'd

This data is the reality that schools operate within and it should not be ignored in the planning process.

**Evidence Regarding The Volume Of "Pending, Approved, Under Construction and Completed" Residential Units In The City's Project Pipeline And DEIR**

The 2023 data in the DEIR reflects that there were between **9,735 - 9,741 residential houses/units** that were part of **current** housing projects that were "pending approval, approved or under construction."[9] [DEIR, pg. 3.10-7.] If each one of these homes/units includes two children, that means there will be between **19,470 – 19,482 students** needing a neighborhood school soon. The DEIR provides no information regarding phasing of these projects or expected timelines.

As of February 2, 2024, the City's Project Pipeline Dashboard represented that there are **9,746 residential houses/units** in the City's Project Pipeline "pending approval, approved or under construction. https://www.pittsburgca.gov/services/community-development/planning/current-project-pipeline. Using that same two children per household ratio, would result in **19,492 students.** An image of these current projects in relation to PUSD school sites is attached hereto as **Exhibit B**. L-11

The DEIR projects that by 2040 the population of Pittsburg is projected to increase to 93,011 (a 28.2% increase from 2019) and the housing to 38,702 (a 67.4 % increase from 2019). [DEIR pg. 3.10-30.]

By 2040, the DEIR projects that there will be an additional **13,769 residential houses/units** added to the City, thereby increasing the number of students needing a neighborhood school to **27,538 students** if each residential property includes two children. [DEIR, pg. 2.0-15.]

**The District's Evidence Regarding Additional Students Generated From Residential Projects Currently In the Pipeline And Projected To Be In The Pipeline Through 2033**

In August of 2023, the District retained a consulting firm that specializes in gathering data and forecasting enrollment using predictive enrollment analytics. These consultants collected data from the City's planning department and the developers identified on the City's Project Pipeline dashboard. The consultants connect with the developers to gather as much information as L-12

[9] See page 3.10-7 of the DEIR. The totals reflect 9,765-9,771. PUSD subtracted 30 units because the Los Medanos (Veteran's Square Housing) is already "built."

John Funderburg
February 8, 2024
Page 15

possible on the project's unit type(s), planned build-out unit counts, construction schedules, etc. These consultants also have access to current enrollment data, and historical enrollment data, for each school within the District. Using software designed for this purpose, the consultants prepare reports to assist the District with data-driven decision making regarding enrollment and facilities needs. Their latest report is dated 9/21/23 and titled "Residential Development Research Report Fall 2024". Should the City require this document for its analysis of indirect impacts, please let us know.

The Residential Development Research Report contains the following chart which is directly based on information provided by the planning departments and developers regarding anticipated construction schedules and unit occupancies. This chart reflects that over the next nine years, the District needs to be prepared to serve, at a minimum, 2,324 new additional students as a result of these Pipeline Projects.

L-12 cont'd

| Projected Students from New Residential Development (Moderate DU Scenario) | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Grade | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
| K | 18 | 49 | 86 | 113 | 140 | 162 | 184 | 194 | 194 | 194 |
| 1 | 18 | 49 | 86 | 113 | 140 | 162 | 184 | 194 | 194 | 194 |
| 2 | 18 | 49 | 86 | 113 | 140 | 162 | 184 | 194 | 194 | 194 |
| 3 | 17 | 47 | 84 | 112 | 139 | 161 | 182 | 194 | 194 | 194 |
| 4 | 16 | 44 | 80 | 108 | 136 | 158 | 180 | 192 | 194 | 194 |
| 5 | 13 | 38 | 71 | 100 | 128 | 151 | 174 | 188 | 192 | 194 |
| 6 | 10 | 29 | 58 | 85 | 114 | 139 | 163 | 179 | 188 | 192 |
| 7 | 10 | 27 | 49 | 72 | 99 | 125 | 150 | 168 | 179 | 188 |
| 8 | 9 | 24 | 44 | 61 | 84 | 109 | 135 | 155 | 168 | 179 |
| 9 | 14 | 34 | 54 | 65 | 82 | 101 | 126 | 143 | 155 | 168 |
| 10 | 14 | 39 | 63 | 75 | 86 | 99 | 117 | 134 | 143 | 155 |
| 11 | 14 | 39 | 68 | 84 | 96 | 103 | 116 | 126 | 134 | 143 |
| 12 | 5 | 22 | 49 | 75 | 91 | 102 | 108 | 119 | 126 | 134 |
| Elementary: | 98 | 275 | 492 | 659 | 824 | 956 | 1087 | 1156 | 1163 | 1165 |
| Middle: | 29 | 81 | 150 | 218 | 297 | 373 | 447 | 502 | 535 | 559 |
| High: | 47 | 134 | 234 | 299 | 356 | 404 | 468 | 521 | 558 | 600 |
| Total: | 173 | 490 | 876 | 1176 | 1476 | 1734 | 2002 | 2180 | 2256 | 2324 |

These materials are critical to a school district's facilities planning and are prepared by professionals who specialize in gathering and analyzing such data. While student generation statistics involve projections, they are no more speculative than the projections used to calculate greenhouse gases or Vehicle Miles Traveled in a CEQA analysis. Financial forecasting does not involve speculation and is the basis for conducting business operations for many public entities.

Drafting an EIR necessarily involves some degree of forecasting (Cal. Code Regs. tit. 14, § 15144) and so does any kind of legitimate facilities planning and construction financing. The construction of new schools takes years of planning and one of the first steps is finding land to purchase. The City's General Plan is flawed because it does not set aside land for the District to purchase and plan for students that will be generated by the projects planned for and encouraged in the General Plan. L-12 cont'd

**The District's Data For Each School Site Reflecting Current And Projected Enrollment Through 2033**

The consulting firm conducted an analysis of enrollment projections for the Fall of 2024 through 2033 on a school-by-school basis. They found a significant increase in the kindergarten level. At one elementary school, in particular, Willow Cove Elementary School, the statistics reflected a 97% increase in enrollment between 2024 – 2033. The District has attached as **Exhibit C** school site by school site enrollment projections through 2033 generated by the consultant. L-13

**The District's Data Reflecting Capacity And Facilities Needs Through 2033**

The District provides the following chart reflecting the total projected unhoused students through 2033: L-14

| | Additional Students Generated By Approved Pipeline Projects Thru 2033 | Enrollment 2024 | Projected Need Thru 2033 | Capacity As Of 7/2022 | Over/Under Capacity Projections Thru 2033 |
|---|---|---|---|---|---|
| Elementary | 1,165 | + 4,674 | = 5,839 | 5,749 | (90) |
| Junior High | 559 | + 2,309 | = 2,868 | 3,140 | 272 |
| High School | 600 | + 3,410 | = 4,010 | 3,996 | (14) |

Importantly, the DEIR residential unit projections (13,769 residential units added by 2040)[10] is way more aggressive than the District's moderate projection of 3,720 residential units added by 2033). The City's projections regarding the number of residential units are likely to be more accurate because of their access to project data and other planning and development resources.

[10] [DEIR, pg. 2.0-15.]

In conjunction with various consultants including design, construction and funding experts, in 2021, the District prepared a comprehensive Facilities Master Plan. This Plan can be found at: https://pittsburgusd.net/Departments/Business-Services/Facilities-Planning--Management/Facilities-Master-Plan/index.html

L-14 cont'd

This Plan includes a school site by school site profile including a site assessment analysis, classroom count and student capacity analysis, proposed projects and costs assessment. It also assesses each school sites State grant eligibility for funding. PUSD submits these materials in an effort to assist with the indirect impact analysis that should have been completed in the DEIR.

**Potential Land Available For School Sites And Request For Designation/Reservation In The General Plan**

The foregoing data, along with other material facts, caused the District to recently retain a real estate consulting firm that specializes in locating land for school districts. The firm was tasked with conducting a site option analysis to locate sites that might possibly serve as elementary schools. The consultant returned with nine options. **The District requests a meeting with the Planning Department to explore designating/reserving at least three of these nine sites as available for development as school sites in the General Plan.**

L-15

The District welcomes the opportunity to discuss the identification of these parcels (or portions thereof) in the proposed General Plan and the application of Municipal Code sections 17.32.030 and 17.32.100 and Government Code sections 66478 – 66481 and/or related topics.

**TRANSPORTATION AND CIRCULATION**

The Draft EIR fails to inform the public of the reasonably foreseeable short- and long-term transportation and circulation impacts resulting from the General Plan's failure to set aside land for schools.

Without land set aside for new schools, PUSD will be forced to accommodate new students in existing schools. Students coming to the district from new developments will not be distributed evenly among schools in the city. In order to compensate for that, the district will likely have to redraw attendance boundaries. This will mean that existing students will have to travel farther to get to a different school, and fewer students will be able to bike or walk to school.

L-16

These foreseeable consequences of the General Plan are likely to increase VMT, and correspondingly, increase GHG emissions and air pollution. However, the draft EIR makes no mention of the possibility of these outcomes.

The failure to analyze the impact of travel to schools also impacts some of the City's mitigation strategies. The Draft EIR also states that the City will:

> Work with school districts, school administrators, and parents of school students to develop a "suggested routes to school" program for students who bicycle and walk in concurrence with the Pittsburg Moves Active Transportation Plan.

(7-P-2.5)

The "suggested routes to school" or "safe routes to school" programs are mentioned in two other mitigation strategies. (7-A-2.n; 7-A-3.g.) However, the increase in traffic due to increased attendance at existing school will increase danger to children who are walking or biking to and from school. The Draft EIR fails to analyze or mitigate this outcome.

Moreover, by failing to designate a new PUSD school site in the General Plan, the city is unable to plan for traffic safety adjacent to a new school site.

L-16 cont'd

The Draft EIR also states that Pittsburg will:

> Adopt a citywide TDM plan to encourage vehicle trip reduction at employment sites, businesses, **schools**, and multi-unit residential facilities by 15 percent or more during commuter peak periods, and dedicate staff to work closely with communities throughout the City on ongoing education and encouragement efforts.

(7-A-2.j (emphasis added).)

The Draft EIR fails to analyze how an influx of students traveling longer distances will fit into a TDM plan.

In order to analyze the offsite environmental impacts resulting from the increase in students, the EIR must consider the following factors:

- Which specific existing school sites would serve students from new developments contemplated in the General Plan.
    - This analyses would look at the existing capacity of the schools closest to new developments contemplated in the Plan, and/or schools that have the ability to add capacity through the installation of permanent or temporary structures.
    - For each school site, the EIR should consider: 1) Existing Facilities, 2) Existing Enrollment, 3) Existing Capacity, 4) Projected Enrollment, 5) Projected Capacity Gaps, 6) Planned Facilities with or without funding and 7) Facilities Needs.

- Possible locations for new schools, including designating land for school sites. This analysis should include the VMT mitigation possibility presented by designating land for a school.

- The travel assumptions and anticipated travel paths from each known development in the Project Pipeline to the closest school site in the Project Area, Plan Area and/or Sphere of Influence. In addition, the travel assumptions and anticipated travel paths related to bussing, which, for PUSD, is currently required for K-5 students that live more than 1 1/3 miles from a PUSD elementary school or any 6-8th graders that live more than 2 miles from a PUSD middle school. L-16 cont'd

- At projected buildout, the travel assumptions and anticipated travel paths to/from school sites in the Project Area, Plan Area and/or Sphere of Influence, including bussing related considerations.

- The safety of all modes of travel to and from school sites.

- School-specific TDM possibilities.

Unfortunately, the Draft EIR is devoid of analysis of the above factors.

The District welcomes the opportunity to collaborate on these topics so that that EIR serves its purpose as an informational document to assist the public and decision-makers with assessing the direct and indirect impacts of the proposed General Plan.

**CUMULATIVE IMPACTS**

The indirect impacts of the cumulative impacts of noise, intense increases in density, lack of public services and traffic and circulation were not fully studied. It may be that feasible mitigation for these impacts will be identified. [See, Impact 4.12 – 4.14 and ES-18.] L-17

**COMMENTS SPECIFIC TO THE PROPOSED GENERAL PLAN**

In order to properly inform the public about impacts, the following information must be included/updated/revised in the DEIR:

- There are two PUSD elementary schools *missing* from Table 3.13-7 titled "Public Schools Serving Pittsburg." Willow Cove and Stoneman. Pittsburg Adult Education Center is also missing. [See, DEIR 3.13-8.] L-18

- Within the proposed General Plan Subareas there appear to be changes in zoning and/or land use designations on land that PUSD owns as noted below. We request that all

zoning / land use changes to PUSD land be specifically and openly addressed in the DEIR and proposed General Plan.

- West Leland Subarea there is a directive to "Implement internal Planning Staff Procedures to: **Allow Low Density Residential uses on the designated school site along Range Road**, if it is not needed for public school facilities." [Proposed General Plan, pg. 2-43.] The environmental impacts of this revision do not appear to have been studied in the DEIR.

- East Leland Subarea: The District's Harbor Street property is currently zoned "GQ Governmental & Quasipublic" as noted on the City's GIS zoning map but the proposed General Plan reflects this property as "**Medium Density Residential**." [See, proposed General Plan, pg. 2-32, Figure 2-8.] It is unknown whether the impacts of this revision was studied. (See, **Exhibit D**.)

- Railroad Subarea: The District Office is zoned Planned Development on the City's GIS zoning map and in the proposed General Plan (page 2-30, Figure 2-7) it is identified as Mixed Use. (See, **Exhibit E**,) L-18 cont'd

- Within the proposed General Plan Subareas there appear to be at least two places where PG&E corridors Conversion Overlays are depicted. The District was informed that once the undergrounding of PG&E transmission lines takes place, these large swaths of Open Space will be zoned to accommodate residential development. Has this revision been accounted for in the DEIR and will it revise the residential unit calculations and thus the District's student generation rates?

  a. West Central Subarea: Proposed General Plan, pg. 2-40 (Figure 2-11). (See **Exhibit F**.)
  b. West Leland Subarea: Proposed General Plan, pg. 2-42 (Figure 2-12). (See **Exhibit G**.)

- Within the Southwest Hills Subarea it appears that land has been dedicated for a school. On page 2-46 of the proposed General Plan, in the Southwest Hills Subarea under the title "Goal-2-15: Attract higher-end, low-density residential uses," Action 2-A-15.c provides:

  - "Maintain dedication of one school site and three neighborhood park sites." The current zoning map reflects that this area is zoned Planned Development. (See **Exhibit H**.) Please identify what steps were taken to secure this dedication and what steps should be taken for the District to secure school site dedications.

- General Requests that will assist the public in viewing and understanding the information:
  - Please include a map that identifies the boundaries of each district.
  - Please modify Figure 3.12-1 on page 3.13-35 to include a key reflecting which schools are associated with which school districts. Please make all these same upgrades to Figure 12-1 on General Plan pg. 11-15.
  - Please include a map of all the current residential "pending, approved, under construction, and completed projects" and plot all schools on that same map so the public can see the impacted school zones. [Table 3.10-2, pgs. 3.10-6 & 3.10-7.] L-18 cont'd
  - The DEIR has no Table of Contents.
  - The DEIR [pg. 1.0-7] provides that the Appendices includes, "technical material prepared to support the analysis." It does not appear that any technical material is set forth in the Appendices.
  - Proposed General Plan at pg. 2-2 states that, "Appendix A provides a matrix identifying the zoning districts that correspond to each General Plan land use designation." There is no document labeled "Appendix A."
  - Please provide a lay person explanation of Table 2-2 included in the Proposed General Plan.

Thank you for the opportunity to provide Comments to the Proposed General Plan and DEIR. We look forward to a productive and interactive discussion on the points raised in this correspondence. The District reserves the right to make additional comments as this process moves forward. L-19

Sincerely,

Pittsburg Unified School District

Mr. Hitesh Haria, Associate Superintendent of Business Services

Attachments: Exhibits A – H.

254-398/6849073.1

# Exhibit A

EXHIBIT A - Page 1 of 4

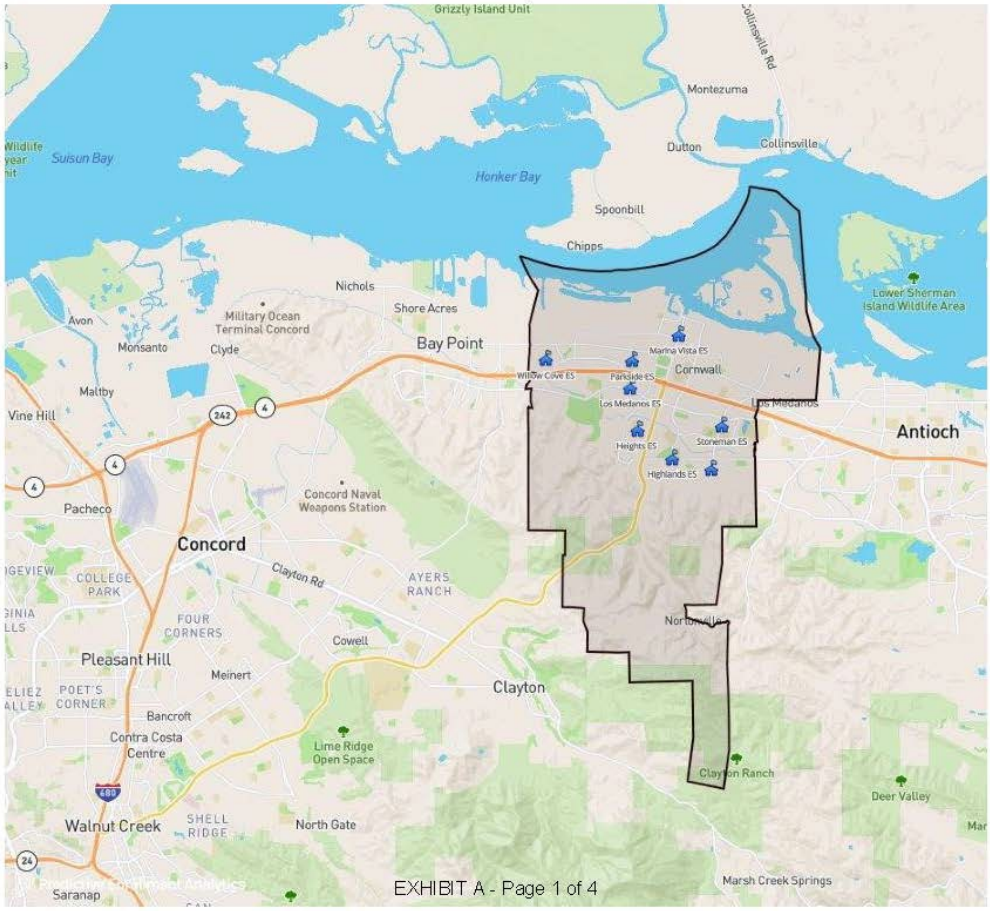

EXHIBIT A - Page 2 of 4

EXHIBIT A - Page 3 of 4

EXHIBIT A - Page 4 of 4

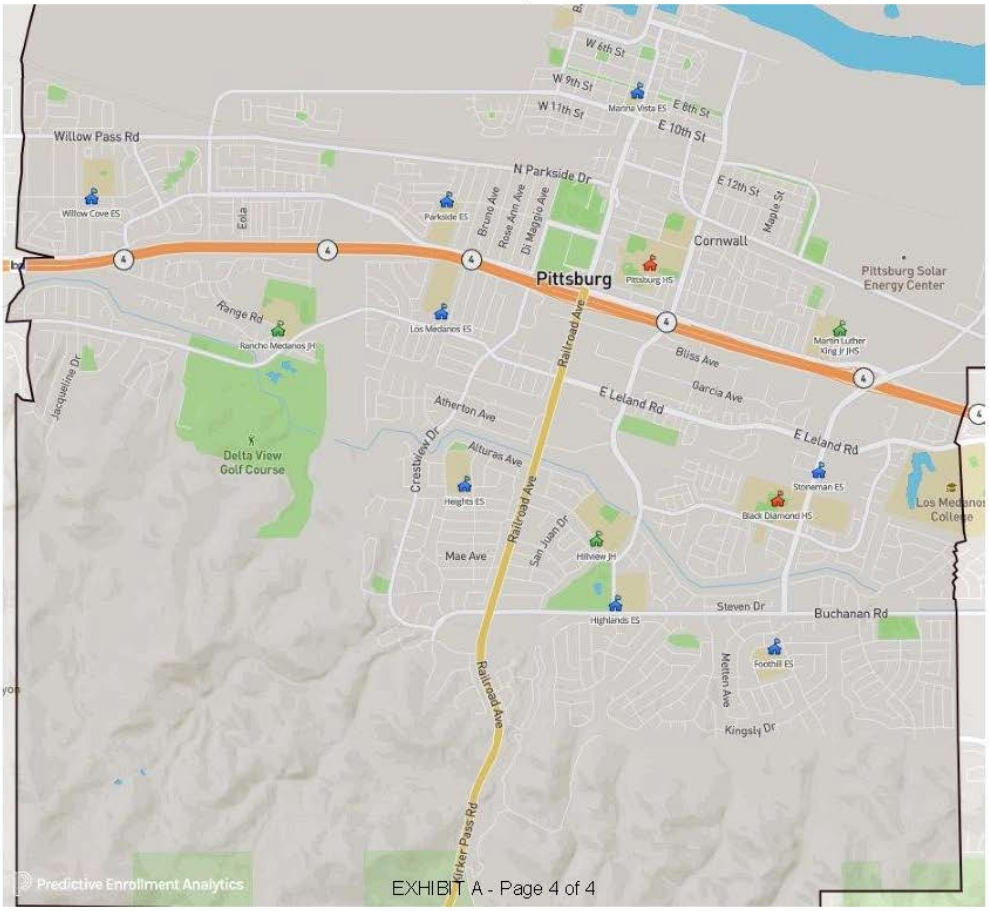

EXHIBIT A - Page 4 of 4

# Exhibit B

EXHIBIT B Page 1 of 5

**School Sites (orange pins) within Pittsburg USD Boundary (orange shading)**
*Uses Imported 2022-2023 Data from CDE's ArcGIS Site*

**City of Pittsburg's ArcGIS Project Dashboard Map**
*Filtered to display residential projects from City's pipeline*

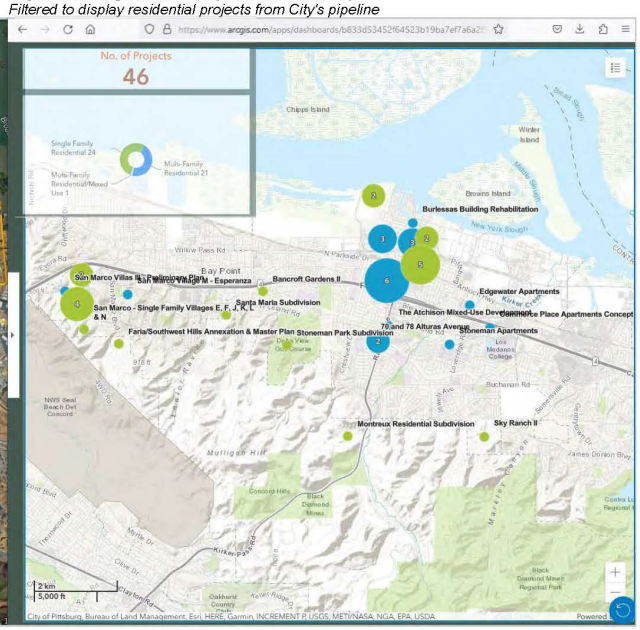


EXHIBIT B Page 1 of 5

EXHIBIT B Page 2 of 5

**City of Pittsburg's ArcGIS Project Dashboard Map**
*Filtered to display residential projects from City's pipeline*
*(zoomed out)*

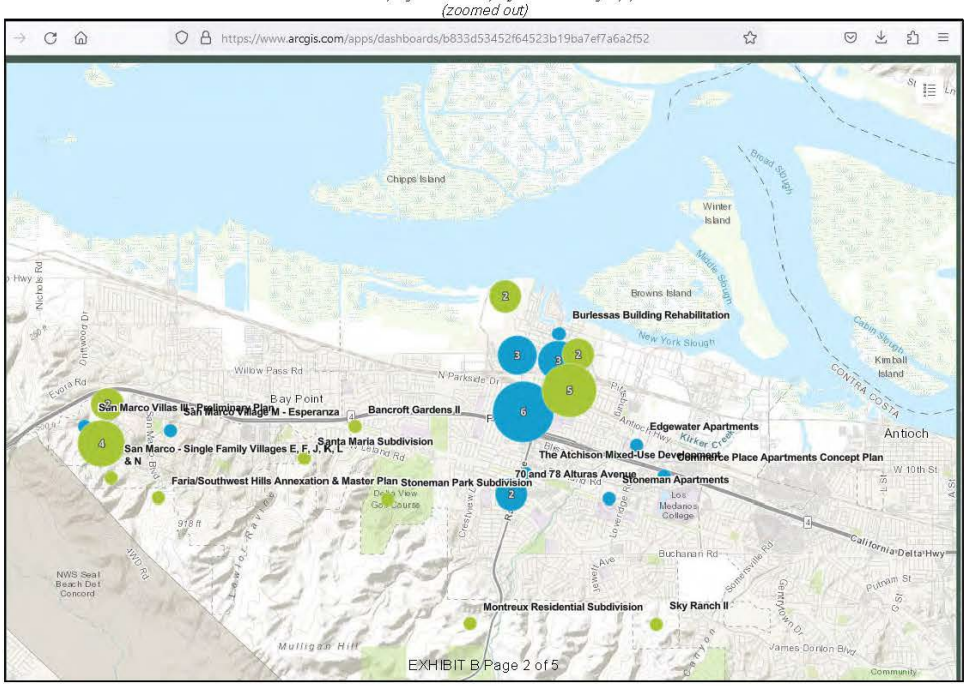

EXHIBIT B Page 3 of 5

**City of Pittsburg's ArcGIS Project Dashboard Map**

*Filtered to display residential projects from City's pipeline*

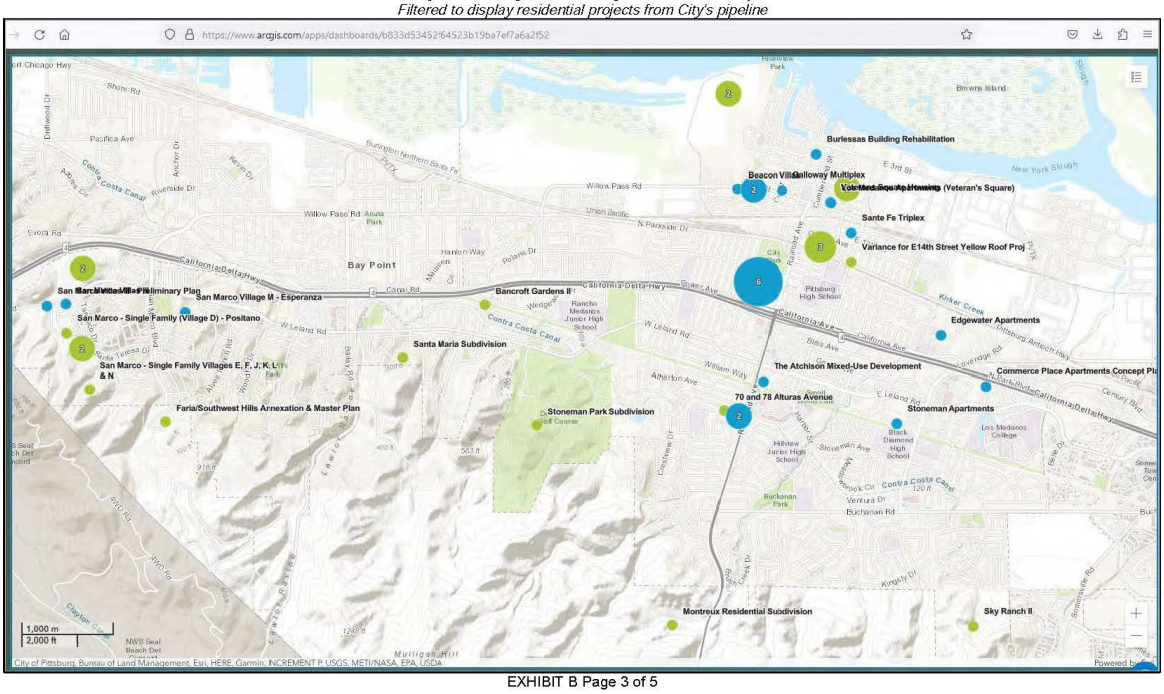


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EXHIBIT B Page 4 of 5

**City of Pittsburg's ArcGIS Project Dashboard Map**

*City's pipeline of residential projects*

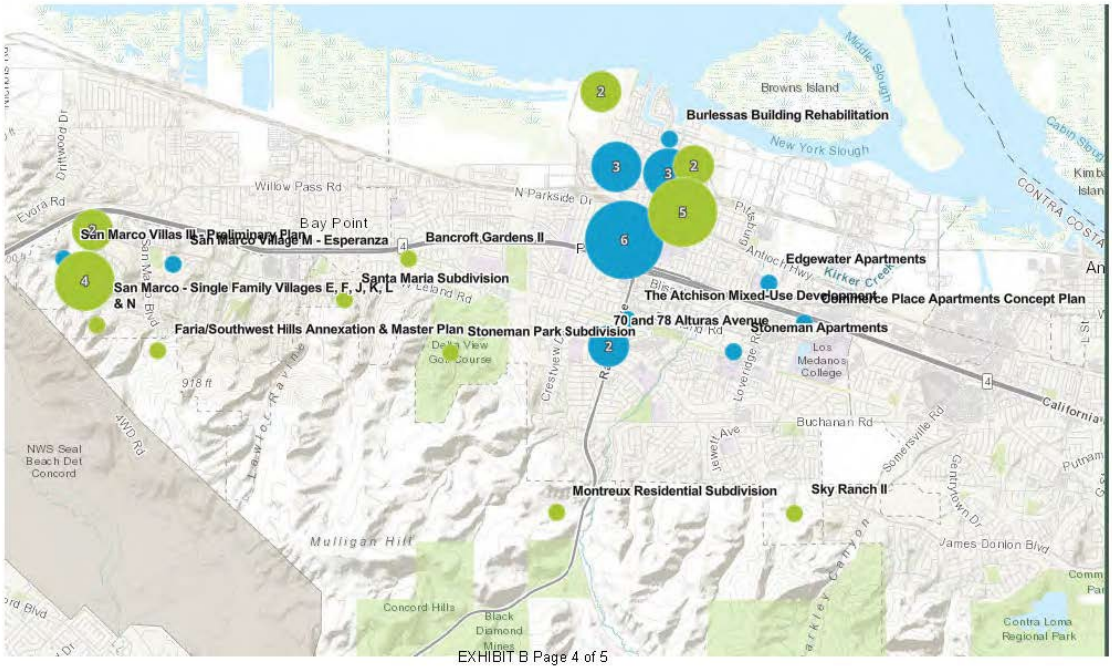


EXHIBIT B Page 4 of 5

EXHIBIT B Page 5 of 5

**City of Pittsburg's ArcGIS Project Dashboard Map**

*City's pipeline of residential projects*

EXHIBIT B Page 5 of 5

# Exhibit C

EXHIBIT C Page 1 of 4

**Pittsburg Unified School District**

Predictive Enrollment Analytics

**All Elementary Schools (Pitts24Mod) (2024)**

| Elementary School Enrollment Year | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ENROLLMENT TOTALS: | 4,621 | 4,599 | 4,630 | 4,689 | 4,674 | 4,841 | 4,966 | 5,024 | 5,134 | 5,255 | 5,394 | 5,473 | 5,484 | 5,494 |

Foothill ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 9 | 14 | 29 | 23 | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 |
| TK | 14 | 10 | 17 | 24 | 30 | 41 | 43 | 45 | 47 | 48 | 49 | 50 | 50 | 50 |
| K | 72 | 81 | 70 | 74 | 74 | 74 | 75 | 75 | 76 | 76 | 76 | 76 | 76 | 76 |
| 1-5 | 449 | 454 | 440 | 450 | 444 | 436 | 444 | 428 | 425 | 419 | 415 | 413 | 415 | 417 |
| Subtotals: | 544 | 559 | 556 | 571 | 572 | 575 | 586 | 572 | 572 | 567 | 564 | 563 | 565 | 567 |

Heights ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 17 | 26 | 29 | 24 | 26 | 30 | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 |
| TK | 20 | 20 | 17 | 34 | 42 | 58 | 61 | 63 | 66 | 68 | 70 | 71 | 71 | 71 |
| K | 73 | 83 | 95 | 59 | 74 | 86 | 94 | 95 | 96 | 96 | 97 | 97 | 97 | 97 |
| 1-5 | 471 | 412 | 409 | 421 | 411 | 442 | 475 | 451 | 427 | 445 | 447 | 451 | 451 | 452 |
| Subtotals: | 581 | 541 | 550 | 538 | 553 | 616 | 662 | 641 | 621 | 641 | 646 | 651 | 651 | 652 |

Highlands ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 27 | 38 | 80 | 58 | 57 | 59 | 62 | 65 | 68 | 69 | 71 | 71 | 71 | 71 |
| TK | 10 | 13 | 23 | 25 | 31 | 43 | 45 | 47 | 49 | 50 | 51 | 52 | 52 | 52 |
| K | 76 | 76 | 73 | 76 | 72 | 74 | 77 | 81 | 85 | 85 | 85 | 85 | 85 | 85 |
| 1-5 | 410 | 399 | 382 | 374 | 389 | 409 | 421 | 423 | 442 | 436 | 433 | 432 | 434 | 436 |
| Subtotals: | 523 | 526 | 558 | 533 | 549 | 585 | 605 | 616 | 644 | 640 | 640 | 640 | 642 | 644 |

Los Medanos ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 17 | 14 | 27 | 39 | 36 | 36 | 36 | 37 | 37 | 37 | 37 | 37 | 37 | 37 |
| TK | 17 | 19 | 35 | 41 | 51 | 70 | 74 | 77 | 80 | 82 | 84 | 86 | 86 | 86 |
| K | 91 | 82 | 91 | 101 | 91 | 93 | 94 | 94 | 94 | 94 | 94 | 94 | 94 | 94 |
| 1-5 | 526 | 508 | 476 | 495 | 490 | 502 | 498 | 505 | 509 | 496 | 496 | 495 | 496 | 497 |
| Subtotals: | 651 | 623 | 629 | 676 | 668 | 701 | 702 | 713 | 720 | 709 | 711 | 712 | 713 | 714 |

Marina Vista ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 16 | 24 | 37 | 29 | 30 | 33 | 33 | 33 | 33 | 33 | 33 | 33 | 33 | 33 |
| TK | 7 | 13 | 24 | 48 | 60 | 82 | 86 | 90 | 93 | 96 | 99 | 100 | 100 | 100 |
| K | 84 | 80 | 77 | 72 | 74 | 81 | 82 | 82 | 83 | 84 | 84 | 85 | 85 | 85 |
| 1-5 | 492 | 485 | 471 | 464 | 447 | 437 | 410 | 402 | 394 | 397 | 401 | 405 | 406 | 407 |
| Subtotals: | 599 | 602 | 609 | 613 | 611 | 633 | 611 | 607 | 603 | 610 | 617 | 623 | 624 | 625 |

Parkside ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 6 | 21 | 28 | 36 | 35 | 35 | 36 | 38 | 39 | 41 | 42 | 42 | 42 | 42 |
| TK | 12 | 16 | 17 | 32 | 40 | 55 | 57 | 60 | 62 | 64 | 66 | 67 | 67 | 67 |
| K | 71 | 78 | 73 | 77 | 72 | 69 | 69 | 69 | 69 | 70 | 70 | 70 | 70 | 70 |
| 1-5 | 464 | 460 | 439 | 427 | 413 | 395 | 373 | 357 | 350 | 344 | 346 | 346 | 344 | 343 |
| Subtotals: | 553 | 575 | 557 | 572 | 560 | 554 | 535 | 524 | 520 | 519 | 524 | 525 | 523 | 522 |

Stoneman ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 13 | 19 | 19 | 26 | 26 | 26 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 |
| TK | 17 | 6 | 24 | 27 | 34 | 46 | 48 | 50 | 52 | 54 | 56 | 56 | 56 | 56 |
| K | 95 | 92 | 84 | 68 | 71 | 68 | 67 | 68 | 69 | 69 | 70 | 70 | 70 | 70 |
| 1-5 | 451 | 472 | 474 | 478 | 453 | 450 | 419 | 387 | 371 | 373 | 370 | 371 | 372 | 372 |
| Subtotals: | 576 | 589 | 601 | 599 | 584 | 590 | 559 | 530 | 517 | 521 | 521 | 522 | 523 | 523 |

Willow Cove ES

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PK4 | 9 | 20 | 23 | 22 | 22 | 22 | 26 | 29 | 33 | 37 | 40 | 42 | 42 | 42 |
| TK | 12 | 13 | 24 | 23 | 29 | 39 | 41 | 43 | 45 | 46 | 47 | 48 | 48 | 48 |
| K | 77 | 88 | 87 | 87 | 82 | 83 | 103 | 123 | 143 | 162 | 182 | 192 | 192 | 192 |
| 1-5 | 496 | 463 | 436 | 455 | 444 | 443 | 536 | 626 | 716 | 803 | 902 | 955 | 961 | 965 |
| Subtotals: | 594 | 584 | 570 | 587 | 577 | 587 | 706 | 821 | 937 | 1048 | 1171 | 1237 | 1243 | 1247 |

EXHIBIT C Page 1 of 4

EXHIBIT C Page 2 of 4

**Pittsburg Unified School District**

Predictive Enrollment Analytics

**All Middle Schools (Pitts24Mod) (2024)**

| Middle School Enrollment Year | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **ENROLLMENT TOTALS:** | 2,328 | 2,357 | 2,366 | 2,327 | 2,309 | 2,256 | 2,295 | 2,318 | 2,365 | 2,362 | 2,320 | 2,305 | 2,304 | 2,316 |

Hillview JH

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 6 | 276 | 320 | 293 | 284 | 278 | 280 | 293 | 322 | 277 | 251 | 252 | 246 | 242 | 242 |
| 7 | 293 | 278 | 309 | 300 | 286 | 283 | 283 | 294 | 323 | 276 | 251 | 252 | 246 | 242 |
| 8 | 298 | 290 | 272 | 312 | 298 | 286 | 281 | 278 | 293 | 321 | 275 | 249 | 251 | 244 |
| Subtotals: | 867 | 888 | 874 | 896 | 862 | 849 | 857 | 894 | 893 | 848 | 778 | 747 | 739 | 728 |

Martin Luther King Jr JHS

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 6 | 245 | 238 | 255 | 205 | 216 | 200 | 207 | 197 | 198 | 185 | 182 | 184 | 184 | 185 |
| 7 | 207 | 237 | 232 | 241 | 202 | 212 | 195 | 202 | 196 | 196 | 184 | 180 | 181 | 182 |
| 8 | 198 | 212 | 237 | 230 | 248 | 207 | 215 | 198 | 205 | 198 | 198 | 185 | 181 | 182 |
| Subtotals: | 650 | 687 | 724 | 676 | 666 | 619 | 617 | 597 | 599 | 579 | 564 | 549 | 546 | 549 |

Rancho Medanos JH

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 6 | 252 | 240 | 261 | 247 | 279 | 255 | 265 | 282 | 302 | 324 | 326 | 341 | 347 | 351 |
| 7 | 285 | 253 | 252 | 253 | 245 | 279 | 263 | 270 | 290 | 310 | 332 | 329 | 340 | 346 |
| 8 | 274 | 289 | 255 | 255 | 257 | 254 | 293 | 275 | 281 | 301 | 320 | 339 | 332 | 342 |
| Subtotals: | 811 | 782 | 768 | 755 | 781 | 788 | 821 | 827 | 873 | 935 | 978 | 1009 | 1019 | 1039 |

EXHIBIT C Page 2 of 4

EXHIBIT C Page 3 of 4

Pittsburg Unified School District Predictive Enrollment Analytics

| High School Enrollment Year | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **ENROLLMENT TOTALS:** | 3,665 | 3,658 | 3,453 | 3,500 | 3,410 | 3,481 | 3,515 | 3,545 | 3,513 | 3,483 | 3,555 | 3,516 | 3,474 | 3,406 |

High Schoool Black Diamond HS

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10 | 3 | 0 | 8 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 11 | 91 | 45 | 79 | 42 | 31 | 31 | 31 | 32 | 30 | 32 | 30 | 31 | 33 | 31 |
| 12 | 127 | 136 | 136 | 156 | 93 | 114 | 118 | 122 | 124 | 116 | 123 | 117 | 120 | 123 |
| Subtotals: | 221 | 181 | 223 | 199 | 124 | 145 | 149 | 154 | 154 | 148 | 153 | 148 | 153 | 154 |

High School Pittsburg HS

| Grade | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | 999 | 856 | 820 | 846 | 860 | 877 | 827 | 874 | 833 | 860 | 901 | 858 | 827 | 817 |
| 10 | 882 | 990 | 808 | 828 | 848 | 874 | 895 | 837 | 890 | 845 | 872 | 904 | 853 | 823 |
| 11 | 812 | 832 | 883 | 808 | 813 | 844 | 873 | 886 | 830 | 876 | 833 | 851 | 873 | 824 |
| 12 | 751 | 799 | 719 | 819 | 765 | 741 | 771 | 794 | 806 | 754 | 796 | 755 | 768 | 788 |
| Subtotals: | 3444 | 3477 | 3230 | 3301 | 3286 | 3336 | 3366 | 3391 | 3359 | 3335 | 3402 | 3368 | 3321 | 3252 |

EXHIBIT C Page 3 of 4

EXHIBIT C Page 4 of 4

Predictive Enrollment Analytics

**ENROLLMENT BY SCHOOL TYPE - PITTSBURG UNIFIED SCHOOL DISTRICT**

| Enrollment Year | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Elementary Schools (8) | 4,621 | 4,599 | 4,630 | 4,689 | 4,674 | 4,841 | 4,966 | 5,024 | 5,134 | 5,255 | 5,394 | 5,473 | 5,484 | 5,494 |
| Middle Schools (3) | 2,328 | 2,357 | 2,366 | 2,327 | 2,309 | 2,256 | 2,295 | 2,318 | 2,365 | 2,362 | 2,320 | 2,305 | 2,304 | 2,316 |
| High Schools (2) | 3,665 | 3,658 | 3,453 | 3,500 | 3,410 | 3,481 | 3,515 | 3,545 | 3,513 | 3,483 | 3,555 | 3,516 | 3,474 | 3,406 |

EXHIBIT C Page 4 of 4

# Exhibit D

EXHIBIT D Page 1 of 1

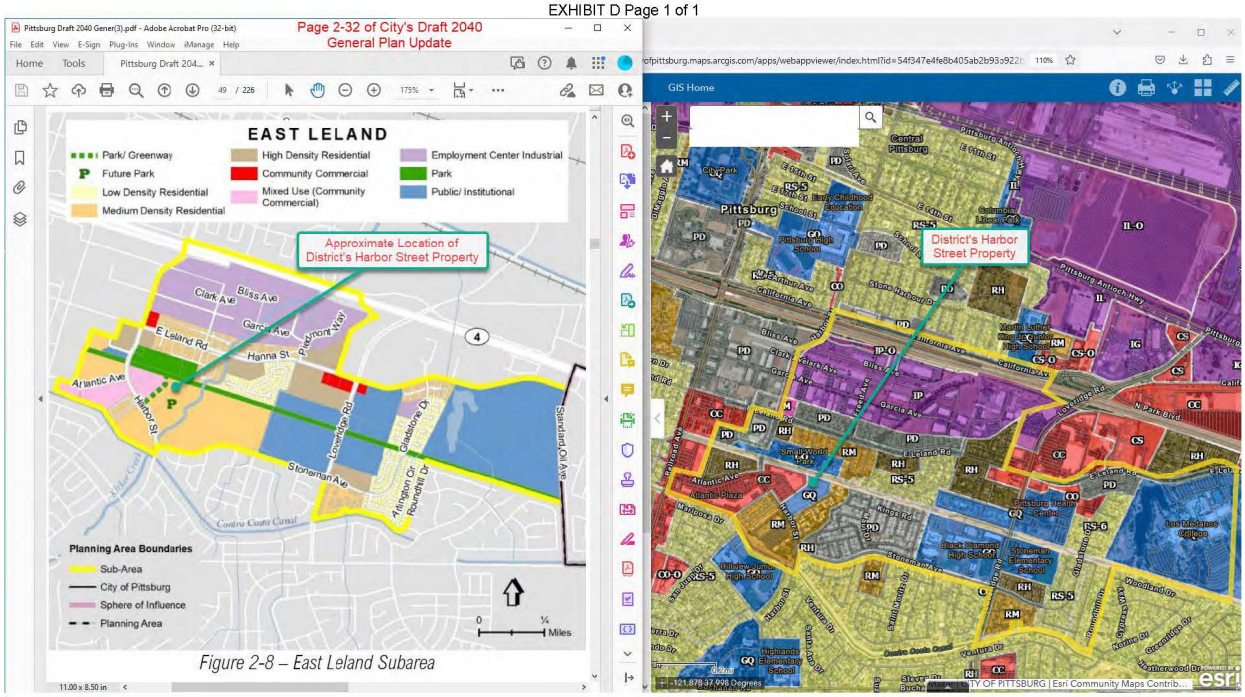


EXHIBIT D Page 1 of 1

# Exhibit E

EXHIBIT E Page 1 of 1

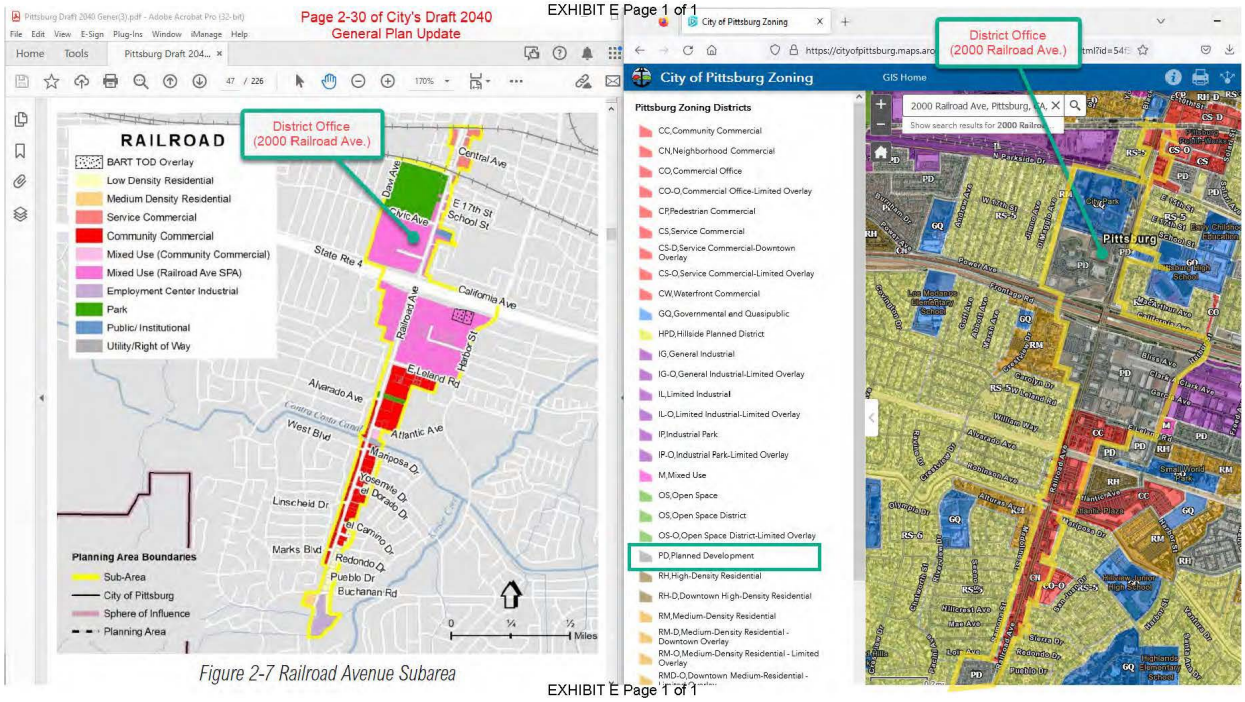


*Figure 2-7 Railroad Avenue Subarea*

EXHIBIT E Page 1 of 1

# Exhibit F

EXHIBIT E Page 1 of 2

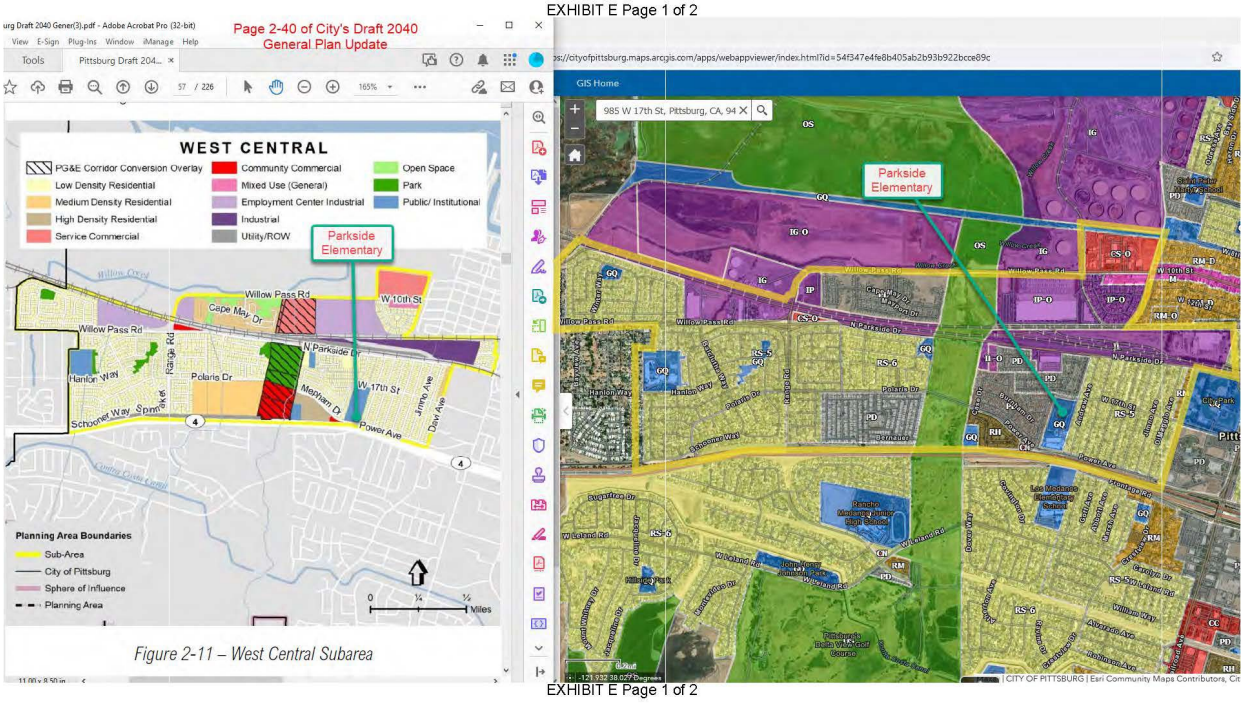


*Figure 2-11 – West Central Subarea*

EXHIBIT E Page 1 of 2

EXHIBIT E Page 2 of 2

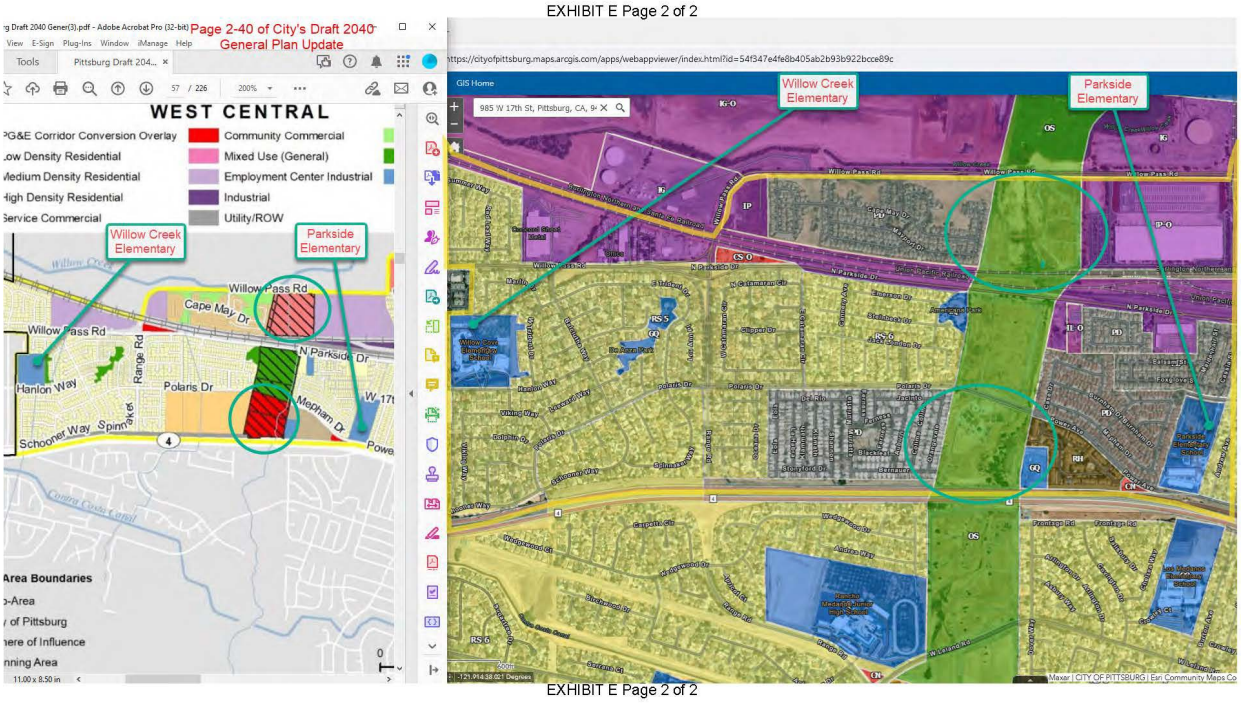


EXHIBIT E Page 2 of 2

# Exhibit G

EXHIBIT G Page 1 of 3

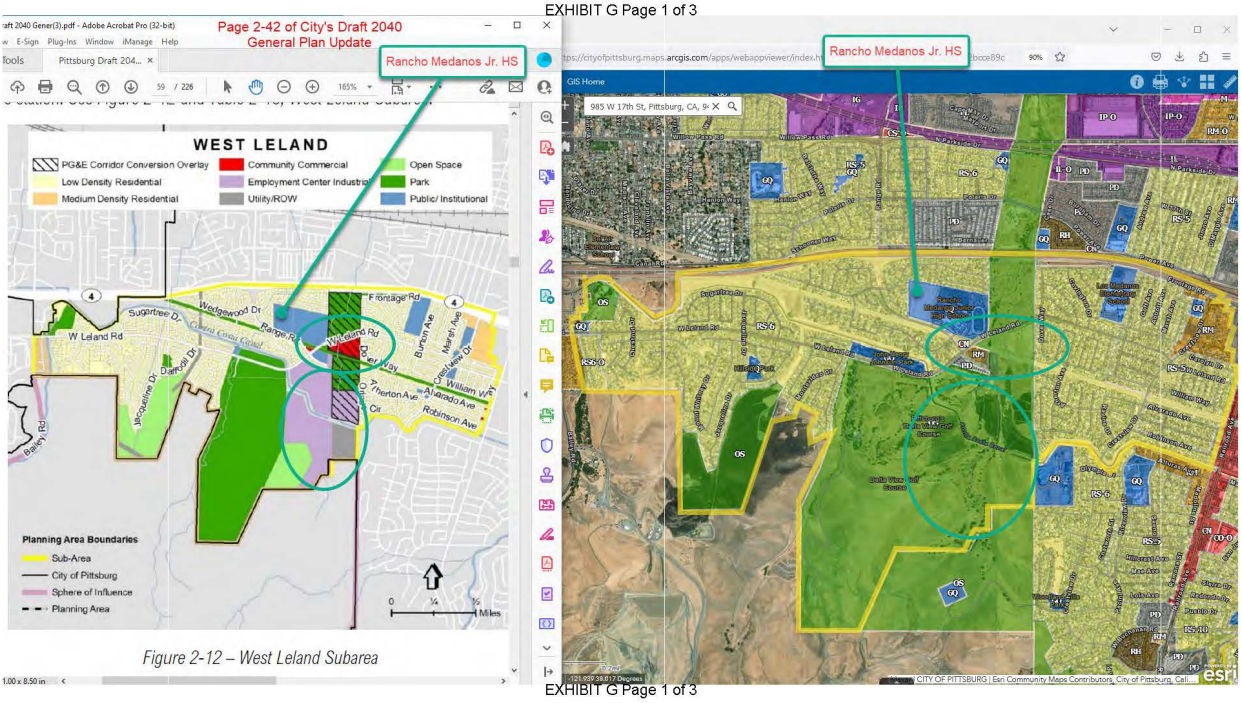


*Figure 2-12 – West Leland Subarea*

EXHIBIT G Page 1 of 3

EXHIBIT G Page 2 of 3

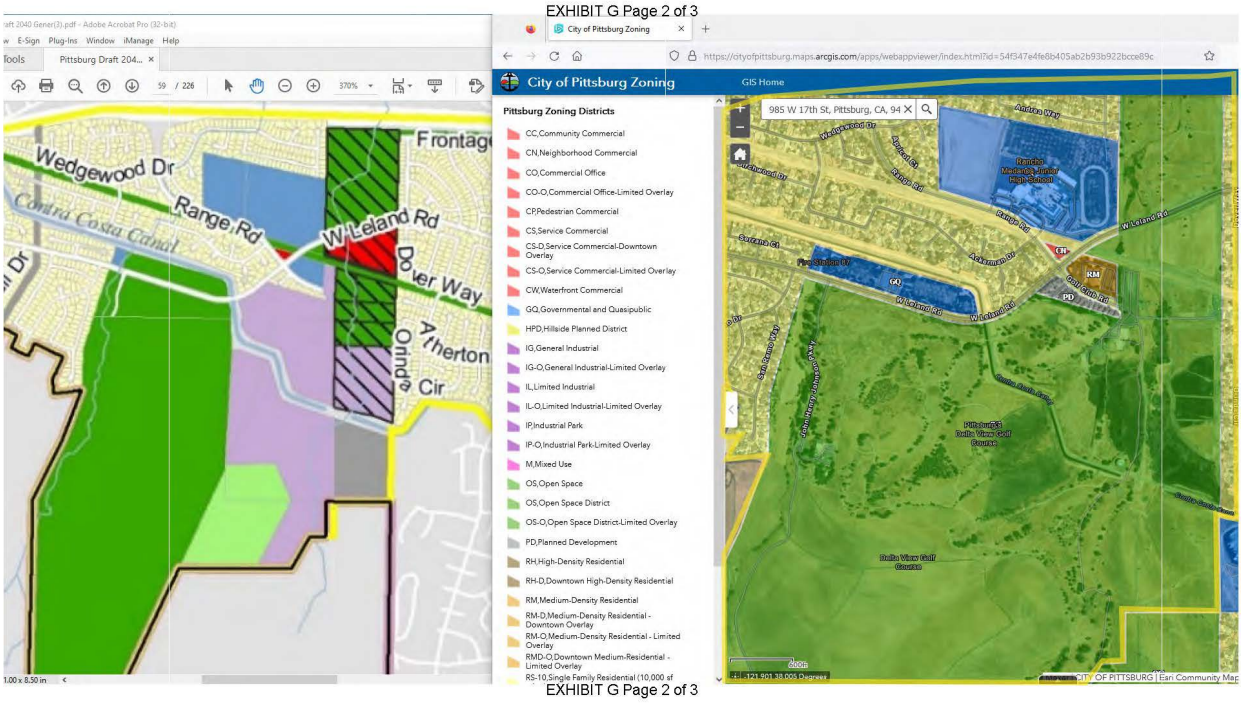


EXHIBIT G Page 2 of 3

EXHIBIT G Page 3 of 3

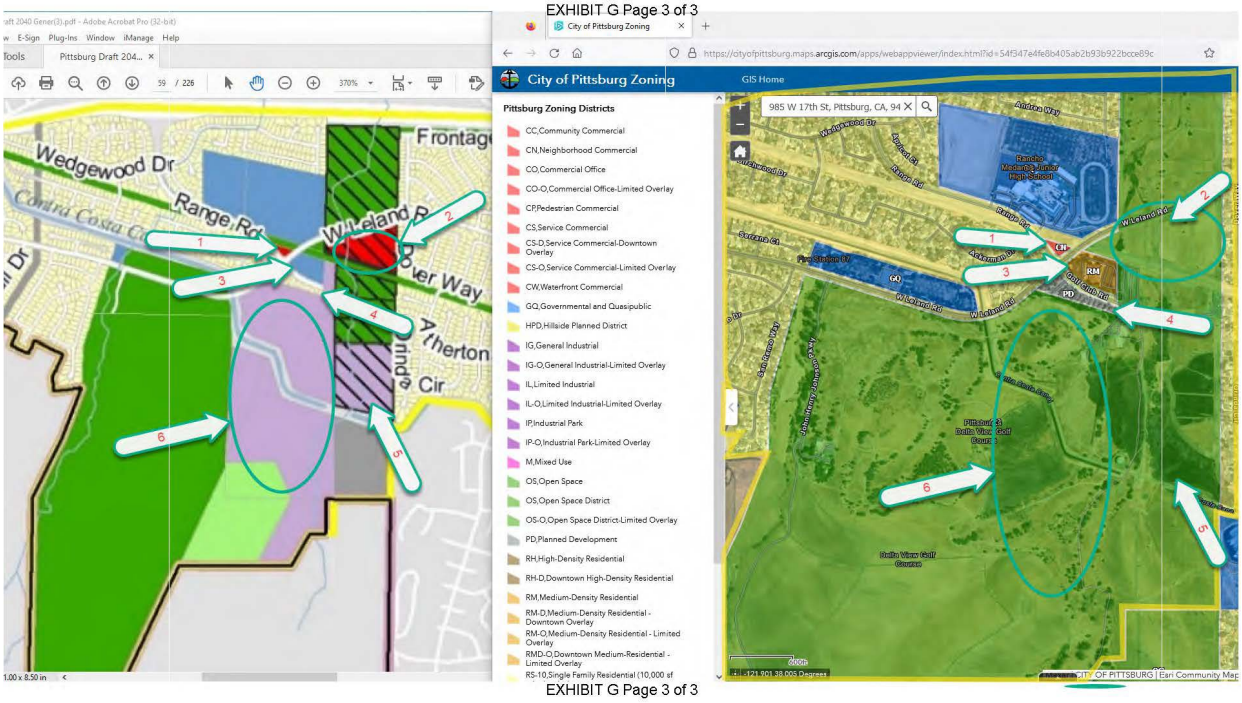


EXHIBIT G Page 3 of 3

# Exhibit H

EXHIBIT H Page 1 of 1

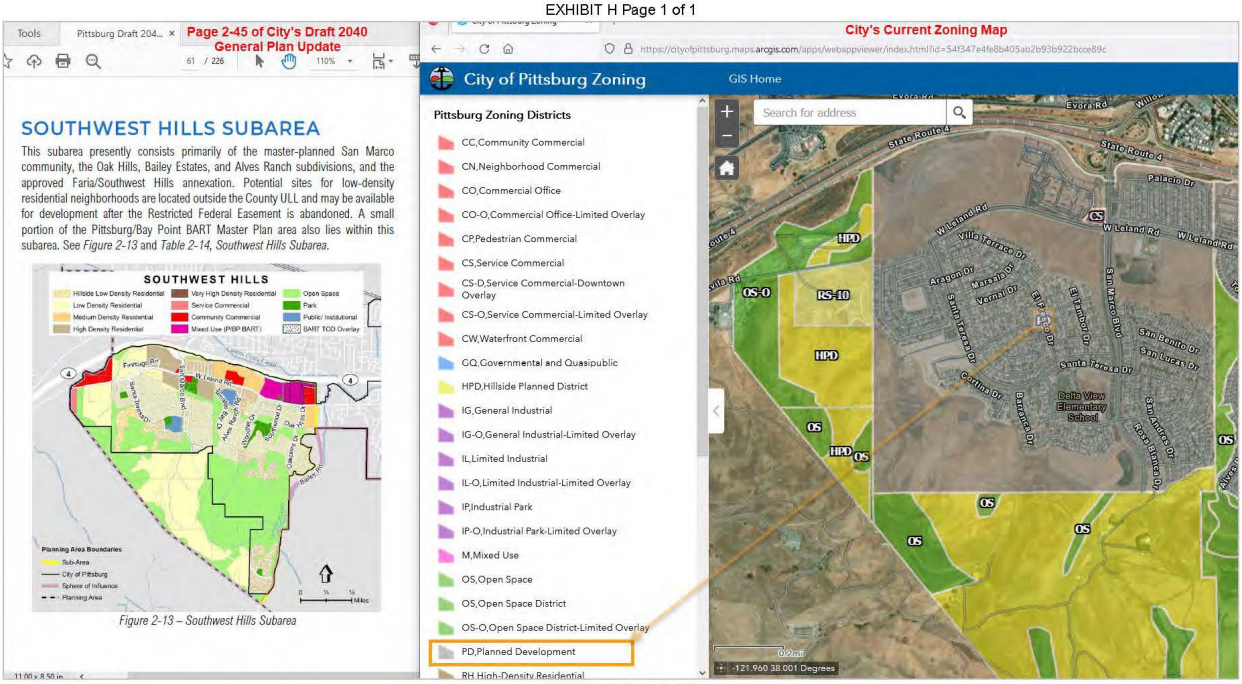


EXHIBIT H Page 1 of 1

## Response to Letter L: Pittsburg Unified School District

**Response L-1:** The commenter provides introductory statements to the comment letter. No response to this comment is necessary.

**Response L-2:** The commenter states the increase in residential units resulting from residential units that are part of current housing projects and the proposed General Plan Update could increase the number of students to 27,583, and the PUSD facilities do not have capacity to serve these incoming students. The commenter also states that the General Plan does not reserve land for Pittsburg Unified School District (PUSD) school sites. The commenter provides questions that the PUSD evaluates when serving incoming students and states that the proposed General Plan and the Draft EIR do not assist in answering any of these questions. The commenter further describes the PUSD process for facilities planning and the challenges faced during the process.

The General Plan is required by law. (See Government Code, Section 65300 ["Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning."].) The 2040 General Plan serves to meet the City's obligation in this regard. The City cannot decline to prepare a General Plan.

As stated on page 2.0-15 of Chapter 2.0, Project Description, of the Draft EIR, approximately 15,576 new residential units would be accommodated under General Plan buildout conditions. This new growth would result in a population increase of approximately 20,470 persons, assuming 3.34 persons per household based on U.S. Census 2016-2020 American Community Survey household size data. It is noted that the number of students would be significantly less than this total increased population estimate. As shown in Table 2.0-1 on page 2.0-9 of the Draft EIR, a total of 1,182.3 acres of Public/Institutional land uses would be accommodated by the Land Use Map. The proposed Land Use Map is shown in Figure 2.0-3. Additionally, a query of the Assessor Parcel database identified 27 APNS for the PUSD, including 228.8 developed acres and 6.8 undeveloped acres, as well as one vacant Antioch Unified School District (AUSD) site of 13.6 acres, and six APNs for the Mt. Diablo Unified School District (MDUSD) (two of which are in the City, and four of which are in the Sphere of Influence) with 81.9 developed acres and 11.3 undeveloped acres. Based on Contra Costa County Assessor's data, the school districts within the Planning Area total 342.4 acres. Further, the City's Zoning Code allows public and private schools in all residential zones and all commercial zones, except the Pedestrian Commercial district, as well as in the Mixed Use district. Table 2-1 in the proposed 2040 General Plan has been updated to clarify that schools are allowed in all residential, commercial and public/institutional land use designations.

As noted on pages 3.13-22 and 3.13-23 of Section 3.12, Public Services and Recreation, as the demand for services increases, there will likely be a need to address acceptable service ratios, class sizes, and other performance standards. New or expanded school structures will be needed to provide for adequate staffing, equipment, and appropriate facilities to serve growth in the City. Existing school facilities could be expanded at their current location. New facilities may also be constructed in various land use designations throughout the City. The Public/Institutional land use designation would accommodate the majority of new school facilities necessary to provide school services. Additionally, as noted above, schools are allowed in all residential, commercial, and public/institutional land use designations. There would likely be environmental impacts associated with the construction or expansion of the facilities needed to provide this public service. However, state law (California Government Code Section 65996)

identifies the payment of school impact fees as providing full and complete mitigation of a project's potential impact on school facilities. As such, a project cannot be denied on the basis that existing school facilities are inadequate. Each school district is responsible for implementing specific methods for mitigating school impacts under California Government Code Section 65996. Therefore, each subsequent developer would be required to comply with California Government Code Section 65996, through payment of developer impact fees, and potential impacts to school facilities would be deemed fully mitigated.

The school districts in the Planning Area are anticipated to identify the preferred methods to accommodate growth, including siting new schools and expanding existing schools. It would be speculative for the City to pre-determine where these developments and expansions would occur.

Land Use Element Policy 2-P-2.2 supports ensuring new neighborhoods include a mix and distribution of land uses, such as schools, parks, and other uses. Policy 2-P-2.10 permits places of public assembly, including schools, in residential areas where such non-commercial uses will have minimal impact on the surrounding neighborhood. Policy 2-P-3.6 supports the inclusion of daycare and school facilities, along with other family-oriented uses in or near residential areas. The Recreation & Youth Element includes Goal-9-6 and supporting policies and actions to ensure that school facilities maintain capacity for current and projected enrollment, to cooperate with local school districts to explore funding sources for new school facilities and programs and to identify possible sites for the construction of new school facilities, and to ensure the new development pays applicable school fees and that the City works with developers and the school districts to ensure adequate school and related facilities will be available.

The proposed 2040 General Plan designates land in the City for long-term growth and the Draft EIR analyzes buildout of the General Plan. This buildout is not anticipated to occur during the 2040 planning period of the General Plan (2040) and development under the General Plan will occur based on demand for housing, economic conditions, and other factors outside of the control of the City. It is anticipated that service providers, such as PUSD, will review their master plans to determine whether adjustments should be made to accommodate growth allowed under the 2040 General Plan.

Further, the proposed General Plan includes policies and actions pertaining to educational facilities planning and funding, including but not limited to:

> 9-P-6.1: Ensure that school facilities maintain adequate capacity to provide for current and projected enrollment.
>
> 9-P-6.2: Work with Pittsburg Unified School District, Mount Diablo Unified School District, and Antioch Unified School District to ensure that the timing of school construction and/or expansion is coordinated with phasing of new residential development.
>
> 9-P-6.3: Work cooperatively with local school districts to explore all local and State funding sources to secure available funding for new school facilities and programs and to identify possible sites for the construction of new school facilities.
>
> 9-P-6.4: Cooperate with local school districts to develop joint school/park facilities, which provide an increased variety of recreational opportunities close to many residential areas. Additionally, work with school districts to develop public parks adjacent to school facilities.

9-A-6.a: As part of development review for residential subdivisions, require new development to pay applicable school and public facility impact fees and work with developers and the school districts to ensure that adequate school and related facilities will be available.

It is noted that, while the majority of the residential units that could be developed in the Planning Area in the future, consistent with the proposed 2040 General Plan, would be located in the boundary of the PUSD, some of the residential units would be located in the boundaries of the Antioch Unified School District (AUSD) and Mt. Diablo Unified School District (MDUSD). As such, not all of the students generated in the Planning Area as a result of future buildout of the residential uses would go to PUSD schools.

**Response L-3:** The commenter requests that the City reserve PUSD school sites and include policies, actions, and standards for such uses which authorize the City to require a subdivider to reserve sites for PUSD's use as a condition of approval of future tentative maps.

The commenter indicates that new elementary school sites are needed to keep up with the influx of students and requests to partner with the City in locating suitable elementary sites or, at a minimum, ensuring future development is subject to agreements with the commenter to provide for funding in advance of the issuance of building permits.

As discussed in Response L-2, the 2040 General Plan includes a range of policies in support of schools. Land Use Element Policy 2-P-2.2 supports ensuring new neighborhoods include a mix and distribution of land uses, such as schools, parks, and other uses. Policy 2-P-2.10 permits places of public assembly, including schools, in residential areas where such non-commercial uses will have minimal impact on the surrounding neighborhood. Policy 2-P-3.6 supports the inclusion of daycare and school facilities, along with other family-oriented uses in or near residential areas. The Recreation & Youth Element includes Goal-9-6 and supporting policies and actions to ensure that school facilities maintain capacity for current and projected enrollment, to cooperate with local school districts to explore funding sources for new school facilities and programs and to identify possible sites for the construction of new school facilities, and to ensure the new development pays applicable school fees and that the City works with developers and the school districts to ensure adequate school and related facilities will be available.

Further, the 2040 General Plan allows schools in the Public/Institutional land use designation as well as in all residential, commercial, and mixed use land use designations, providing a variety of opportunities for future school sites. The 2040 General Plan is not intended to be a master plan for schools and it is anticipated that the school districts will continue to update their master plans to address projected growth.

Two General Plan Actions were added to the 2040 General Plan. Action 9-A-6.b states the following: "As part of the development application review process, require developers to explore and consider subsequent mitigation agreements with the Pittsburg, Antioch, and Mount Diablo Unified School Districts to determine specific mitigation and phasing requirements for future schools." Action 9-A-6.c states the following: "Work cooperatively with the Pittsburg, Antioch, and Mount Diablo Unified School Districts to study further the requirements for the siting of schools, based on student generation rates, necessitated by residential development projects."

See Response L-2 regarding the amount of Public/Institutional, commercial, and residential land uses that would be accommodated by the Land Use Map. As noted on pages 3.13-23 and 3.13-24 of Section 3.13

of the Draft EIR, the 2040 General Plan includes a range of policies to ensure that public services are provided in a timely fashion, are adequately funded, are coordinated between the City and appropriate service agency, and that new development funds its fair share of services.

This comment has been forwarded to the decision-makers for their consideration.

**Response L-4:** The commenter provides feedback regarding the proposed General Plan policies and actions and questions whether General Plan Community Health & Environmental Justice Goal 8-1 and Recreation & Youth Goals 9.4 and 9-6 related to education can be achieved without the designation of land for schools. The commenter states that they appreciate the Draft EIR has been prepared to evaluate the environmental impacts associated with implementation of the proposed General Plan with the purpose of fully informing decision-makers and the general public of the potential environmental consequences of approval and implementation of the General Plan.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response L-5:** The commenter discusses the Draft EIR impact discussion pertaining to school facilities and cites the proposed General Plan policies and actions pertaining to school facilities. The commenter states that the Draft EIR provides that all potential impacts to school facilities are deemed fully mitigated by the developer's payment of school impact fees pursuant to Government Code section 65996 as providing full and complete mitigation of a project's potential impact on school facilities, but the commenter disagrees with this conclusion.

Impacts related to school facilities are discussed on pages 3.13-22 through 3.13-24 of Section 3.13, Public Services and Recreation, of the Draft EIR. As discussed, new school facilities may be needed to serve growth contemplated in the 2040 General Plan. The environmental effect of providing public services, including school services, is associated with the physical impacts of providing new and expanded facilities. The specific impacts of providing new and expanded facilities cannot be determined at this time, as the General Plan does not propose or authorize development, nor does it designate specific sites for new or expanded public facilities. Any such analysis therefore would be entirely speculative, and CEQA does not require analysis of speculative impacts. Moreover, the school facilities would be primarily provided on sites with land use designations that allow such uses or are intended for urbanization and the environmental impacts of constructing and operating the governmental facilities would likely be similar to those associated with new development, redevelopment, and infrastructure projects under the 2040 General Plan. For example, operational and construction noise would increase as school facilities are expanded. Additionally, water demands, wastewater generation, and solid waste generation would increase as school facilities are developed to serve new development. Further, development of school facilities could result in removal of habitat for special-status species and/or disturbance of cultural resources sites. These impacts are described in the relevant chapters (Chapters 3.1 through 3.16, and 4.0) of the Draft EIR. Any future development under the 2040 General Plan would be required to comply with regulations, policies, and standards included in the General Plan, and would be subject to CEQA review as appropriate. Furthermore, payment of developer impact fees as required by state law would fully mitigate impacts related school facilities resulting from the development of future projects accommodated by the 2040 General Plan.

The analyses for police department facilities, fire department facilities, and recreational facilities is similar to the analysis for school facilities because future growth planned by the proposed 2020 General Plan would require new or expanded public services. The environmental impacts of these public services facilities are discussed throughout the Draft EIR as they are part of the overall future buildout potential of the Planning Area.

Please see Response L-2 regarding impacts to school facilities discussed in the Draft EIR.

**Response L-6:** The commenter states the Draft EIR must study indirect impacts on parts of the physical environment that are not school facilities. The commenter discusses the *Chawanakee Unified School Dist. v. County of Madera* (2011) 196 Cal.App.4th 1016, 1028.)("*Chawanakee*") case. For the *Chawanakee* case, the EIR in question was prepared for a project that proposed to develop 1,574 acres in the County of Madera ("County") into a mix of residential, commercial, light industrial, open space, recreational and other public uses ("Project"). The Project's 5,200 dwelling units were estimated to accommodate approximately 13,850 people, including 3,200 school-aged children; thus, requiring new school facilities, two elementary schools and, possibly, one junior high school.[2]

Plaintiff (the local school district) argued, inter alia, that the EIR failed to comply with CEQA because it failed to analyze the Project's direct impacts on existing school facilities as well as indirect impacts on school facilities caused by the Project. The County argued that Senate Bill 50's addition of the word "considering" limited a lead agency's responsibility to identify, analyze and evaluate all school-related environmental impacts, whether directly or indirectly caused by the Project.

The court rejected the school district's contention that the County violated CEQA because the EIR lacked analysis of impacts to "existing school facilities that will be forced to accommodate hundreds of students beyond current overcrowded conditions". Senate Bill 50's addition of the word "considering" "obviates the need for an EIR to contain a description and analysis of a development's impacts on school facilities".

On the other hand, the court found that SB 50's substitution of the phrase "on school facilities" for "related to school facilities" narrowed the exemption. While "related to" required consideration of "both direct effects on school facilities and indirect effects on parts of the environment other than school facilities" "the prepositional phrase 'on school facilities' limits the type of impacts that are excused from discussion . . . to the adverse physical changes to the school grounds, school buildings and 'any school-related consideration relating to a school district's ability to accommodate enrollment". Therefore, the court held, the indirect impacts on the physical environment that are caused by a Project's school facilities (other than school facilities themselves), must be considered. For example, traffic impacts caused by students driving (or bussing) to and from the facility and impacts to noise and air quality caused by the construction of school facilities must be considered in order to comply with CEQA.

The *Chawanakee* case differs from the proposed 2040 General Plan in that *Chawanakee* was a project-level EIR, not a program EIR like the proposed Draft EIR. The project type for this case is also different from the proposed 2040 General Plan, which does not propose any development (unlike the Chawanakee

[2] UN Environment Programme, Law and Environment Assistance Platform. "CHAWANAKEE UNIFIED SCHOOL DISTRICT, Plaintiffs and Appellants v. COUNTY OF MADERA et al., Defendant and Respondent and RIO MESA HOLDINGS, LLC et al., Real Parties in Interest and Respondents." Accessible here: https://leap.unep.org/en/countries/us/national-case-law/chawanakee-unified-school-district-plaintiffs-and-appellants-v

case project). It is noted that the *Chawanakee* case included a specific development project with specified school sites; the proposed 2040 General Plan is a programmatic, long-term planning document that does not entitle individual development projects and does not establish new school sites. As a result, any analysis of potential impacts relating to unknown school sites here would be speculative, which CEQA does not require.

The indirect impacts resulting from the proposed 2040 General Plan, including the increase in students are part of the overall programmatic analysis provided for the 2040 General Plan and are discussed throughout the Draft EIR. See Responses L-7 through L-9.

The proposed 2040 General Plan Land Use Map provides sites that can accommodate schools, but does not specify schools where specifically schools will occur as that would be speculative for the City to determine. School districts typically look at 5- to 10-year forecasts, as is the case with the PUSD Master Facilities Plan, to determine characteristics of the local population, current student generation trends, and facility needs.

While the General Plan provides multiple land use designations that can accommodate schools, it would be speculative for the City to determine where future school sites will be. The facilities planning effort is a separate planning effort to be carried out by the PUSD. However, the Draft EIR addresses the impacts of the residential and non-residential development associated with implementation of the General Plan and does account for student travel. Vehicle trips associated with students are accounted for in the Contra Costa Transportation Authority Travel Demand Model, which TJKM used to analyze VMT and traffic impacts from the 2040 General Plan Update.

As noted previously, the environmental impacts of the school facilities at a programmatic level are discussed throughout the Draft EIR as they are part of the overall future buildout potential of the Planning Area. Air quality is discussed in Section 3.3 Air Quality, Noise is discussed in Section 3.12, Noise, and traffic is discussed in Section 3.14, Transportation and Circulation.

**Response L-7:** The commenter discusses the California Code of Regulations, Title 14, Sections 15064(d) and 5358(a)(2) and states that the Draft EIR failed to fulfill its informational purpose because it did not disclose all potential indirect environmental impacts to the non-school physical environment caused by the Proposed General Plan. The commenter describes the limited options for districts facing overcrowding concerns. The commenter further states that the options for overcrowding will affect traffic and noise levels, air quality, loss of greenspace and/or play areas.

As noted above, the indirect impacts resulting from the increase in students, included in the non-residential development projections discussed in Chapter 2.0, Project Description, of the Draft EIR, are discussed throughout the Draft EIR. This includes impacts related to land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems. Air quality is discussed in Section 3.3 Air Quality, Noise is discussed in Section 3.12, Noise, and traffic is discussed in Section 3.14, Transportation and Circulation. The air quality and noise analysis accounts for operation and construction resulting from future buildout in the Planning Area. The traffic section discusses operational VMT, as well as bicycle, pedestrian, and transit improvements.

**Response L-8:** The commenter states the City did not analyze short-term impacts resulting from the lack of coordination between the timing of residential development and construction of the schools that would be needed within PUSD's boundaries.

The short-term analysis of impacts associated with pipeline projects, including the demand of those projects on services, are discussed throughout the Draft EIR. For example, short-term construction noise and construction-related air quality emissions are discussed in Sections 3.12 and 3.3 of the Draft EIR, respectively. The impacts to school facilities resulting from the pipelines projects are not evaluated separately; instead, these pipeline projects are part of the overall development accommodated by the General Plan.

The Draft EIR for the 2040 General Plan Update is a program EIR. As stated on pages 1,0-2 and 1,0-3 of Chapter 1.0, Introduction, of the Draft EIR, CEQA Guidelines Section 15168 states:

> "A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:
>
> 1) Geographically;
> 2) As logical parts in the chain of contemplated actions;
> 3) In connection with issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or
> 4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

The program-level analysis considers the broad environmental effects of the proposed project. The EIR will be used to evaluate subsequent projects and activities under the proposed project.

The EIR is intended to provide the information and environmental analysis necessary to assist public agency decision-makers in considering approval of the proposed project, but not to the level of detail to consider approval of subsequent development projects that may occur after adoption of the General Plan.

Additional environmental review under CEQA may be required for subsequent projects and would be generally based on the subsequent project's consistency with the General Plan and the analysis in this EIR, as required under CEQA. It may be determined that some future projects or infrastructure improvements may be exempt from environmental review. When individual subsequent projects or activities under the General Plan are proposed and are subject to CEQA, the lead agency that would approve and/or implement the individual project will examine the projects or activities to determine whether their effects were adequately analyzed in this program EIR (CEQA Guidelines Section 15168). If the projects or activities would have no effects beyond those disclosed in this EIR, no further CEQA compliance would be required.

The EIR does not entitle projects. and discuss what CEQA requires for a programmatic EIR. A project-level EIR generally focuses on the environmental changes caused by a development project, including planning, construction, and operation. A program EIR, on the other hand, generally looks at the broad

policy of a planning document, i.e., a general plan, and may not address potential site-specific impacts of the individual projects that may fall within the planning document.

It is noted that the City provided multiple opportunities for public input on the development of the Draft Land Use Map. The Land Use Alternatives were presented to stakeholders at a meeting for initial feedback and recommendations regarding community input. The City held two community workshops, in April 2021, to receive feedback on the Land Use Alternatives. Following public review and input on the Land Use Alternatives, the City held three joint Planning Commission/City Council workshops to provide additional opportunities for public comment and to refine the Draft Land Use Map. The joint workshops resulted in development of an additional alternative (Alternative D) for consideration and culminated with identification of the Draft Land Use Map that is analyzed in the Draft EIR and included in the Draft General Plan. The General Plan Update process is further described on pages 2.0-1 through 2.0-4 of the Draft EIR. The PUSD did not submit a letter on the Notice of Preparation for the Draft EIR and, thus, did not identify any school facilities issues that should be considered in the Draft EIR.

**Response L-9:** The commenter states the Draft EIR did not include any information about sequencing or phasing of development despite that timing is directly related to the indirect impact analysis. The commenter also states that the Draft EIR assumed that all residential construction would take place gradually and funding for school sites would match that timeline. The commenter further states that the City assumes that PUSD will have located, purchased, and constructed suitable neighborhood schools at the same time the need arises.

The proposed 2040 General Plan does not dictate the speed at which a City is developed nor does it require or estimate phasing of future projects. Future development consistent with the proposed Land Use Map would be largely market-driven and full buildout is not anticipated to occur by 2040. The proposed 2040 General Plan has been revised to explicitly state that 2040 is not the buildout year, but rather a horizon year for planning purposes. The proposed 2040 General Plan has also been revised to note that buildout could occur over a much longer period and is based on a number of factors, including the economy, demand for housing, interest rates, and developer and property owner interest, that are outside of the City's control. This is similar to the City's 2020 General Plan, adopted in 2003. As discussed in the Chapter 5.0, Alternatives, of the Draft EIR, the current General Plan (Alternative A) still has capacity remaining for 7,591 units although it has a horizon year of 2020 with a total planned increase of 12,400 housing units based on the total approved and proposed housing units identified in Table 2-5 of the 2020 General Plan.

As discussed on page 1.0-3 of Chapter 1.0, Introduction, of the Draft EIR, the program-level analysis considers the broad environmental effects of the proposed project. This EIR will be used to evaluate subsequent projects and activities under the proposed project and subsequent projects and activities will be required to perform project-level analysis. This EIR is intended to provide the information and environmental analysis necessary to assist public agency decision-makers in considering approval of the proposed project, but not to the level of detail to consider approval of subsequent development projects that may occur after adoption of the General Plan.

The EIR evaluates the anticipated development that could occur within the Planning Area if every parcel in the city developed at the densities and intensities expected under the proposed General Plan. While no specific development projects are proposed as part of the General Plan Update, the General Plan will

accommodate future growth in Pittsburg, including new businesses, expansion of existing businesses, and new residential uses.

The EIR does not anticipate buildout within 17 years (as stated by the commenter). The year 2040 is not the buildout year of the General Plan; rather, 2040 is the planning horizon year and the General Plan will provide guidance for future development in the next approximately 17 years. The General Plan will need to be updated around the year 2040 to reflect then-current conditions.

As discussed on page 3.10-1 of Section 3.10, Land Use Planning and Population/Housing, of the Draft EIR, Pittsburg's early growth centered around industrial development. The growth of the Bay Area has brought many changes to the Pittsburg region, including residential, commercial development and marina development. Pittsburg has grown outward from the downtown area since the 1990s. Residential development continues in the southwestern portion of the City, generally south of Leland Road. Infill commercial development continues to occur along SR-4. The expansion of BART to serve Pittsburg, with the Bay Point Station opening in 1996 and the Pittsburg Center station opening in 2018, has encouraged transit-oriented development, including new retail, commercial offices, restaurants, and residential uses around the stations.

As discussed on pages 3.10-9 and 3.10-10, from 1980 to 2000, the City's population increased by 72 percent from 33,034 to 56,769 persons. During the 2000s and 2010s, Pittsburg experienced population growth increasing by approximately three percent per year from 56,769 in 2000 to 72,541 persons in 2019. Similarly, Contra Costa County's total population increased by approximately 22 percent during the 2000s and 2010s. Between 1980 and 2019, Pittsburg's population growth rate averaged 3.1 percent per year, while that of Contra Costa County is an average of 1.9 percent per year.

Households have increased at a rate slower than Pittsburg's population. Households increased by 60 percent between 1980 and 2000 (compared to 72 percent for the population) and by 19 percent between 2000 and 2019 (compared to 28 percent for the population). Over the years, the average household size has fluctuated slightly with a high of 3.14 persons per household in 2019 and a low of 2.97 persons per household in 1980. In recent years, household size has increased slightly with an average of 3.2 persons per household in 2010 and 3.42 persons per household in 2019.

As noted on page 3.10-16 of the Draft EIR, California General Plan law requires each city and county to have land zoned to accommodate a fair share of the regional housing need. The share is known as the Regional Housing Needs Allocation (RHNA) and is based on a Regional Housing Needs Plan (RHNP) developed by councils of government. The Association of Bay Area Governments (ABAG) is the lead agency for developing the RHNP for the nine-county Bay Area. Pittsburg's fair share allocation of the adopted RHNA for 2023-2031 is summarized in Table 3.10-6 in Section 3.10 of the Draft EIR.

The City is not required to ensure that adequate development to accommodate the RHNA occurs; however, the City must facilitate housing production by ensuring that land is available and that unnecessary development constraints have been removed.

It is not anticipated that future development of the Planning Area, in accordance with the proposed Land Use Map, will be expedited due to the 2040 General Plan but rather that the mix of housing types and affordability levels will better meet the City's needs; instead, the EIR addresses buildout of the Planning Area (whenever that may occur).

As noted previously, the school districts in the Planning Area are anticipated to identify their preferred methods to accommodate growth, including siting new schools and expanding existing schools. It would be speculative for the City to pre-determine where these developments and expansions would occur.

Please also note that PUSD has been included in the City's planning efforts so that PUSD can plan for the growth anticipated by the General Plan. That way, the PUSD can make its own decisions regarding best methods to address growth and timing of its future actions.

**Response L-10:** The commenter describes the PUSD's lack of funding and the costs of construction that the PUSD faces. The commenter states that school impact fees generally only pay for about one-third of the cost of anticipated new schools.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response L-11:** The commenter states that there were between 9,735 - 9,741 residential houses/units that were part of current housing projects that were "pending approval, approved or under construction." The commenter further states that the Draft EIR provides no information regarding phasing of timelines of these projects. The commenter states that these pending, approved or under construction would result in 19,492 students. The commenter concludes that the Draft EIR will result in an additional 27,538 students.

Please see Response L-2. As discussed, the new growth resulting from General Plan buildout would result in a population increase of approximately 20,470 persons, assuming 3.34 persons per household based on U.S. Census 2016-2020 American Community Survey household size data. It is noted that a portion of the 20,470 persons would be students. As also discussed in Response L-2, while the majority of the residential units that could be developed in the Planning Area in the future, consistent with the proposed 2040 General Plan, would be located in the boundary of the PUSD, some of the residential units would be located in the boundaries of the AUSD and MDUSD. The Draft EIR analyzes direct and indirect environmental impacts of the increase in students (included in the population projections in Chapter 2.0, Project Description).

The pending, approved or under construction projects would be operational in the next zero to five years, most likely.

**Response L-12:** The commenter describes the Residential Development Research Report Fall 2024 completed by a consultant hired by the PUSD and summarizes the findings regarding new additional students resulting from the City's pipeline projects (i.e., pending, approved, and under construction projects in the City). The commenter concludes that the 2040 General Plan does not set aside land for the PUSD to purchase and plan for students that will be generated by projects planned for and encouraged in the General Plan.

All pending, approved or under construction projects undergo a separate environmental review, independent from the 2040 Pittsburg General Plan Draft EIR. As part of this separate review for approved and under construction projects, compliance with CEQA was required and, where appropriate, the potential to result in project-level impacts related to school facilities were considered as part of the project-level CEQA document.

It is noted that, as previously stated, the General Plan anticipates that school development can occur in a range of land use designations (i.e., the Public/Institutional land use designation, all residential zones, all commercial zones except the Pedestrian Commercial district, as well as in the Mixed Use district). Additionally, the local school districts will determine where they can increase capacity at existing sites, develop their land. As noted previously, a query of the Assessor Parcel database identified 27 APNS for the PUSD, including 228.8 developed acres and 6.8 undeveloped, as well as one vacant Antioch Unified School District (AUSD) site of 13.6 acres, and six APNs for the Mt. Diablo Unified School District (MDUSD) (two of which are in the City, and four of which are in the Sphere of Influence) with 81.9 developed acres and 11.3 undeveloped acres. Further, Further, the City will work with the PUSD and developers to designate additional sites when feasible. While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response L-13:** The commenter describes the findings of an analysis of enrollment projections conducted by the PUSD firm.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response L-14:** The commenter provides information regarding the total projected unhoused students through 2033. The commenter discusses PUSD's projected capacity and facility needs through 2033 (it is noted that PUSD's projections identify that in 2033 elementary schools will be under capacity by 90 students, junior high schools will be over capacity by 272 students, and high schools will be under capacity by 14 students based on the PUSD's actual capacity in 2022. The commenter also references the PUSD Facilities Master Plan, which includes a profile, site assessment analysis, classroom count, and student capacity analysis, proposed projects, and costs assessment for each of its schools.

As discussed in Response L-16, the Contra Costa Transportation Authority (CCTA) Travel Demand Model used in the analysis for the Circulation Element and determining VMT impacts include land use data that account for school trips associated with the 2040 General Plan. Please see Response L-16 for further discussion. The VMT analysis and traffic volumes completed for the Project were then utilized to complete the operational noise analysis. Further, the VMT analysis was also utilized to complete the air quality and greenhouse gas analysis. Because the VMT analysis and traffic volumes account for the school trips, the indirect impacts relative to school trips were also accounted for in the noise, air quality, and greenhouse gas analysis.

**Response L-15:** The comment requests a meeting with the City's Planning Department to explore the designating/reserving at least three of these nine sites as available for development as school sites in the General Plan.

As noted previously, pursuant to Government Code Section 65995 et. seq. and Education Code Section 17620 et. seq., school districts are authorized to levy fees on new residential and commercial-industrial development to fund the school facilities necessary to accommodate the students from new development.

As part of the stakeholder outreach completed as part of the 2040 General Plan Update, the City has met with the PUSD to discuss collaborating on future residential development. The City has also included two additional actions to address this comment, including:

Action 9-A-6.b: As part of the development application review process, require developers to explore and consider subsequent mitigation agreements with the Pittsburg, Antioch, and Mount Diablo Unified School Districts to determine specific mitigation and phasing requirements for future schools.

Action 9-A-6.c: Work cooperatively with the Pittsburg, Antioch, and Mount Diablo Unified School Districts to study further the requirements for the siting of schools, based on student generation rates, necessitated by residential development projects.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response L-16:** The commenter states that that the PUSD will be required to accommodate new students at existing schools, which means existing students will have to travel farther to get to a different school, and fewer students will be able to bike or walk to school. The commenter states that this will increase vehicle-miles-traveled (VMT), greenhouse gas emissions, and air pollution. The commenter also discusses travel safety for new students.

It is acknowledged that with additional development within the City, it will be necessary to adjust school attendance boundaries, plan for funding and construction of new school facilities, and accommodate a growth in student population. Higher density housing allowed under the 2040 General Plan could result in more homes be built closer to existing schools site and future development in currently undeveloped areas may result in homes being built farther from existing school sites; PUSD can update its Master Plan to determine whether to increase capacity at existing sites, develop school facilities on its parcels that do not currently have schools, acquire additional land, and make adjustments to enrollment boundaries for PUSD to reduce the distance that students would need to travel to/from schools and to determine whether the district should develop plans beyond the 5- and 10-year growth projections in its current Master Plan. The CCTA Travel Demand Model used in the analysis for the Circulation Element and determining VMT impacts includes land use data that account for school trips associated with the proposed 2040 General Plan. The Model splits the added population into various age categories. One such group is population ages 5-18, which serves as a way to factor in elementary, middle, and high school enrollment numbers in their respective travel analysis zones. The CCTA Travel Demand Model includes a separate school enrollment attributes (a grade school/middle school attribute and a high school attribute) in the land use file. To account for the increase in student trips associated with the proposed 2040 General Plan, TJKM increased the school enrollment numbers to be proportional to the growth in the school aged population. The VMT data from the transportation analysis is then considered in the air quality and greenhouse gas emissions analyses and the trips data from the transportation analysis is considered in the noise analysis.

The proposed Safe Routes to School and Neighborhood Traffic Calming programs called for in the Circulation Element would allow each school to be studied individually to identify potentially hazardous locations for all modes of transportation and remediate them through physical improvements.

The following proposed 2040 General Plan policy and actions pertain to Safe Routes to Schools and traffic calming:

> 7-A-3.g: Implement a Safe Routes to School program which will aim to protect the safety of students walking and biking to school.
>
> 7-A-1.e: Use traffic calming tools and speed reduction strategies in new development and the design of roadway improvements to assist in implementing complete street principles; possible tools include roundabouts, raised intersections, curb extensions, reduced roadway width, and high visibility crosswalks.
>
> 7-P-1.6: Design streets to operate with vehicle speeds that are safer for all users, especially pedestrian and bicyclists, while providing adequate access for emergency vehicles. Speed reductions strategies should include reduced lane widths and application of traffic calming measures on local and collector streets and especially near parks, schools, trails, and in the Downtown core.

Additionally, the Transportation Demand Management (TDM) plan that is developed can include school-specific TDM strategies, such as school carpool programs.

The following proposed 2040 General Plan policy and actions pertain to TDM:

> 7-P-2.6: Endorse Transportation Demand Management (TDM) strategies to reduce reliance on single-occupancy trips and commuter traffic.
>
> 7-A-2.j: Adopt a citywide TDM plan to encourage vehicle trip reduction at employment sites, businesses, schools, and multi-unit residential facilities by 15 percent or more during commuter peak periods, and dedicate staff to work closely with communities throughout the City on ongoing education and encouragement efforts.
>
> 7-A-2.k: Encourage developers to provide enhanced TDM programs and alternative transportation infrastructure that exceeds minimum requirements, as per 7-A-2.j, in exchange for reduced parking requirements, with a focus on priority development areas and locations in proximity to high capacity transit.
>
> 7-A-2.l: Review and consider opportunities to reduce transportation impact fees on new non-residential development commensurate with provision of TDM measures, where TDM measures will reduce demands on transportation system and where reductions are feasible. Project proponents taking advantage of reductions must agree to adopt and implement specified TDM measures and monitoring practices as a condition of project approval.

**Response L-17:** The commenter states the indirect impacts of the cumulative impacts of noise, intense increases in density, lack of public services and traffic and circulation were not fully studied. The commenter concludes that it may be that feasible mitigation for these impacts will be identified.

As noted in Response L-16, the CCTA Travel Demand Model used to determine VMT impacts includes land use data that account for school trips within the Planning Area. The Model splits the added population into various age categories. One such group is the 5-18 category, which serves as a way to factor in elementary, middle, and high school enrollment numbers in their respective travel analysis

zones. The VMT data from the transportation analysis is then considered in the noise analyses. Chapter 4.0, Other CEQA-Required Topics, of the Draft EIR analyzes cumulative impacts related to noise, land use, public services, and transportation. The impacts of public services are based on the potential physical effects to the environment, as described in Section 3.13. Physical effects to the environment would occur from development of new and expanded facilities; these impacts are addressed in Section 3.13 as well as in the relevant sections of the Draft EIR addressing the individual (Chapters 3.1 through 3.16) and cumulative (Chapter 4.0) CEQA topics.

**Response L-18:** The commenter provides comments regarding the General Plan document.

The commenter also states that three schools, Stoneman Elementary School, Willow Cove Elementary, and Pittsburg Adult Education Center, are not included in Table 3.13-7 of the Draft EIR. The three schools have been added to the Table 3.13-7 of the Draft EIR. See Chapter 3.0 of this Final EIR for the changes to the text.

The commenter requests the following pertaining to the proposed 2040 General Plan:

"Within the proposed General Plan Subareas there appear to be changes in zoning and/or land use designations on land that PUSD owns as noted below. We request that all zoning / land use changes to PUSD land be specifically and openly addressed in the DEIR and proposed General Plan.

- West Leland Subarea there is a directive to "Implement internal Planning Staff Procedures to: Allow Low Density Residential uses on the designated school site along Range Road, if it is not needed for public school facilities." [Proposed General Plan, pg. 2-43.] The environmental impacts of this revision do not appear to have been studied in the DEIR.
- East Leland Subarea: The District's Harbor Street property is currently zoned "GQ Governmental & Quasipublic" as noted on the City's GIS zoning map but the proposed General Plan reflects this property as "Medium Density Residential." [See, proposed General Plan, pg. 2-32, Figure 2-8.] It is unknown whether the impacts of this revision was studied. (See, Exhibit D.)
- Railroad Subarea: The District Office is zoned Planned Development on the City's GIS zoning map and in the proposed General Plan (page 2-30, Figure 2-7) it is identified as Mixed Use. (See, Exhibit E,)
- Within the proposed General Plan Subareas there appear to be at least two places where PG&E corridors Conversion Overlays are depicted. The District was informed that once the undergrounding of PG&E transmission lines takes place, these large swaths of Open Space will be zoned to accommodate residential development. Has this revision been accounted for in the DEIR and will it revise the residential unit calculations and thus the District's student generation rates?

    a. West Central Subarea: Proposed General Plan, pg. 2-40 (Figure 2-11). (See Exhibit F.)

    b. West Leland Subarea: Proposed General Plan, pg. 2-42 (Figure 2-12).(See Exhibit G.)

- Within the Southwest Hills Subarea it appears that land has been dedicated for a school. On page 2-46 of the proposed General Plan, in the Southwest Hills Subarea under the title "Goal-2-15: Attract higher-end, low-density residential uses," Action 2-A-15.c provides:

- "Maintain dedication of one school site and three neighborhood park sites." The current zoning map reflects that this area is zoned Planned Development. (See Exhibit H.) Please identify what steps were taken to secure this dedication and what steps should be taken for the District to secure school site dedications."

The following bullet points address the comments related to potential changes to PUSD land:

- West Leland Subarea: If the designated school site along Range Road is determined to not be needed for public school facilities, City staff would initiate the planning process for the redesignate the site for Low Density Residential uses under the General Plan, including analysis under CEQA of the environmental effects of the change. Action 2-A-14.a has been revised to clarify that the City will consider this change.
- East Leland Subarea: The Medium Density Residential designation allows for school uses and is consistent with the GQ zoning. The "P" denoting a potential future park location has been removed from Figures 2-1 and 2-8 in the proposed 2040 General Plan.
- Railroad Subarea: The comment regarding the zoning and General Plan designation of the PUSD District Office is noted. The General Plan did not anticipate changes to the use at this location and school facilities are allowed within the Mixed Use designation.
- PG&E Conversion Overlay: The land uses shown within the PG&E Corridor Conversion Overlay on Figures 2-1, 2-11, and 2-12 of the 2040 General Plan are conceptual and do not include residential uses; future allowed uses, densities, and land use intensities would be determined in the future by a corridor conversion plan as described in Table 2-1 of the General Plan. Analysis of the environmental effects of the uses along this corridor would occur as part of the corridor conversion planning effort.
- Southwest Hills: There were two sites identified for schools as part of the San Marco Master Plan planning process. The Delta View Elementary School has been developed by MDUSD. The remaining dedicated site is located at southwest of the Alves Ranch Road and Ashbridge Drive intersection. This site is not presently listed as a development site, but is owned by MDUSD.[3]

The commenter further request the following pertaining to the Draft EIR itself: (1) a map of each school district be included; (2) Figure 3.12-1 includes a key reflecting which schools are associated with which school districts; (3) a map of all current residential pending, approved, under construction and completed projects be included which also shows the schools in the area; (4) the Draft EIR include a table of appendices; (4) the Draft EIR include technical material set forth in the appendices; (5) the proposed 2040 General Plan does not include Appendix A even though this appendix is discussed on page 2-2; and (6) a lay person explanation of Table 2-2 be provided.

Regarding Item 1, a map showing the school district boundaries has been added to Section 3.13 of the Draft EIR. See Chapter 3.0 of this Final EIR for the map. The 2040 General Plan Draft EIR is revised to include Figure 12-2, which identifies school district boundaries and school sites in the context of the Land Use Map.

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[3] See: https://lpamasterplans.com/mt-diablo-usd-fmp/wp-content/uploads/sites/4/2019/06/14-MtDiabloES-FINAL.pdf

Regarding Item 3, The City maintains its projects in the Project Pipeline page of the City's website. The Draft EIR considers buildout of the proposed 2040 General Plan and has been revised to include a map showing school district boundaries. The proposed 2040 General Plan is revised to include a figure showing PUSD, MDUSD, and AUSD boundaries and school locations in the context of the Land Use Map. The City has included the PUSD on a contact list for new projects and the City will continue to coordinate with the PUSD regarding future residential projects in the Planning Area.

Regarding Item 4, the Draft EIR Table of Contents including the list of Appendices is added to the Draft EIR and is included in Chapter 3 (Errata) of this Final EIR.

Regarding Item 5, Appendices A and B are included as part of the Draft EIR. The transportation analysis is incorporated by reference into the Draft EIR. The VMT data requested by the commenter has been added to the Draft EIR and is included in Chapter 3, Errata, of this Final EIR.

Regarding Item 6, Table 2-2 of the proposed 2040 General Plan identifies which of the City's existing Zoning Districts are consistent with the 2040 General Plan land use designations. Each of the rows shows a mark for the zoning districts that implement the land use designation addressed by the row. The proposed 2040 General Plan is revised to replace the reference to Appendix A with "Table 2-2."

**Response L-19:** The commenter provides concluding statements to the comment letter. No response to this comment is necessary.

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February 9, 2024

**VIA EMAIL [jfunderburg@pittsburgca.gov]**

John Funderburg
Assistant Director of Community and
Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Re: Comments on 2040 Pittsburg General Plan and Draft EIR

Dear Mr. Funderburg:

We write on behalf of our client, Integral Communities ("Integral"), to provide comments on the Draft Environmental Impact Report ("DEIR") for the 2040 Pittsburg General Plan ("Proposed General Plan"). Integral commends the City of Pittsburg ("City") for its comprehensive approach to long-range planning and analysis of environmental impacts. As the proponent of the Bay Walk Mixed Use Project (the "Bay Walk Project"), Integral strongly supports DEIR Alternative C, which would ensure that the Proposed General Plan Land Use Map reflects the long-pending Bay Walk Project. We urge the City to adopt Alternative C (identified as the Environmentally Superior Alternative) in conjunction with certifying the EIR and approving the Proposed General Plan.

Integral first began discussions with City Staff regarding the Bay Walk Project in 2020 and submitted a formal application for it in 2021. As you know, portions of the Bay Walk Project site were formerly occupied by the Pittsburg Power Plant. The Bay Walk Project will include demolition of existing structures and remediation of contaminated soils and groundwater. Currently, it is anticipated that the Bay Walk Project will result in the development of a range of uses including approximately 1,800 residential units, approximately 10 acres of commercial and/or mixed-use designations, and various park, recreation, and open space areas. It is envisioned that Project implementation would occur in three phases, with development occurring generally from the southwest to the northeast parts of the Bay Walk Project site. M-1

Integral is also the proponent of the pending Harbor View Project, consisting of approximately 227 units (20 multi-family/live-work units and 207 single-family units). That project is included in the City's Housing Sites Inventory and noted by the Housing Element to be consistent with the Proposed General Plan.

The DEIR states that the Proposed General Plan will accommodate future growth in the City, including new residential growth, new commercial development, and expansion of existing businesses. Within the City and its Sphere of Influence, the Proposed General Plan could result in

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development of up to 15,576 residential units and approximately 26 million square feet of retail, office, industrial and other non-residential uses.[1] The DEIR identifies significant unavoidable impacts to Air Quality, Greenhouse Gas Emissions, Noise, Transportation and Circulation, and Utilities.

In accordance with CEQA Guidelines Sections 15152, 15168, and 15183, the DEIR correctly notes that the City will use the EIR as the basis for determining potential environmental effects and the appropriate level of environmental review, if any, of subsequent development proposals. Examples of successive projects include, among others, future Specific Plan, Planned Unit Development, or Master Plan approvals; Development Plan approvals, such as Tentative Subdivision Maps and other land use permits; Development Agreements; Rezonings consistent with the General Plan; and permit issuances and other approvals necessary for public and private development projects. (DEIR, p. 2.0-16.) The Bay Walk Project would require a number of these entitlements and thus qualify as a successive project. But, in order for the Bay Walk Project to benefit from such streamlining and avoid the need for an unnecessary General Plan amendment, it would need to be consistent with the ultimately approved General Plan. M-1 cont'd

Alternative C (the Reduced Intensity Alternative) would revise the Proposed General Plan Land Use Map to reflect the long-pending Bay Walk Project. (DEIR, p. 5.0-19.) This modification affects approximately 1,000 acres and would place more emphasis on residential land uses, open space preservation, and brownfields remediation. (*Id.*) This alternative was developed to potentially reduce the severity of less than significant impacts related to Biological Resources, Public Services and Recreation, and Utilities and to reduce significant impacts associated with Air Quality; Greenhouse Gases, Climate Change, and Energy; and Transportation and Circulation. (DEIR, p. 5.0-20.)

The DEIR correctly observes that Alternative C would meet all of the basic project objectives, including (among others): maintaining and enhancing Pittsburg's character; ensuring a variety of housing is available to accommodate current and future housing need allocations; providing for high-quality employment opportunities; providing recreation, entertainment, shopping, restaurants and services for City households; conserving natural resources; and addressing environmental effects, including methods to adapt to the effects of a changing climate and sea level rise. The DEIR identifies Alternative C as the Environmentally Superior Alternative. M-2

We did wish to point out a few technical corrections in the discussion of Alternative C. The Bay Walk Project is pending, not "previously approved" or "under development," as indicated on DEIR page 5.0-20. Similarly, remediation of hazardous contaminants at the former PG&E Pittsburg Power Plant site would be completed more quickly under the Bay Walk Project than under the currently Proposed General Plan or Alternatives. Please revise the text on page 5.0-20 to reflect

[1] Note, the figures for City residential development and total non-residential development in Tables 4.0-3 and 4.0-4 on pages 4.0-5 and 4.0-6 of the DEIR do not appear to be consistent.

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these factors. Also, please revise the text on page 5.0-21 to accurately reflect that Alternative C has the "lowest" score, not the "highest" score. (*See* Table 5.0-8 at DEIR, p. 5.0-22.)

In Figure 5.0-1 (Alternative C-Reduced Intensity), the proposed developed portions of the Bay Walk Project site are listed as Bay Walk Development. It would also be necessary to add a land use description of "Bay Walk Development" to the land use designations in the Proposed General Plan. (*See*, *e.g.*, DEIR, Tables 2.0-1 and 2.0-2.) The Bay Walk Development designation could be described as a mixture of residential, non-residential and/or mixed-use, park, open space, and/or recreational uses as determined and described through a site-specific Specific Plan and Planned Unit Development. M-2 cont'd

In closing, Integral commends the City for its forward-thinking and long-range planning efforts. Integral very much looks forward to working with the City on entitling and implementing the Bay Walk Project in accordance with DEIR Alternative C. We urge the City to adopt Alternative C in conjunction with certifying the EIR and approving the Proposed General Plan. The Bay Walk Project has long been planned and proposed for the site, and the Proposed General Plan should accordingly account for it. M-3

Thank you for your consideration of Integral's views on this matter. Please do not hesitate to contact the undersigned or Kevin Fryer at (925) 899-5065 with any questions regarding this correspondence.

Very truly yours,

RUTAN & TUCKER, LLP

Matthew D. Francois

MDF:mc

cc: Kevin Fryer, *via email*
Hans Van Ligten, *via email*
Gordon Hart, *via email*

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## Response to Letter M: Rutan & Tucker, LLP (Integral Communities)

**Response M-1:** The commenter expresses support for Alternative C of the Draft EIR and discusses the details of the Bay Walk Project. The commenter states that the Draft EIR identifies significant unavoidable impacts to Air Quality, Greenhouse Gas Emissions, Noise, Transportation and Circulation, and Utilities. The commenter states that the Bay Walk Project would be a successive project but would require a General Plan amendment.

The commenter correctly summarizes the significant unavoidable impacts resulting from the proposed Project General Plan. A statement of overriding considerations would be completed for the proposed General Plan.

This comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response M-2:** The commenter describes Alternative C, states that this alternative would meet all of the basic project objectives, and states that this alternative is the environmentally superior alternative. The commenter also provides technical corrections in the discussion of Alternative C, including:

1. The Bay Walk Project is pending, not "previously approved" or "under development," as indicated on Draft EIR page 5.0-20.
2. Remediation of hazardous contaminants at the former PG&E Pittsburg Power Plant site would be completed more quickly under the Bay Walk Project than under the currently Proposed General Plan or Alternatives.
3. Revise the text on page 5.0-21 to accurately reflect that Alternative C has the "lowest" score, not the "highest" score.
4. In Figure 5.0-1 (Alternative C-Reduced Intensity), the proposed developed portions of the Bay Walk Project site are listed as Bay Walk Development. It would also be necessary to add a land use description of "Bay Walk Development" to the land use designations in the Proposed General Plan. The Bay Walk Development designation could be described as a mixture of residential, non-residential and/or mixed-use, park, open space, and/or recreational uses as determined and described through a site-specific Specific Plan and Planned Unit Development.

The first, third, and fourth corrections suggested above were made to Chapter 5.0, Alternatives, of the Draft EIR. See Chapter 3.0 of this Final EIR for the changes to the text.

Regarding the second correction, page 5.0-20 of the Draft EIR states the following: "…remediation of hazardous contaminants at the former PG&E Pittsburg Power Plant area could be completed more quickly than under the proposed Project, Alternative A, or Alternative B due to the pending Bay Walk project. As such, impacts related to the routine transport, use, or disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (Impact 3.8-1) could be reduced under this alternative." This sentence has been revised to clarify that remediation could be completed more quickly under Alternative C than under the proposed Project, Alternative A, or Alternative B due to the pending Bay Walk project.

**Response M-3:** The commenter provides concluding statements to the comment letter. No response to this comment is necessary.

**John Funderburg**

**From:** S L Floyd <sl.floyd@yahoo.com>
**Sent:** Friday, February 9, 2024 2:12 AM
**To:** John Funderburg
**Subject:** Review of general plan update Pittsburg 2024

**External Sender: Use caution before opening links or attachments**

I thank you for the opportunity to review "The Draft GP and EIR" Mr.Funderburg . After reading through the report in its entirety.
The focus in a larger percentage according to the numbered columns on table 3 square footage for none residential shows total 26,089,499.
The focus in a smaller percentage according to the numbered columns on table 1 for land use for residential designations by acreage shows total 5,234.9.
Should that be studied in greater depth in order that we look at measures to resolving our need for affordable housing and or needed housing? What is being shown is an "off balancing"in order that we have a closer equal effect in work ability and dwelling ability in the geographical location together.
Is it that we are looking at this is if we have the over abundance in economics through our allow job opportunities then we can afford the magnified coast for a home ?Which is a false vision when we haven't calculated the additional costs economically that is required to have a home with additional economic requirements. N-1
Let us look at resolving the housing need through balance of the basic need dwelling and job with a greater equal human effect. If we are to encourage our community in taking action in all the other healthy benefiting measures that is being planned for us to live by in order that we live our greatest life in this beautiful city of trees we need to take great focus on availability of balanced priced housing and jobs as one vision because without this need fulfilled every other planning measures will not be needed or matter if people haven't a home and job so that they may live in harmony and peace with each other.

Thank you for your time and focus regarding this great matter.

Sincerely Mr. Floyd S.L.

1

## Response to Letter N: S.L. Floyd

**Response N-1:** The commenter references the amount of residential acreage and non-residential development identified in the Draft EIR and asks whether that should be looked at in greater depth regarding the need for housing and affordable housing, as well as allowing job opportunities in relation to the location of homes and cost of homes.

The 2040 General Plan was prepared to increase the variety of housing types, as discussed in more detail in the 6th Cycle Housing Element (City of Pittsburg, May 2023). As shown in Table 2.0-3 of the Draft EIR, the 2040 General Plan would accommodate approximately 15,576 residential units, including approximately 6,445 single family units, 9,111 multifamily units, and 20 live/work units, and approximately 26,089,499 square feet of non-residential development. The environmental effect of the General Plan, including development of these uses, is addressed in the Draft EIR.

The commenter's recommendation to look at resolving the housing need through balancing the basic needs of dwelling and jobs, including considering the price of housing, to ensure people have a home and job is noted. The 2040 General Plan is intended to promote a greater variety of housing types, as discussed in more detail in the City's 6th Cycle Housing Element (a separate document), and increase jobs in the City as indicated by the commenter.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

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2024

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Janice Li
8TH DISTRICT

Bevan Dufty
9TH DISTRICT

February 9, 2024

John Funderburg, Assistant Director of Community and Economic Development
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
jfunderburg@pittsburgca.gov

RE: Comments to the draft General Plan Update and Environmental Impact Report

Dear Mr. Funderburg,

Thank you for the opportunity to provide comments to Pittsburg's draft General Plan Update and Environmental Impact Report. Congratulations on completing this major milestone. Please find our comments and suggestions below for your consideration.

We would like to begin by summarizing baseline zoning standards set by state law through Assembly Bill (AB) 2923 for BART-owned land around the Pittsburg/ Bay Point and Pittsburg Center stations. They are both classified as "Neighborhood/ Town Center" transit-oriented development (TOD) place types and as such, have all the requirements as indicated in Table 1:

*Table 1: AB 2923 Baseline Zoning Standards*

| Standard | AB 2923 baseline requirements |
|---|---|
| Residential density | 75 dwelling units (DU)/per acre allowed |
| Building height | 5 stories allowed |
| FAR | 3.0 allowed |
| Vehicle parking minimum | No minimums for any use |
| Shared and unbundled vehicle parking | No prohibitions |
| Residential vehicle parking maximum | No more than 1 space per DU |
| Office vehicle parking maximum | No more than 2.5 spaces per 100,000 square feet |
| Residential bike parking minimum | At least one Class 1 (secure, protected from elements) parking space per dwelling unit |

O-1

In addition to state law for BART's property, BART's *2017 Transit-Oriented Development Guidelines* identifies Table 1's zoning standards as **targets for the half-mile radius** around the Pittsburg/ Bay Point and Pittsburg Center Stations. Many of Table 1's standards align with MTC's Transit-Oriented Communities (TOC) Policy, for which local alignment will be required to be eligible for discretionary funding. This level of zoning and parking requirements is the minimum needed to support rail transit service, as confirmed in numerous studies and academic research, and to justify the region's investment in stations at these locations.

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There are a few areas in the draft General Plan Update in which more clarity and precision would be advised.

- Table 2-1, which identifies residential density and FAR standards by sub-area, has the following inconsistencies about zoning:
  - The Mixed Use (P/BP BART) indicates that it includes "the Pittsburg/ Bay Point BART station parking lot" and has a maximum residential density of 65 DU/acre and maximum non-residential FAR of 1.0. This does not conform with AB 2923 baseline zoning standards.
  - Mixed Use (Railroad Avenue) indicates that it is zoned to "support the City Center BART station" but has a maximum residential density of 65 DU/acre and maximum non-residential FAR of 1.0. This does not conform with AB 2923 baseline zoning standards for BART-owned property. Additionally, this level of density does not support rail service.
  - BART TOD Overlay does indicate conformance with AB 2923 baseline standards for residential density and FAR for BART-owned parcels but seems to conflict with the Mixed Use (P/BP BART) zoning that specifically includes BART's parcels.
  - **Suggestion**: Zone the one half-mile around the Pittsburg/ Bay Point and Pittsburg Center BART stations to meet or exceed all standards identified in Table 1 in this letter.
- Goal 2-9, focused on Railroad Avenue Specific Plan, specifies Action 2-A-9.a, which refers to updating the City's Zoning Ordinance and Railroad Specific Plan to allow AB 2923 Baseline Zoning Standards for density, building height, FAR, and parking. There appears to be no similar action identified for Pittsburg/ Bay Point BART Station.
  - **Suggestion**: Create a similar action as Action 2-A-9.a for the Pittsburg/ Bay Point BART Station, as required by law. O-2
- Pittsburg Center BART Station is referred to variously throughout the document by its proper name, "City Center BART Station", "Pittsburg City Center station", etc.
  - **Suggestion**: Be consistent by using "Pittsburg Center BART Station" throughout General Plan Update documents.
- Actions 6-A-2.a and 7-A-2.k refer to reduced parking standards near transit stations. However, AB 2097 and MTC's TOC policy require the elimination of parking minimums for development located within one half-mile of transit stations.
  - **Suggestion**: Eliminate parking minimums for development in the one half-mile around the Pittsburg/ Bay Point and Pittsburg Center BART Stations, as required by law.
- BART relies on our partner jurisdictions to provide safe and high-quality multimodal access options to and from our stations. We are concerned that the General Plan Update specifies vehicle level of service (LOS) D in Policy 7-P-1.7 for transportation impact analyses without similarly specific measures for walking, biking, and transit.
  - **Suggestion**: Identify walking, biking, and transit policies in the General Plan Update at the same level of specificity as Policy 7-P-1.7 as well as an overarching policy that guides decision making when and where modal performance targets are at odds with one another.
  - **Suggestion**: Identify an action to develop multimodal transportation impact analyses based on best practices. Resources, such as the Institute of Transportation Engineers' *Multimodal Transportation Impact Analysis of Site Development* and Caltrans' *Improving Livability Using Green and Active Modes: A Traffic Street Level Analysis of Transit, Bicycle, and Pedestrian Access and Mobility*, can assist with this effort.

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It is important to note that BART's TOD Program Work Plan identifies timelines for station areas where we will work with local jurisdictions to advance development on BART-owned and/or operated land. While Pittsburg/ Bay Point and Pittsburg Center BART stations had been identified in BART's *2020 TOD Program Work Plan* for developer solicitation in the mid-term (2025-2030) timeframe, our decision to advance development rests, in part, on TOD supportive zoning. We do not see evidence of TOD supportive zoning in this General Plan Update, which is concerning as the City has included both the Pittsburg/ Bay Point and Pittsburg Center BART station areas in its 2023-2031 Housing Element sites inventory. It is crucial that the City takes the opportunity during this General Plan Update process to set clear policy goals that meaningfully prioritize development and multimodal access around its BART stations to its highest and best use. O-3

We would appreciate a written response to our comments that we can share with our partners at the Metropolitan Transportation Commission and the state's Department of Housing and Community Development as we work closely with them on a variety of initiatives.

If you have further questions, please feel free to reach out to me by email (kparks2@bart.gov) or phone (510-817-5901).

Sincerely,

DocuSigned by:
Kamala Parks
BE6D472C994D468...

Kamala Parks
Principal Planner – Station Area Planning

cc: Val Joseph Menotti, BART, Chief Planning and Development Officer
Tim Chan, BART, Station Area Planning Group Manager
Carli Paine, BART, TOD Program Manager
Paul McDougal, Senior Program Manager, California Department of Housing and Community Development
Kara Vuicich, Principal Planner, Regional Planning Program, Metropolitan Transportation Commission

## Response to Letter O: San Francisco Bay Area Rapid Transit

**Response O-1:** The commenter summarizes the baseline zoning standards for Assembly Bill (AB) 2923 and notes that BART's 2017 Transit-Oriented Development Guidelines identifies the standards as targets for the half-mile radius around the Pittsburg/Bay Point and Pittsburg Center stations, noting that many of the commenter's Table 1 (AB 2923). The commenter states that this level of zoning and parking requirements is the minimum requirement needed to support rail transit services.

This comment is noted.

**Response O-2:** The commenter provides recommended changes to the General Plan, such as changes to goals, policies, and actions, and changes to City zoning. The commenter states that the Mixed Use designation does not conform with AB 2923 baseline zoning standards. The BART TOD Overlay is applied to all parcels required to conform with AB 2923 baseline zoning standards. Where the BART TOD Overlay is applied, it will require conformance with AB 2923 standards.

The commenter also recommends that one-half mile around the Pittsburg/Bay Point and Pittsburg Center BART stations be zoned to meet or exceed standards identified in Table 1 of their letter (AB 2923 standards). AB 2923 is applied to BART-owned parcels and not to all parcels within ½-mile of a BART station. This recommendation to modify the land use designation and zoning within ½-mile of each BART stations is noted and proposed General Plan actions (Action 2-A-9.a and Action 2-A-15.a) related to updating the City's Zoning Ordinance, Railroad Avenue Specific Plan, and Pittsburg/Bay Point BART Master Plan have been revised to consider increasing density within ½-mile of the BART stations similar to the AB 2923 standards. While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response O-3:** The commenter provides recommended changes to the General Plan to create an action to allow AB 2923 baseline zoning standards for the Pittsburg/Bay Point BART station. The proposed 2040 General Plan has been revised to include Action 2-A-15.a to update the Zoning Ordinance and Pittsburg/Bay Point BART Master Plan to be consistent with AB 2923.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response O-4:** The commenter provides recommended changes to the General Plan, including recommending that references to the Pittsburg Center BART Station be "Pittsburg Center BART Station" rather than other variations throughout the General Plan. References are revised as recommended in the proposed 2040 General Plan. The commenter also recommends that the City eliminate parking minimums for development in the one-half mile radius around the BART stations. Proposed 2040 General Plan Action 2-A-9.a and Action 2-A-15.a have been revised to address revising parking standards in the Zoning Ordinance, Railroad Avenue Specific Plan, and Pittsburg/Bay Point BART Master Plan to be consistent with State law, including AB 2097.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response O-5:** The commenter provides recommended changes to the General Plan to address safe and high-quality multi-modal access options to and from BART stations. Proposed Policy 7-P-1.7 has been revised to address the potential for vehicle level of service requirements to conflict with safe and efficient pedestrian and bicycle travel. Proposed Policy 7-P-2.3 has been revised to further support transit use through specifying safe and convenient access, including pedestrian and bicycle facilities, to transit service. Proposed Policy 7-P-3.1 has been revised to address ensuring safe and convenient access active transportation modes to key destinations in the City, including the waterfront, Downtown, City Hall, schools, public and community services, and transit stops and stations.

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, this comment is noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.

**Response O-6:** The commenter provides conclusionary statements to the comment letter. No response to this comment is warranted.

SAN FRANCISCO
BAYKEEPER®

February 9, 2024

Transmitted Via Electronic Mail
John Funderburg
Asst. Director of Community and Economic Development
City of Pittsburg
jfunderburg@pittsburgca.gov

***Comments by San Francisco Baykeeper on Pittsburg's Draft 2040 General Plan and Draft EIR***

Dear Mr. Funderburg:

Thank you for the opportunity to comment on the Draft 2024 General Plan and Draft EIR. We submit these comments on behalf of San Francisco Baykeeper. Baykeeper is a California non-profit organization and submits these comments on behalf of its approximately 5,000 members and supporters who live and/or recreate in and around the San Francisco Bay Area. Baykeeper's mission is to defend San Francisco Bay from the biggest threats and hold polluters and government agencies accountable to create healthier communities and help wildlife thrive. P-1

**General Plan's Land Use, Safety, and Community Health and Environmental Justice Goals and Policies**

This General Plan sets lofty goals to support core values for the future planning decisions of the City. This is a necessary and commendable step, but it is not sufficient on its own. The actions needed to ensure that the policies are implemented and the goals are met are lacking, absent, inadequate, or incomplete. And in certain areas where actions are identified or underway, those actions do not align with the goals and policies. Based upon the City's newly adopted Housing Element, its zoning decisions, and the City's failure to adequately assess and then use the best available scientific evidence and research to inform decisions, these lofty goals are at risk of remaining aspirational. P-2

Goal 2-2

This Goal states the city will "continue to work with the U.S. Environmental Protection Agency and California Department of Toxic Substances Control to understand remediation requirements and development potential of brownfield sites and create a plan to remediate and revitalize the highest infill potential areas." (Draft General Plan at p. 2-8.)

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This is important and necessary, but Pittsburg should not leave to state or federal regulators to ensure that its residents are and remain safe from the risks posed by these contaminated sites. The California Department of Toxic Substance Control (DTSC) is still drafting their final procedure to handle remediation of toxic sites in SLR impacted areas, meaning that SLR and groundwater rise impacts have not been and are not being evaluated on these sites. Relying on DTSC to protect residents, when DTSC has not begun the necessary work to set standards for evaluating the relevant and real risks, places the interests of developers ahead of the people who will be impacted.

Rather than rely on DTSC, and gamble that current and future residents will be safe, in evaluating toxic site clean ups and redevelopment the City should ensure that exposure to pollutants can be maintained as it is stated on page 8-2 of the environmental justice element (subject to our comments on this goal below).

We understand Pittsburg has an extensive industrial past; however, toxic sites that are not fully remediated to protect future residents should not be considered viable housing options. And if Pittsburg is going to rely on DTSC or EPA, it should then work on those agencies' timelines rather than make decisions now with the hope that EPA or DTSC will have a robust plan in the future to justify today's choices. If Pittsburg is relying on DTSC, it needs to wait. If Pittsburg wants to move forward with redevelopment quickly, it needs to set its own standards for ensuring sites are adequately remediated. P-2 cont'd

Environmental Justice Policy 8-P-2.2

This Goal explains that the City's policy is to consider the impact of pollutants and exposure to toxic materials and their impacts on disadvantaged communities. But the Action related to this policy merely requires that development projects "ensure" that "exposure to pollutants, including toxic air contaminants, and unacceptable levels of noise and vibration *are reduced to the extent feasible*." (p. 8-7, italics added.) Reducing exposure to toxic materials during remediation and development of former industrial sites, like the proposed General Plan changes to the North Central River Sub Area, "to the extent feasible" does not ensure that residents and disadvantaged communities will be protected from these harms. Indeed, the North Central River Sub Area is identified as a census tract that is more impacted by pollution than 4 in 5 census tracts in the state. (p. 8-3, Figure 8-1.) This Action will not serve the policy or environmental justice goals espoused by the City in the General Plan.

The City should change this language to ensure that all development projects "ensure that there is no exposure to humans or the environment of any legacy pollutants or contaminants of concern at the project site after remediation and development."

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Land Use Policy 2-P-6.6

This Policy states to "ensure—through a combination of on- and off-site mitigation—that new development results in no net loss of wetlands." (p 2-23)

This statement is not in congruence with the housing element or the land use zoning along the shoreline. This is most evident in the zoning changes to the North Central River Sub Area. Instead of allowing this area to be used as a natural barrier to mitigate SLR and groundwater inundation as climate impacts increase, moving forward with development will expose more than a thousand new residents to sea level rise and put hundreds of millions of dollars of property at risk. With only about ten percent of the original wetlands remaining around the Bay, keeping these natural buffer lands is essential to having a resilient community and allowing shorelines to adapt in the midst climate change. Building on current wetlands is a disservice to your community and to the environment due to the many beneficial services they provide.

In constructing or filling wetlands around San Francisco Bay, there is little "on-site" mitigation available. And where mitigation is to occur "on-site," it is better to avoid causing harm in the first place than to cause harm and hope to make up for it in some other way. And off-site wetlands mitigation is also a net detriment to the community, even if the total wetlands around the Bay are not reduced because of Pittsburg's decisions to fill existing wetlands. The existing wetlands, and nearby areas where they could be expanded, will help to make Pittsburg more sustainable in the future as the impacts of sea level rise occur. Filling those wetlands and replacing them in other places eliminates the benefit those wetlands provide to residents and communities. Ultimately, wetlands in Pittsburg are not interchangeable for people, wildlife, or the Bay, with wetlands in Redwood City or Alameda. Pittsburg should ensure that it focuses on protecting greenspaces and existing wetlands, not just trying to mitigate for the consequences of getting rid of them. P-2 cont'd

Baykeeper supports infill development. But development requiring filling wetlands at a toxic site in an area projected to be inundated with groundwater or in sea level rise bands raises a host of difficult questions and concerns. The City should address these questions before adopting zoning changes or changes to the General Plan that will allow for this development to occur, not just make the changes and then hope everything works out in the end.

Policy 11-P-2.4

This Policy states "as feasible support and prioritize adaptation through green infrastructure and natural measures (e.g., wetland/marsh/habitat restoration, greenspaces, fire resistant landscaping etc.) that build capacity to adapt to rising tides and provide for sequestration." (p 11-5)

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Again, we commend this as a goal. However, there is little to indicate how and whether this policy will be prioritized, especially given current proposed plans and zoning changes along the shoreline. Relevant Actions need to be identified and taken which will ensure that the Policy is implemented in a way that will protect these resources. Otherwise, this is simply a recitation of buzz words designed to provide the appearance of smart actions.

Policy 11-P-3.2

This policy states to "integrate flooding and sea level rise projections into the City's infrastructure planning, disaster preparedness activities, and policies and regulations to inform the public of the future hazard areas, assess and address potential impacts to future development, inform future planning and building requirements, plan for opportunity areas for adaptation, and inform funding and financing decisions about short- and long-term adaptation projects." (p 11-7)

The city currently does not possess a comprehensive projection of surface and groundwater flooding to inform these policy decisions. UC Berkeley researchers Plane, Hill, and May have documented the relationship between sea level rise (SLR) and emergent groundwater. Emergent groundwater is a SLR-induced threat; therefore, these risks must be evaluated together to produce an accurate and comprehensive assessment of risk. P-2 cont'd

Research demonstrates that as much as twice the amount of urban land may be at risk of flooding when SLR-induced rise of groundwater is included in coastal flooding projections. This risk is wholly unanalyzed throughout the city.

To accurately portray flooding risk, groundwater emergence and the impacts of SLR, we suggest the use of predicted modeling studies of shallow groundwater aquifers on a citywide scale. Used on this scale, the risk of flooding can be accurately determined, and adequate planning measures can be taken to ensure the safety of this community and the environment.

**The General Plan's Analysis of the North Central River Sub Area**

We are concerned about the City's decision to approve zoning changes in the General Plan without the requisite study, knowledge, and actions identified to ensure that development of the site as envisioned in the general plan can be sustainable and safe.

We support the City's professed goal and policy to ensure that existing wetlands, such as those located in the Northwest River Sub Area and in the North Central River Sub Area, are preserved, in promoting greenspace and multi-beneficial green infrastructure projects and development, and in using these natural resources of recreational and educational opportunities.

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Moreover, additional public access to Suisan Bay and the Sacramento River is also a laudable objective. Highlighting the diverse ecosystems and geography of the City and using them to educate the public about the benefits of wetlands and natural resources will help the City, the Bay, and the community exist more sustainably.

Given the policies and goals the City hopes to achieve, as well as the objective of ensuring that redevelopment of the site meet DTSC requirements, the lack of actions related to those goals is glaring. There are no actions identified with respect to North Central River Sub Area to ensure that future residents are protected from the existing toxins that are at the site.

Moreover, the decision to move forward with rezoning this Sub Area in the general plan, before knowing the risks, remediation approaches, and without study of groundwater and sea level rise impacts on the site, gets the process backward. The City should be following the science and evidence, not making decisions now in the hopes they will be correct, logical, or scientifically sound in the future. The City should not approve, allow, or create a path to developing these areas unless and until there is sufficient analysis of the potential impacts and whether they can be adequately remediated.

P-2 cont'd

Further, while a significant portion of the North Central River Sub Area is set to remain as open space or greenspace, the development slated for the site, especially the residential areas, are planned for areas that are currently inundated during king tide events. (See Baykeeper Letter re: Scoping comments by San Francisco Baykeeper on the proposed Bay Walk Mixed Use Project NOP EIR, March 1, 2023 [a copy of this letter is attached for your reference].) Going farther than proposed in the Bay Walk project is even more problematic.

In addressing the alternatives in its Draft EIR for the General Plan, the City considered a "reduced density" alternative which would match the zoning for this Sub Area with the Proposed Bay Walk project. But even this alternative suffers from the same problems as the General Plan's analysis, and approving the land use changes in either the General Plan or Alternative C in the manner proposed by the City would be inappropriate. Doing so removes necessary restrictions based on the health and safety of people and future residents in order to allow development to move forward without a final remedial action plan in place for any portion of the site and in the absence of any detailed information about the risk profile of significant portions of the site. And to go further than the Bay Walk proposal without any basis in science or any determination that the remediation will occur or be sufficient places future residents at unnecessary risk.

In short, development of the North Central River Sub Area as contemplated by the General Plan lacks any basis in science or in the goals and policies the City identifies in the plan. It is unknown how and whether the site can be adequately cleaned up for future residential use. Parts

of the site have never been analyzed because of existing infrastructure and ongoing industrial operations, yet the City is moving forward on the basis that a future unidentified remediation approved by DTSC will be sufficient. It is also obvious that the site is now, and will be in the future, at significant risk of flooding. Developing the site as contemplated will require filling in wetlands that would naturally help to alleviate flooding, causing harm to the ecosystem and placing future residents and their property at risk, especially given the coming sea level and groundwater rise that will exacerbate these risks.

Investing in housing, connecting disparate parts of the city via public access to natural resources and trails, encouraging educational and recreational uses of greenspace, promoting wetlands protection, and vitalizing previously industrial sites and areas are all things which will benefit the City. Adopting a General Plan that allows those things to happen in the North Central River Sub Area as contemplated by either the General Plan or the "reduced density" Alternative will not achieve those goals.

Last, as discussed above and below, any analysis of this site related to wetlands, greenspace, residential development, or remediation needs to account for sea level rise and groundwater rise before decisions are made. P-2 cont'd

**Equity-Driven and Research-Informed General Plan Goals, Policies, and Actions Regarding Sea Level Rise, Emergent Groundwater, and Flooding**

Finally, we would like to share with you our research-informed, equity driven policies to address SLR and flooding. We encourage you to add some or all this language into your draft general plan to allow for proper planning and development decisions into 2040.

**Goal 1** – Reduce the potential for injury, property damage, and loss of natural resources resulting from sea level rise.

**Policy 1.1:** Make allowances for climate change in flood risk assessments to help minimize vulnerability and provide resilience to flooding and coastal change where protection, accommodation and managed relocation strategies should be considered.

● **Action 1.1.A.** Prepare Flood Projection Maps.

Sea level rise research has matured over the last two decades, providing a greater degree of confidence in numeric projections of sea level increase. The City shall work independently or in cooperation at the county- or regional-scale to delineate projected inundation zones, consistent

with the most up to date guidance from the Ocean Protection Council (OPC) for sea level rise in California. See Table 1, Projected Sea-Level Rise (in feet) for San Francisco.

Prepare surface water inundation zone maps according to the 66%, 5%, and 0.5% probabilities that sea levels will rise to these levels by 2070 and 2100. These levels are referred to by OPC as the 'Low Risk Aversion' category of the 'Likely Range', the '1 in 20 Chance', and the '1 in 200 Chance', respectively. These risk thresholds shall be referred to as Flood Zone 1, 2 and 3, for City planning purposes. Maps shall represent sea level as the sea level rise allowances plus mean higher high water.

Complementary flood maps shall also illustrate groundwater flooding scenarios. Research indicates that USGS-based estimates of sea level rise induced groundwater flooding, presented in the Our Coast Our Future Hazard Mapping Tool, represent the current state of knowledge. 1

This data shall be reflected to inform geologic and hydrologic hazards associated with developing in areas considered vulnerable to increased groundwater levels as sea levels rise. Maps shall be updated, as new local or site-specific data become available regarding geological influences of sea level rise-mediated groundwater flooding. P-2 cont'd

Maps must project SLR to the years 2070 and 2100, based on Table 1 of the 2018 OPC guidance. Maps shall be revised as official state, regional, or local projections are adopted. Create a regular process by which information is updated and released, identifying staff time and budget to ensure this information is timely, accurate and accessible for all public and private decision-makers.

● **Action 1.1.B.** Design and Review All Projects in Accordance with State SLR Guidance

Project approvals shall ensure that areas at little or no risk of flooding are developed in preference to areas at higher risk and that projects do not exacerbate flood risk to vulnerable communities. The aim should be to keep all development out of high (Flood Zone 1) and medium (Flood Zone 2) flood risk areas, and other areas affected by other sources of flooding. Projects able to withstand periodic flooding and that do not exacerbate surrounding flood risks (e.g., recreation and parks) may be considered. All opportunities to locate new flood incompatible developments (i.e., housing and commercial developments) in areas of little or no flood risk must be evaluated and prioritized.

All development and redevelopment projects susceptible to tidal flooding must assess flood risk and incorporate specific sea level rise allowances in the hydrodynamic modeling tools used to assess risk (Action 1.1.A).

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● **Action 1.1.C.** Floodplain Storage Compensation:

Projects proposing to build in the future floodplain or construct sea walls that will reduce the tidal prism of San Francisco Bay, thus exacerbating flood risk elsewhere, must assess off-site impacts and calculate floodplain storage compensation requirements. Undeveloped areas susceptible to sea level rise to increase flood water storage which can reduce flood risk, enhance biodiversity, and improve water quality should be preserved and restored.

**Policy 1.2**: Conserve, maintain, expand, and enhance existing shoreline habitat and retain and expand buffer lands.

● **Action 1.2.A.** Identify Migration Space for SLR Adaptation:

Consult the San Francisco Bay Shoreline Adaptation Atlas, developed by the San Francisco Estuary Institute, to identify areas suitable as setbacks and buffers. Development in such lands must be set back a certain distance from the high tide line, as forecasted to 2100 under the Flood Zone 1 scenario in the 2018 OPC guidance. The City shall seek opportunities to maintain or restore natural features (marsh, vegetation, sills, etc.) between development and the shore to allow for marsh or beach migration. P-2 cont'd

Setback and buffer lands should be protected, enhanced, or restored to allow marshes and other critical habitats near the shoreline to migrate landward as sea level rises. Lands that provide migration space are scarce and in demand as they are generally situated between the lower limits of developed upland areas and the upper limits of diked or tidal baylands.

The City shall prioritize and seek to acquire properties or interests in properties within managed relocation zones based on their relative vulnerability to SLR and the extent to which they may impede coastal ecosystem migration.

Conservation easements could be offered to maintain private lands in open space in exchange for tax relief or compensation for forgoing development rights.

**Policy 1.3**: Prioritize the use of nature-based solutions for flood protection.

● **Action 1.3.A.** Employ nature-based flood control solutions wherever possible

When designing flood protection interventions, sea walls, rip rap and other hardened structures shall be employed only where nature-based solutions are deemed technically infeasible. 2 Examples of nature-based flood controls include ecotone or horizontal levees, beach restoration, or floodplain restoration or connection.

New development that requires the construction of sea walls or shoreline protection should not be approved unless needed for essential infrastructure or services.

**Policy 1.4**: Minimize the risk of flooding legacy contaminated lands in areas at risk of SLR-induced flooding.

● **Action 1.4.A.** Identify contaminated lands estimated to flood via sea level rise and elevated groundwater tables, based on various SLR projections.

Using the three (3) flood zone projections identified in Action 1.1.A, as well as corresponding groundwater inundation levels, identify known and likely contaminated lands within the City likely to flood under each zone projection. This exercise may be implemented on a countywide or regional scale, within 18 months of approval of this General Plan amendment. P-2 cont'd

● **Action 1.4.B.** Evaluate the suitability and safety of redeveloping contaminated lands and adjacent parcels in the light of potential for contaminated water or soil mobilization resulting from SLR.

Notice the Department of Toxic Substances Control, Bay Conservation and Development Commission, and San Francisco Bay Regional Water Quality Control Board of all sites identified pursuant to Action 1.4.A. Any projects impacting these sites shall ensure remediation such that there will be no adverse impacts to drinking water sources, communities, or ecosystems in the event of sea level rise-induced flooding, via tidal or groundwater pathways.

Thank you again for the opportunity to comment on this Draft General Plan and Draft EIR and for your consideration. Please reach out to Eric Buescher at eric@baykeeper.org with any questions.

Sincerely,

Eric Buescher
Managing Attorney

Aundi Mevoli
Field Investigator & Policy Advocate

*Enclosure*

## Response to Letter P: San Francisco Baykeeper

**Response P-1:** The commenter provides introductory statements to the comment letter. No response to this comment is warranted.

**Response P-2:** The commenter provides feedback on proposed General Plan policies and actions and suggests new policies and actions to include in the General Plan, including the following:

- The commenter suggests that the City set their own standards for ensuring contaminated sites are adequately remediated.
- The commenter suggests that Action 8-A-2.a be revised to ensure that all development projects "ensure that there is no exposure to humans or the environment of any legacy pollutants or contaminants of concern at the project site after remediation and development."
- The commenter suggests that Policy 2-P-2.6 be revised to address development which may require filling wetlands at a toxic site in an area projected to be inundated with groundwater or in sea level rise bands raises.
- The commenter suggests that Policy 11-P-2.4 be revised to indicate how and whether this policy will be prioritized, especially given current proposed plans and zoning changes along the shoreline. The commenter also states that relevant Actions need to be identified and taken which will ensure that the Policy is implemented in a way that will protect these resources. The commenter suggests that Policy 11-P-3.2 be revised to ensure that a predicted modeling study of shallow groundwater aquifers on a citywide scale be used.
- The commenter suggests adding actions with respect to North Central River Sub Area to ensure that future residents are protected from the existing toxins that are at the site.
- The commenter states that the City should not approve, allow, or create a path to developing the North Central River Sub Area unless and until there is sufficient analysis of the potential impacts and whether they can be adequately remediated.
- The commenter encourages the City to add some or all of the following language into the General Plan:
    - Goal 1 – Reduce the potential for injury, property damage, and loss of natural resources resulting from sea level rise.
    - Policy 1.1: Make allowances for climate change in flood risk assessments to help minimize vulnerability and provide resilience to flooding and coastal change where protection, accommodation and managed relocation strategies should be considered.
    - Action 1.1.A. Prepare Flood Projection Maps.
    - Action 1.1.B. Design and Review All Projects in Accordance with State SLR Guidance.
    - Action 1.1.C. Floodplain Storage Compensation.
    - Policy 1.2: Conserve, maintain, expand, and enhance existing shoreline habitat and retain and expand buffer lands.
    - Action 1.2.A. Identify Migration Space for SLR Adaptation.
    - Policy 1.3: Prioritize the use of nature-based solutions for flood protection.
    - Action 1.3.A. Employ nature-based flood control solutions wherever possible.
        - Policy 1.4: Minimize the risk of flooding legacy contaminated lands in areas at risk of SLR-induced flooding.

- Action 1.4.A. Identify contaminated lands estimated to flood via sea level rise and elevated groundwater tables, based on various SLR projections.
- Action 1.4.B. Evaluate the suitability and safety of redeveloping contaminated lands and adjacent parcels in the light of potential for contaminated water or soil mobilization resulting from SLR.

Action 8-A-2.a was revised to replace "extent feasible" to "accepted levels set by the relevant regulatory agencies to ensure public health." However, the 2040 General Plan is not revised to set City-level standards for addressing contamination; the U.S. Environmental Protection Agency, the U.S. Occupational Health and Safety Administration, the California Occupational Health and Safety Administration, and the California Department of Toxic Substances Control are the regulatory agencies that address compliance with standards for exposure to potentially hazardous materials resulting from contamination and have access to a large field of subject matter experts. The 2040 General Plan includes policies and actions to ensure that future development does not expose the public to adverse health risks and that contaminated sites are remediated to ensure that future users of the site are not exposed to contaminants in excess of standards established by regulatory agencies to ensure human health and safety.

As shown in Figure 2-1 of the proposed land use map, the majority of the undeveloped areas, including but not limited to Browns Island and the area adjacent to riverine habitat, within the Northeast River Subarea are designated for Park or Open Space uses. As such, the majority of the wetland areas in this Subarea would be avoided by future development. Nevertheless, Policy 2-P-6.6 was revised to add the following sentence "If wetlands are located on-site, on-site wetland mitigation (including but not limited to preservation in place, wetland restoration, wetland enhancement, and wetland establishment) shall be encouraged and preferred."

With respect to the comments surrounding Policy 11-P-2.4, the Resources Conservation & Open Space Element includes the following policies and actions pertaining to wetland and related habitat preservation and restoration:

> 10-P-2.1: Ensure that open space and natural landscapes remain a major component of lands near the Bay and the Delta (see Figure 10-2).
>
> 10-P-2.2: Support the long-term viability and success of the natural Bay and Delta ecosystems and the continuation of Delta heritage, including encouraging preservation and restoration of contiguous portions of important wildlife habitats remnants of riparian and aquatic habitat.
>
> 10-P-2.3: Require new development projects to cooperate with the East Bay Regional Park District (EBRPD) to protect the Browns Island Regional Shoreline and the Black Diamond Mines Regional Preserve.
>
> 10-P-2.4: Preserve the natural Bay and Delta shoreline habitat on Browns Island and grasslands habitat at Black Diamond Mines.
>
> 10-P-2.5: Conserve natural terrain, native vegetation, and sensitive habitats and recognize the role of native vegetation, natural terrain and green infrastructure in natural resource and watershed management.

10-P-2.6: Support efforts to protect and enhance the Bay and Delta ecosystem and Pittsburg's creeks in perpetuity for their value in providing visual amenity, drainage capacity, and habitat value, through a variety of measures including local conservation efforts that improve adequate water supply and quality.

10-P-2.7: Preserve large areas of naturally vegetated habitat to allow for water infiltration and reduce flood hazards in the Kirker Creek watershed by requiring that new development minimizes paved areas.

10-P-2.8: Require new development projects and expansion of existing uses to conserve sensitive habitat, including special status species.

10-P-2.9: Work with Contra Costa County, the EBRPD, and the City of Antioch, to expand the regional open-space system in the southern hills to preserve California annual grasslands habitat.

10-P-2.10: Advocate clustering of houses to preserve large, unbroken blocks of open space, particularly within sensitive habitat areas during the design of hillside residential projects.

10-P-2.11: Encourage the preservation of wildlife corridors to ensure the integrity of habitat linkages.

10-P-2.12: Continue to support and implement the East Contra Costa County Habitat Conservation Plan (Eastern County HCP).

10-P-2.13: Support the reclamation of wetlands and marshlands along local industrial waterfronts.

10-P-2.14: Collaborate with developers to establish and/or retain creeks, marshes, wetlands, and riparian corridors in the design of new development.

10-P-2.15: Protect and restore threatened natural resources, such as wildlife, estuaries, tidal zones, marine life, wetlands, and waterfowl habitat.

10-P-2.16: Limit dredging and filling of wetlands and marshlands, particularly adjacent to Browns Islands Preserve.

10-P-2.17: Work with industrial property-owners along the waterfront to improve urban runoff and water quality levels within the Bay wetlands.

10-P-2.18: Recognize that climate change impacts may influence future guidance, and best available data, and continue to ensure that up-to-date information is consulted when reviewing projects for potential impacts to biological resources, including the Bay, Delta, and sensitive habitats.

10-A-2.a: Conduct site-specific biological resources assessment as required by CEQA for development located in or adjacent to potential habitat or ecologically sensitive areas. If any special-status species or sensitive habitats are identified, contact the appropriate resource agencies and establish appropriate management strategies to reduce impacts on sensitive habitat and special status species.

10-A-2.b: Continue to require projects to comply with the requirements of the Eastern County HCP when reviewing proposed public and private land use changes.

10-A-2.d: Review all projects located within or adjacent to the Delta Primary Zone and other priority habitat restoration areas to ensure consistency with the criteria and policies of the Delta Stewardship Council's Delta Plan.

10-A-2.e: As applicable, provide opportunities for review of and comment by the California Department of Fish and Wildlife, Reclamation Districts, the Delta Stewardship Council, Delta Protection Commission, SWRCB, and San Francisco Bay Conservation and Development Commission (BCDC) during project review, and consult with the California Department of Fish and Wildlife to ensure that any impacts do not have a significant effect on primary habitat restoration areas as described in the Bay Plan and the Delta Plan.

10-A-2.f: Establish an on-going program to remove and prevent the re-establishment of invasive species and restore native species as part of development approval on sites that include ecologically sensitive habitat and require that revegetation of cut-and-fill slopes for new development includes native plant species.

10-A-2.g: Intermix areas of pavement with naturally vegetated infiltration sites to minimize the concentration of stormwater runoff from pavement and structures.

10-A-2.h: Require an encroachment permit from Contra Costa Water District (CCWD) for any storm drain facility crossing or encroaching onto Contra Costa Canal rights-of-way.

10-A-2.i: Require all crossings to be constructed in accordance with CCWD standards and requirements.

10-A-2.j: Establish development standards for new construction adjacent to riparian zones to reduce sedimentation and flooding. Standards should include: - Requirements that low berms or other temporary structures such as protection fences be built between a construction site and riparian corridor to preclude sheet-flooding stormwater from entering the corridors during the construction period. - Requirements for installation of storm sewers before construction occurs to collect stormwater runoff during construction.

10-A-2.k: Establish regulations as part of the Zoning Code to require that:

(a) Revegetation of cut-and-fill slopes for new development includes native plant species

(b) Mature trees are preserved, including measures for the replacement of all mature trees removed

(c) Building pads and structural elements are located at least 150 feet (horizontally) away from the crest of a major ridgeline in order to preserve viewsheds of the southern hills

(d) Creek setbacks are established along riparian corridors. Development standards shall include expanded setback buffers as needed to preserve habitat areas of identified special status species and wetlands (50-150 feet on each side), prohibition of development within creek setback areas (except as part of greenway (trails and bikeways, etc.) enhancement), and preservation of land where endangered species habits exist.

10-A-2.l: Create interpretive facilities with educational displays along the marshlands to heighten public awareness of the importance of local marshlands for roosting and nesting sites for migrating waterfowl.

With respect to the comments related to Policy 11-P-3.2, this policy was revised to consider predicted modeling studies of shallow groundwater aquifers as they become available.

Regarding the North Central River Subarea, Policy 2-P-17.1 has been revised to specific remediation requirements to ensure that future development of the site does not expose workers, residents, employees, or other users of the site to hazardous materials at levels that exceed federal or State standards for the specific proposed activity or use associated with each phase of development of this subarea.

Policy 11-P-2.8 was added to the Safety Element of the General Plan, which states: "Make allowances for climate change in flood risk assessments to help minimize vulnerability and provide resilience to flooding and coastal change where protection, accommodation and managed relocation strategies should be considered."

With respect to the suggested addition of Action 1.1.A, the Bay Conservation and Development Commission's Adapting to Rising Tides program includes a Bay Shoreline Flood Explorer tool, which provides interactive mapping that illustrates sea level rise at the local level along the San Francisco Bay. Additionally, the California Energy Commission's Cal-Adapt tool identifies forecasted inundation of the San Francisco Bay Area, Sacramento – San Joaquin Delta, and the California Coast. The Cal-Adapt tool provides the ability to see the areas within Pittsburg that would be affected by flooding due to sea level rise under the following scenarios: 0.5 meters, 1.0 meters, and 1.41 meters of sea level rise. Figure 6.2-1 of the General Plan Existing Conditions Report illustrates the effects of each of these three sea level rise scenarios. Action 11-A-3 was revised to add a sentence at the end referencing these tools: "Require development projects located along the shoreline or in areas projected to be inundated under sea level rise scenarios, including 100-year flood events, to identify projected sea level rise levels in relation to proposed residences, buildings, and important infrastructure and to be designed to address hazards associated with sea level rise, including use of ecologically-based strategies (e.g., creation or adaption of marshlands, wetlands, and natural areas to counteract sea level rise or improve drainage patterns), shoreline hardening, and adaption techniques such as elevated buildings and designing green infrastructure for stormwater runoff. Prediction mapping tools which may be utilized to identify sea level rise projections could include, but are not limited to, California Energy Commission's Cal-Adapt tool and the Bay Conservation and Development Commission's Bay Shoreline Flood Explorer tool."

With respect to the suggested addition of Action 1.1.B, Design and Review All Projects in Accordance with State SLR Guidance, the proposed 2040 General Plan includes the following policies and actions pertaining to projects subject to sea level rise:

11-P-2.2: Prepare for and adapt to anticipated sea level rise, including 100-year flood events, and fluctuations and changes in weather conditions, including addressing impacts on existing and future neighborhoods, infrastructure and facilities, the shoreline, and natural resources, as identified through State and regional modeling efforts and science-based data.

11-P-2.3: Prioritize improvements and actions that would protect vulnerable populations (e.g., elderly communities, low-income areas), essential facilities, and vital infrastructure, from damage or lack of access due to flooding from sea level rise including 100-year flood events.

11-P-3.2: Integrate flooding and sea level rise projections into the City's infrastructure planning, disaster preparedness activities, and policies and regulations to inform the public of the future hazard areas, assess and address potential impacts to future development, inform future planning and building requirements, plan for opportunity areas for adaptation, and inform funding and financing decisions about short- and long-term adaptation projects.

11-A-3.c: Require development projects located along the shoreline or in areas projected to be inundated under sea level rise scenarios, including 100-year flood events, to identify projected sea level rise levels in relation to proposed residences, buildings, and important infrastructure and to be designed to address hazards associated with sea level rise, including use of ecologically-based strategies (e.g., creation or adaption of marshlands, wetlands, and natural areas to counteract sea level rise or improve drainage patterns), shoreline hardening, and adaption techniques such as elevated buildings and designing green infrastructure for stormwater runoff. Prediction mapping tools which may be utilized to identify sea level rise projections could include, but are not limited to, California Energy Commission's Cal-Adapt tool and the Bay Conservation and Development Commission's Bay Shoreline Flood Explorer tool.

With respect to Action 1.1.C, the proposed General Plan includes the following policies and actions pertaining to floodplain storage and flooding from runoff:

10-P-4.12: Assure through the Master Drainage Plan and development ordinance that proposed new development adequately provides for on-site and downstream mitigation of potential flood hazards.

10-P-4.13: Develop and implement a Storm Flooding Mitigation Fee Program to fund required drainage improvements during construction of new development.

10-P-4.14: Ensure that all new development (residential, commercial, or industrial) contributes to the construction of drainage improvements in the Kirker Creek and other watersheds in the Planning Area, as required by the City's adopted ordinances.

10-P-4.15: Allow the construction of detention basins as mitigation in new developments. Ensure that detention basins located in residential neighborhoods, schools, or child-care facilities are surrounded by a gated enclosure, or protected by other safety measures.

10-P-4.16: Ensure adequate minimum setbacks to reduce potential for property damage from storm flooding.

10-P-4.17: Reduce the risk of localized and downstream flooding and runoff through the use of high infiltration measures, including the maximization of permeable landscape.

10-A-4.a: Review and regulate new development to ensure consistency with Federal and State flood and floodway requirements, including Sacramento-San Joaquin River Delta Plan policies, the City's Green Stormwater Infrastructure Plan, and the Contra Costa Clean Water Program's Resource Conservation Plan as applicable and as opportunities arise.

10-A-4.i: Require new development to use BMPs to minimize creek bank instability, runoff of construction sediment, and flooding.

10-A-4.j: As part of project review and CEQA documentation, require an assessment of downstream drainage (creeks and channels) and City storm-water facilities impacted by potential project runoff.

With respect to the suggested addition of Policy 1.2, as shown in Figure 2-1 of the proposed land use map, the majority of the undeveloped areas, including but not limited to Browns Island, the western waterfront areas, and the area adjacent to riverine habitat, within the Northeast River Subarea are designated for Park or Open Space uses. As such, much of the shoreline habitat would be retained as part of the proposed General Plan. Further, the General Plan includes ample policies and actions pertaining to shoreline habitat.

With respect to the suggested addition of Policy 1.3 and associated Action 1.3.A, Policy 11-P-3.8 requires the City to "Encourage and accommodate multipurpose flood control projects that reduce the risk of localized and downstream flooding and incorporate measures that enhance natural drainage features and provide for recreation, resource conservation, preservation of natural riparian habitat, and scenic values of drainages, creeks, and detention ponds, where feasible. Where appropriate and feasible, the City shall encourage the use of water detention facilities for use as groundwater recharge facilities."

While the comment does not address the adequacy of the Draft EIR, or compliance with CEQA, various policies and actions, outlined above, were revised or added to address the intent of this comment. This comment is noted and will be forwarded to the decision-makers for their consideration.

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February 8th, 2024

John Funderburg, Assistant Director of Community and Economic Development
65 Civic Av.
Pittsburg, CA, 94565

**Save Mount Diablo Comment Letter on Draft 2040 Pittsburg General Plan**

Dear Mr. Funderburg,

Save Mount Diablo (SMD) is a non-profit conservation organization founded in 1971 which acquires land, or interests in land, for conservation purposes and often for addition to parks on and around Mount Diablo. We also monitor land use planning which might affect protected lands. We build trails, restore habitat, and are involved in environmental education. In 1971, there was just one park on Mount Diablo totaling 6,778 acres; today there are almost 50 parks and preserves around Mount Diablo totaling 120,000 acres. We include more than 11,000 donors and supporters.

Thank you for the opportunity to comment on the Draft 2040 Pittsburg General Plan and 2040 Pittsburg General Plan Draft Environmental Impact Report (SCN 2022040427). Our comments have relevance to both the General Plan and its accompanying Environmental Impact Report, therefore the below comments should be understood as pertaining to both documents, and we refer to them both as the 'Project'.

We note that the Project section on the Buchanan Subarea mentions hillside low density residential development south of Buchanan Road. Specifically, Action 2-A-11.a calls for updating the zoning ordinance to include guidelines for such development, and also calls for the City of Pittsburg to purse construction of the Buchanan Bypass. The Buchanan Bypass is another name for the ill-thought James Donlon Boulevard Extension. P-1

We strongly encourage the City to stop pursuing the Buchanan Bypass. The cost of this road has skyrocketed, from the City's low estimate of less than $100 million when it was approved years ago to hundreds of millions of dollars today. SMD and our legal representation has submitted extensive documentation on why this road would be bad for Pittsburg and why the environmental analysis for this proposal is inadequate.

The City of Pittsburg should take this Project as an opportunity to embrace actions that will reduce traffic in already high-congestion areas and make Pittsburg a more walkable, transit-oriented City. Pursuing a road extension planned in the 1970s in 2024 reflects a disconnect from current land use and climate realities. We strongly encourage the City to delete references to the Buchanan Bypass, James Donlon Boulevard Extension, or whatever other name is used for this proposal, from the Project.

Similarly, we strongly encourage the City to delete mention of hillside low density residential development south of Buchanan Road. Figures 2-1 and 2-10 portray such development as occurring south of the City Limits and east of Kirker Pass Rd. These areas provide the scenic backdrop to Pittsburg. Instead of seeking to destroy Pittsburg's aesthetic and biological resources by expanding low-density residential development beyond the City's borders, this area should be used as the open space gateway from the City of Pittsburg to the large expanses of protected open space to the south.

While Project text related to the Woodlands Subarea calls for some positive actions, such as the protection of creeks and adjacent riparian habitat, it unfortunately also calls for development in this area and the pursuit of the Buchanan Road Bypass. This is not how the City will showcase the high quality open space and aesthetic features of this area. P-1 cont'd

Action 2-A-12.a in this Project section calls for development setbacks of at least 50ft. from top of streambank. The City should eliminate calls for development along this creek, as well as increase planned buffers along creeks not to protect from planned development, but to allow for a wide recreational corridor that showcases the City as a gateway to extensive protected areas around it.

In Antioch, we have worked with City staff, project applicants and residents to obtain a 300ft.-wde buffer along Sand Creek in south Antioch. This creek protection will provide enhanced quality of life and recreational opportunities for Antioch residents. Pittsburg should pursue the same for its residents.

Thank you for the opportunity to provide comments.

Regards,

Juan Pablo Galván Martínez
Senior Land Use Manager

Save Mount Diablo
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## Response to Letter Q: Save Mount Diablo

**Response Q-1:** The commenter summarizes the functions of Save Mount Diablo and discusses the Buchanan Subarea as it relates to the Buchanan Bypass. The commenter expresses opposition to the Bypass and low-density residential designations near the Bypass. The commenter suggests changes to regulations which permit development near creeks.

While the comments do not address the adequacy of the Draft EIR, or compliance with CEQA, these comments are noted and will be forwarded to the decision-makers for their consideration of topics beyond the adequacy of the Draft EIR.