

GOVERNING BOARD
CONTRA COSTA COMMUNITY COLLEGE DISTRICT
OF
CONTRA COSTA COUNTY
MARTINEZ, CALIFORNIA

REPORT NO. 82-D

DATE May 25, 2011

PURPOSE Resolution Certifying a Final Supplemental Environmental Impact Report (SEIR) for the New Brentwood Center – ROLL CALL VOTE REQUIRED

TO MEMBERS OF THE GOVERNING BOARD

RECOMMENDATION

It is recommended that the Resolution Certifying the Final Supplemental Environmental Impact Report for the New Brentwood Center, which is provided by separate cover, be adopted.

FUNDING SOURCE

Funding for the SEIR and the new Brentwood Center project will come from Measure A 2006 local bond funds.

BACKGROUND


The District is required to comply with the requirements of the California Environmental Quality Act (CEQA) for the new Brentwood Center project. The District prepared the new Brentwood Center SEIR to supplement the Vineyards at Marsh Creek and Annexation Sites Environmental Impact Report (Vineyards EIR), certified by the City of Brentwood in 2004 for the Vineyards at Marsh Creek development (Vineyards Project). The SEIR was prepared to analyze the potential environmental effects that may result from the new Brentwood Center community college use proposed on a portion of the Pioneer Square site within the Vineyards Project. The community college use would replace the Mixed-Use Business Park uses for which the Pioneer Square site is designated.

The Final SEIR is composed of the following elements:

- draft SEIR and appendices;
- list of persons, organizations and public agencies that commented on the draft SEIR;
- copies of all comments received;
- written responses to those comments; and
- revisions to the draft SEIR resulting from comments.

Certification is the first step in the CEQA approval process for the project. Following certification by the Governing Board, the Board will be asked to consider a separate resolution to approve the new Brentwood Center project.

Disposition **APPROVED** Date MAY 25 2011
Governing Board


Secretary

**RESOLUTION NO. 82-D OF THE GOVERNING BOARD OF THE
CONTRA COSTA COMMUNITY COLLEGE DISTRICT
CERTIFYING A FINAL SUPPLEMENTAL ENVIRONMENTAL
IMPACT REPORT FOR THE
NEW BRENTWOOD CENTER PROJECT**

WHEREAS, the Contra Costa Community College District ("District") proposes to construct a new education center ("New Brentwood Center" or "Project") on a 17-acre site ("Project Site") located in the City of Brentwood in eastern Contra Costa County, generally west of the intersection of the State Route 4 (SR 4) Bypass and Marsh Creek Road. The Project Site is within the larger Vineyards at Marsh Creek Project ("Vineyards Project"), and is a portion of the 27-acre Pioneer Square site, located northeast of Vineyards Parkway. The Project Site is comprised of the following Assessor's Parcel Nos.: 007-570-001, -003, -004, -005, -006 and -007, 007-580-001, -002, -003, and -004; and

WHEREAS, the New Brentwood Center would construct two, approximately 44,000-square-foot buildings for a total of approximately 88,000 square feet of classroom/office space and would serve a maximum of 5,000 full-time and part-time students. Each building would be a maximum of 35 feet in height. Two surface parking lots, landscaping and other site improvements would also be constructed; and

WHEREAS, the City of Brentwood ("City") certified the Vineyards at Marsh Creek and Annexation Sites Environmental Impact Report ("Vineyards EIR") for the Vineyards Project in 2004 pursuant to the requirements of the California Environmental Quality Act and the CEQA Guidelines (collectively "CEQA"); and

WHEREAS, the Vineyards EIR analyzed approximately 27 acres of mixed-use development on the Pioneer Square site, including commercial, office, senior apartments, hotel and conference center, and assisted care facilities, and analyzed approximately 29 acres of nearby land ("Cowell Property") proposed for annexation to the City and development of a future community college by the District for a maximum of 5,000 students; and

WHEREAS, the Cowell Property was one of two annexation sites studied in the Vineyards EIR and was later annexed to the City; and

WHEREAS, the New Brentwood Center is that earlier community college that was proposed on the Cowell Property, but is now relocated to a portion of the Pioneer Square site; and

WHEREAS, the District prepared a Supplemental Environmental Impact Report ("SEIR") pursuant to CEQA to supplement the Vineyards EIR and analyze the potential environmental effects that may result from the New Brentwood Center; and

WHEREAS, the New Brentwood Center Draft SEIR was circulated for a 45-day public review period beginning February 1, 2011, and ending on March 17, 2011 (State Clearinghouse No. 2010112046); and

WHEREAS, pursuant to CEQA, including without limitation, Section 21091(d)(2)(A) of the Public Resources Code and Sections 15088 and 15089 of the CEQA Guidelines, the

District has responded to all the environmental comments that were submitted on the Draft SEIR during the public review period and a Final SEIR has been completed; and

WHEREAS, following review of the Draft SEIR comments and responses, which include expanded discussion of impacts and mitigation measures, District staff determined that there is no substantially new information that would be cause to recirculate the Draft SEIR pursuant to CEQA, including without limitation, Section 15088.5(b) of the CEQA Guidelines; and

WHEREAS, on May 13, 2011, a public hearing notice was mailed to property owners and interested parties regarding the Board's consideration of project approval and certification of the Final SEIR. This notice together with written responses to public agency comments were mailed to the agencies commenting on the Draft SEIR; and

WHEREAS, on May 25, 2011, the Board held a duly-noticed public hearing on the Final SEIR, accepting all oral and written public testimony and the written report of District staff; and

WHEREAS, the location and custodian of records with respect to all relevant documents which constitutes the administrative record are as follows: Chief Facilities Planner, Contra Costa Community College District, 500 Court Street, Martinez, CA 94553.

NOW, THEREFORE, THE BOARD HEREBY RESOLVES, to certify the New Brentwood Center Final SEIR based on the following findings:

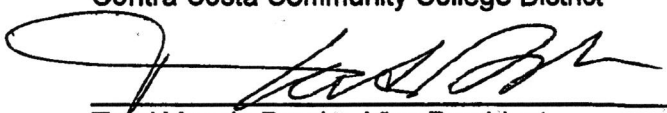
FINDINGS

1. The Final SEIR has been completed in compliance with CEQA.
2. The Governing Board reviewed and considered all information contained in the Final SEIR, comments from public agencies and other interested parties, and the District's responses to such comments.
3. The Final SEIR reflects the District's independent judgment and analysis.

ADOPTED, SIGNED AND APPROVED this 25th day of May, 2011.



John T. Nejedly, President, Governing Board,
Contra Costa Community College District



Tomi Van de Brooke, Vice President,
Governing Board



Sheila A. Grilli, Secretary, Governing Board

John E. Marquez

John E. Marquez, Member, Governing Board

Robert Calone

Robert Calone, Member, Governing Board

I, John T. Nejedly, President of the Governing Board of the Contra Costa Community College District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board held on the 25th day of May 2011, and that it was so adopted by the following vote:

AYES: John E. Marquez, Sheila A. Grilli, John T. Nejedly, Tomi Van de Brooke, Robert Calone, (Student Trustee Advisory Vote)

NOES: _____

ABSENT: _____

ABSTAIN: _____

John T. Nejedly

John T. Nejedly, President, Governing Board,
Contra Costa Community College District

Attested to:

Sheila A. Grilli

Sheila A. Grilli, Secretary, Governing Board

GOVERNING BOARD

CONTRA COSTA COMMUNITY COLLEGE DISTRICT

OF
CONTRA COSTA COUNTY
MARTINEZ, CALIFORNIA

REPORT NO. 82-E

DATE May 25, 2011

PURPOSE Resolution Approving the New Brentwood Center Project and Adopting Findings of Fact, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program – ROLL CALL VOTE REQUIRED

TO MEMBERS OF THE GOVERNING BOARD

RECOMMENDATION

It is recommended that the attached Resolution Approving the New Brentwood Center Project and Adopting Findings of Fact, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, be adopted.

FUNDING SOURCE

Funding for this environmental impact analysis and for the new Brentwood Center project will come from Measure A 2006 local bond funds.

BACKGROUND

The District prepared the New Brentwood Center Supplemental Environmental Impact Report (SEIR) to supplement the Vineyards at Marsh Creek and Annexation Sites Environmental Impact Report (Vineyards EIR) certified by the City of Brentwood in 2004 for the Vineyards at Marsh Creek development (Vineyards Project). The SEIR was prepared to analyze the potential environmental effects that may result from the new Brentwood Center community college use proposed on a portion of the Pioneer Square site within the Vineyards Project. The community college use would replace the Mixed-Use Business Park uses for which the Pioneer Square site is designated.

Although the project relocates the planned Brentwood center from the Cowell site to the Pioneer Square site, the District does not have the authority to change the zoning of the Cowell site which is presently designated Community College by the City's General Plan. California Environmental Quality Act (CEQA) conventions direct impact analysis to consider current land uses. Accordingly, the analysis in the supplemental EIR analyzes the impact of a college center located on the Cowell site and a new college center on the Pioneer Square site, both operating at the same time.

However, the SEIR further expanded the reasonable range of alternatives in the Vineyards EIR by analyzing an alternative land use for the Cowell Property, given that the project proposes to relocate the community college use to a portion of the Pioneer Square site and given that it is not likely that two community college campuses would ever be developed in close proximity to one another.

Exhibit A

NEW BRENTWOOD CENTER

**CEQA Findings of Fact
(Pursuant to the State CEQA Guidelines)**

**Final Supplemental Environmental Impact Report
(State Clearinghouse No. 2010112046)**

May 2011

1.0 INTRODUCTION

This statement of findings addresses the potentially significant environmental impacts associated with the proposed New Brentwood Center (project) located in the City of Brentwood, Contra Costa County, California and are made pursuant to Section 15091 of the California Environmental Quality Act Guidelines (*CEQA Guidelines*), which provide that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.

Section 15092 of the CEQA Guidelines further stipulates that:

- (b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:
 - (1) The project as approved will not have a significant effect on the environment, or
 - (2) The agency has:
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
 - (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

According to Section 15093 if the *CEQA Guidelines*:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

The SEIR also analyzed a more realistic Alternative Land Use Designation for the Cowell Property where by two community colleges would not be developed and the Mixed-Use Business Park uses displaced by the community college on the Pioneer Square site would be relocated to the Cowell Property.

1.2 ENVIRONMENTAL REVIEW PROCESS

In accordance with the requirements of CEQA and the *CEQA Guidelines*, a Notice of Preparation (NOP) of a Draft SEIR was filed with the State Clearinghouse (SCH) Office of Planning and Research (OPR) on November 18, 2010. The NOP was distributed to public agencies and interested parties for a 30-day public review period, which extended from November 19 to December 20, 2010.

A Notice of Completion (NOC) of the Draft EIR was filed with the SCH OPR on February 1, 2011. The Draft EIR was circulated for a 45-day public review period, which ended on March 17, 2011. During this public review period, the District received written comments on the Draft SEIR. Section 15088 of the *CEQA Guidelines* requires that the lead agency responsible for the preparation of an EIR evaluate comments on environmental issues received from parties who reviewed the Draft EIR and prepare a written response addressing each of the comments. A Final SEIR was prepared for the proposed project. The Final SEIR assembles in one document all of the environmental information and analysis prepared for the proposed project, including comments on the information and analysis contained in the Draft SEIR and responses by the District to those comments.

Pursuant to Section 15132 of the *CEQA Guidelines*, the Final SEIR consists of the following:

- (a) The Draft SEIR, including all of its appendices.
- (b) A list of persons, organizations, and public agencies commenting on the Draft SEIR.
- (c) Copies of all letters received by the District during the Draft SEIR public review period and responses to significant environmental points concerning the Draft SEIR raised in the review and consultation process.
- (d) Any other information added by the lead agency.

2.0 CEQA FINDING OF INDEPENDENT JUDGMENT

The District is the lead agency with respect to the proposed project pursuant to the Section 15367 of the *CEQA Guidelines*. As noted above, Section 15091 of the *CEQA Guidelines* requires that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation for the rationale for each finding. The District has reviewed the Final SEIR. The Final SEIR for the project identified potentially significant effects that could result from project implementation. However, the District finds that the inclusion of certain mitigation measures as part of the project will reduce most, but not all, of those effects to less than significant levels. Those impacts that are not reduced to less than significant levels are identified and overridden due to specific project benefits identified specifically in a Statement of Overriding Considerations (provided under separate cover).

In accordance with CEQA and the *CEQA Guidelines*, the District adopts these findings as part of its approval of the project. Pursuant to Public Resources Code § 21082.1(c)(3), the District also finds that the Final SEIR reflects the District's independent judgment as the lead agency for the project.

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- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/ or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
 - c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

As required by CEQA, the Contra Costa Community College District (District), in adopting these findings, must also adopt a Mitigation Monitoring and Reporting Program (MMRP) for the project. The MMRP, which is incorporated by reference and made a part of these findings, meets the requirements of Section 15097 of the *CEQA Guidelines* by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project.

Whenever these findings specifically refer to a mitigation measure that will avoid or mitigate a potentially significant impact, that specific mitigation measure is hereby made a specific condition of approval of the New Brentwood Center project.

1.1 PROJECT SUMMARY

The District prepared the New Brentwood Center Supplemental Environmental Impact Report (SEIR) to supplement the Vineyards at Marsh Creek and Annexation Sites Environmental Impact Report (Vineyards EIR) certified by the City of Brentwood (City) in 2004 for the Vineyards at Marsh Creek development (Vineyards Project). The SEIR was prepared to analyze the potential environmental effects that may result from the New Brentwood Center community college use proposed on a portion of the Pioneer Square site within the Vineyards Project. The community college use would replace the Mixed-Use Business Park uses for which the Pioneer Square site is designated.

As part of the Vineyards Project, the Vineyards EIR analyzed approximately 27 acres of mixed-use development on what was then referred to as the "Village Center" and what was later renamed "Pioneer Square." Approved Mixed-Use Business Park uses at Pioneer Square include commercial, office, senior apartments, hotel and conference center, and assisted care facilities. Additionally, the Vineyards EIR analyzed approximately 29 acres of nearby land proposed for annexation to the City and development of a future community college by the District for a maximum of 5,000 students. This land, referred to as the "Cowell Property," was one of two annexation sites studied in the Vineyards EIR and was later annexed into the City.

The proposed project analyzed in the New Brentwood Center SEIR was that earlier community college proposal by the District in a new location: 17 acres of the 27-acre Pioneer Square site. Although the project represents the District's desire to move its proposed community college campus from the Cowell Property to a portion of the Pioneer Square site, no change in the City's Community College land use designation on the Cowell Property is proposed at this time. The proposed project would use 17 acres of the 27-acre Pioneer Square site for community college use instead of the Mixed-Use Business Park uses for which the 17 acres are designated.

3.0 ADMINISTRATIVE RECORD

The record, upon which all findings and determinations related to the approval of the project are based, includes the following:

- The SEIR and all documents referenced in or relied upon by the SEIR.
- All prior or present information (including written evidence and testimony) provided by District staff to the Governing Board relating to the SEIR and the project.
- All prior or present information (including written evidence and testimony) presented at any Governing Board meeting related to the project and the SEIR.
- The MMRP for the project.
- The City of Brentwood's General Plan, its related EIR, and the Brentwood Municipal Code (including its Zoning Ordinance).
- All other documents composing the record pursuant to Public Resources Code § 21167.6(e).
- The custodian of the documents and other materials that constitute the record of the proceedings upon which the District's decisions are based is Ray Pyle, Chief Facilities Planner, or his designee. Such documents and other materials are located at the Contra Costa Community College District, 500 Court Street, Martinez, CA 94553.

4.0 FINDINGS OF FACT

The following sections make detailed findings with respect to the potential effects of the project and refer, where appropriate, to the mitigation measures set forth in the Final SEIR and the MMRP to avoid or substantially reduce potentially significant adverse impacts of the project. The SEIR and the administrative record concerning the project provide additional facts in support of the findings herein. The Final SEIR is hereby incorporated into these findings in its entirety. Furthermore, the mitigation measures set forth in the Final SEIR and the MMRP are incorporated by reference in these findings. The MMRP was developed in compliance with Section 15097 of the *CEQA Guidelines* and is contained in Chapter 11.0 (Mitigation Monitoring and Reporting Program) of the Final SEIR.

4.1 NO PROJECT IMPACT

Based on the analysis contained in the SEIR, the following impacts have been determined to fall within the category of no project impact:

- Transportation/Traffic (pedestrian access, bicycle access, on-site circulation, emergency access and transit access)

4.2 LESS THAN SIGNIFICANT IMPACTS

Based on the analysis contained in the SEIR, the following impacts have been determined to fall within the category of less than significant impact and do not require implementation of mitigation measures:

- Greenhouse Gas Emissions (generation of greenhouse gas emissions that could impact the environment, conflict with applicable greenhouse gas reduction plan, policy or regulation, and cumulative greenhouse gas emissions)
- Transportation/Traffic (near-term traffic at study intersections and project site access)

detours may periodically be required to allow heavy equipment movements or to facilitate construction activities directly adjacent to the street.

Findings

The District finds that, pursuant to Section 15091(a)(1) of the *CEQA Guidelines*, changes or alterations have been required in, or incorporated into, the project, which mitigate or avoid potentially significant traffic impacts during grading and construction activities, as identified in the Final SEIR. The District further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the District to require, and the mitigation is appropriate and feasible.

Facts in Support of Findings

Temporary traffic impacts during grading and construction of the proposed project would be less than significant with implementation of Mitigation Measure 4.4-3, which requires preparation and implementation of a Construction Traffic Management Plan.

4.4 ENVIRONMENTAL EFFECTS OF THE PROJECT WHICH ARE CONSIDERED UNAVOIDABLE SIGNIFICANT IMPACTS

This section identifies the significant and unavoidable impacts that require a statement of overriding considerations to be adopted by the District, pursuant to Section 15093 of the *CEQA Guidelines*, if the project is approved. Based on the analysis contained in the SEIR, the following impacts would be significant and unavoidable:

- Air Quality (exceed established thresholds during operation; conflict with applicable air quality management plan; and cumulatively contribute to the exceedance of established thresholds)
- Transportation/Traffic (degrade an acceptable intersection level of service (LOS) to an unacceptable LOS under cumulative project conditions)

As previously stated, the SEIR also analyzed a more realistic Alternative Land Use Designation for the Cowell Property, which would lessen the impacts and avoid all significant and unavoidable impacts.

4.4.1 Air Quality

Summary of Potential Impacts

An evaluation of potential air quality impacts that could result from implementation of the proposed project is provided in Section 4.2 (Air Quality) of the Draft SEIR.

Emissions generated by vehicle traffic associated with the proposed project would exceed established BAAQMD thresholds for reactive organic gas (ROG) and particulate matter (PM₁₀). Despite implementation of operational mitigation measures, ROG and PM₁₀ emissions would remain above BAAQMD thresholds. If mitigated levels of any criteria air pollutant or precursor would still exceed the applicable threshold of significance, the impact to air quality would remain significant and unavoidable.

The proposed project would result in significant long-term operational air quality impacts from ROG and PM₁₀ emissions. The project's exceedance of operational ROG (an ozone precursor) and PM₁₀ emissions

proposed project) to the Cowell Property. The ten acres remaining at Pioneer Square would continue to allow Mixed-Use Business Park uses. This alternative would allow no different or greater intensity of uses than those analyzed in the Vineyards EIR.

5.1.1 Environmental Effects

Under the Alternative Land Use Designation, daily traffic trips would be reduced to those analyzed in the Vineyards EIR. Likewise, emissions generated by vehicle traffic would be reduced such that BAAQMD thresholds for ROG and PM₁₀ would not be exceeded and operational air quality impacts would be less than significant. Consequently, this alternative would not conflict with the air quality plan and cumulative air quality impacts would be less than significant. As such, all three significant and unavoidable air quality impacts would be avoided by the Alternative Land Use Designation.

The Alternative Land Use Designation would result in the same less than significant but mitigable short-term traffic impacts as the proposed project. Trip generation during the AM and PM peak hour would be reduced under the Alternative Land Use Designation and cumulative impacts at the intersection of SR 4 Bypass and Marsh Creek Road would be reduced. However, traffic patterns in the project vicinity would differ from those studied in the Vineyards EIR due to the relocation of land uses. Implementation of the Alternative Land Use Designation would not degrade operations at any of the study intersections. Therefore, the only significant and unavoidable cumulative traffic impact would be avoided by the Alternative Land Use Designation.

5.1.2 Feasibility

The Alternative Land Use Alternative is infeasible because the District is not the land use regulatory body with authority over the uses allowed on the Cowell Property, does not control the property, and cannot legally change the land use designation.

Education Code § 66700 provides that California Community Colleges are postsecondary schools and that the Board of Governors of the California Community Colleges prescribe minimum standards for the formation and operation of community colleges and exercise general supervision. Education Code § 66903(e) and 66904 require that the California Post Secondary Education Commission (CPEQ) advise the Legislature regarding the location of new institutions and campuses of public higher education. Before a community college acquires a new school site, Public Resource Code § 21151.2 requires written notice of the proposed acquisition to the local planning commission. This is also required by Government Code § 65402.

Given the requirements for review and approval at both the state and local levels, the possibility of the Cowell Property ever being approved for a community college subsequent to the development of the New Brentwood Center on the Pioneer Square site as analyzed in the SEIR is extremely unlikely. Neither the Board of Governors nor CPEQ would likely approve the acquisition of land for a community college that would be located near the New Brentwood Center. Additionally, the City of Brentwood noted in their comments on the Draft SEIR that “there should be no need to analyze a second campus.” The proposed project would move the community college from the Cowell Property (the site originally zoned for a community college) to the site studied in the SEIR. Although the District has no authority to change the land use designation on the Cowell Property, it is reasonable to assume that a community college would not be built there. The Contra Costa Community College District is the only community college district recognized by the Board of Governors of the California Community Colleges in Contra Costa County with jurisdiction to establish a community college campus in this area of the County, and the District is

4.3 POTENTIALLY SIGNIFICANT BUT MITIGABLE IMPACTS

Pursuant to *CEQA Guidelines* Sections 15091(a)(1) and 15092(b), and to the extent reflected in the SEIR and the MMRP, the District finds that changes or alterations have been required to, or incorporated into, the components of the project to mitigate or avoid potentially significant effects on the environment. Based on the analysis contained in the SEIR, the following impacts have been determined to fall within the category of impacts that can be reduced to less than significant levels with implementation of the mitigation measures set forth below:

- Air Quality (short-term impacts during grading and construction)
- Transportation/Traffic (temporary construction impacts)

4.3.1 Air Quality

Summary of Potential Impacts

An evaluation of potential air quality impacts that could result from implementation of the proposed project is provided in Section 4.2 (Air Quality) of the Draft SEIR. Grading and construction activities associated with development of the proposed project would result in short-term air quality impacts. Temporary air quality impacts would result from: 1) particulate (fugitive dust) emissions during grading and construction activities; and 2) exhaust emissions from construction equipment and the motor vehicles of the construction crew.

Findings

The District finds that, pursuant to Section 15091(a)(1) of the *CEQA Guidelines*, changes or alterations have been required in, or incorporated into, the project, which would mitigate or avoid potentially significant short-term air quality impacts during grading and construction activities, as identified in the Final SEIR. The District further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the District to require, and the mitigation is appropriate and feasible.

Facts in Support of Findings

Short-term air quality impacts during grading and construction of the proposed project would be less than significant with implementation of Mitigation Measure 4.2-1, which requires implementation of the Bay Area Air Quality District's (BAAQMD's) Basic Construction Mitigation Measures.

4.3.2 Transportation/Traffic

Summary of Potential Impacts

An evaluation of potential traffic impacts that could result from implementation of the proposed project is provided in Section 4.4 (Transportation/Traffic) of the Draft SEIR. Grading and construction activities associated with the proposed project would temporarily affect vehicular, pedestrian and bicycle circulation in the vicinity of the project site resulting in traffic impacts during the construction period. The proposed project would generate truck traffic for a variety of purposes throughout the construction schedule, including excavation, building material deliveries, concrete pours, etc. In addition, traffic

would hinder the region's ability to achieve compliance with the state ozone standards as expeditiously as practicable. Therefore, the proposed project would conflict with the *2010 Bay Area Clean Air Plan*.

A project that exceeds the BAAQMD thresholds would also result in a cumulatively considerable impact. The proposed project's operational emissions would exceed BAAQMD thresholds for ROG and PM₁₀. Therefore, the proposed project, in conjunction with related cumulative projects would be cumulatively considerable. Despite implementation of transportation demand management features (included as project design features), cumulative impacts would be significant and unavoidable.

Findings

The District finds that there are no feasible measures that would completely mitigate or avoid all potentially significant air quality impacts during project operation (Impacts 4.2-2, 4.2-3 and 4.2-4), as identified in the Final SEIR.

Facts in Support of Findings

The proposed project would include various design features that would reduce emissions of criteria pollutants related to mobile source and area source emissions. These measures primarily relate to energy efficiency and would not reduce ROG and PM₁₀. Because the operational mitigation measures would not reduce emissions below established thresholds, the impact would be significant and unavoidable. It should be noted that operational emissions for the Vineyards Project were also found to be significant and unavoidable.

As discussed above, the proposed project would conflict with the *2010 Bay Area Clean Air Plan*. As there is no feasible mitigation, this impact would remain significant and unavoidable. Likewise, there are no feasible mitigation measures to reduce the project's cumulative operational emissions resulting in a significant and unavoidable impact.

4.4.2 Transportation/Traffic

Summary of Potential Impacts

The intersection of State Route (SR) 4 Bypass and Marsh Creek Road is expected to operate at an unacceptable level of service (LOS) D during both peak hours under Cumulative No Project conditions. The addition of project traffic would increase the volume-to-capacity (V/C) ratio by more than 0.1. There is no feasible mitigation for this cumulative impact. As such, this impact would be significant and unavoidable.

Findings

The District finds that there are no feasible measures that would mitigate or avoid potentially significant cumulative traffic impacts (Impact 4.4-2), as identified in the Final SEIR.

Facts in Support of Findings

Under Cumulative conditions, three of the four study intersections are projected to operate at an acceptable LOS with or without the project, assuming development of a community college land use on both the Pioneer Square site and the Cowell Property. This assumption was made because the Cowell

STATEMENT OF OVERRIDING CONSIDERATIONS

The California Environmental Quality Act (CEQA) requires decision makers to balance, as applicable, the economic, legal, social, technological and/or other benefits of a project against its significant and unavoidable environmental impacts when determining whether to approve the project. If the specific economic, legal, social, technological and/or other benefits of the project outweigh the significant and unavoidable impacts, those impacts may be considered "acceptable" (*CEQA Guidelines* Section 15093(a)). When significant impacts are not avoided or lessened, CEQA requires the agency to state, in writing, the specific reasons for considering a project acceptable. Those reasons must be based on substantial evidence in the Final Environmental Impact Report (EIR) or elsewhere in the administrative record (*CEQA Guidelines* Section 15093(b)).

In accordance with the requirements of CEQA and the *CEQA Guidelines*, the Contra Costa Community College District (District) finds that the mitigation measures identified in the Final Supplemental Environmental Impact Report (SEIR) and the Mitigation Monitoring and Reporting Program, when implemented, will avoid or substantially lessen virtually all of the significant impacts identified in the Final SEIR for the New Brentwood Center (project). However, under the land use assumptions analyzed in the SEIR with two community colleges in close proximity to one another, certain significant impacts of the project are unavoidable even after incorporation of all feasible mitigation measures. Because the District does not have the authority to change the land use designation on the Cowell Property, this is the only assumption that can be made. As such, the project would result in significant and unavoidable air quality and traffic impacts. The Final SEIR provides detailed information regarding these impacts.

The Final SEIR also analyzed a more realistic Alternative Land Use Designation for the Cowell Property, which would lessen the impacts and avoid the significant and unavoidable impacts. It is reasonable to assume that the California Community Colleges Chancellor's Office, the California Postsecondary Education Commission, and the City of Brentwood would not support a second community college on the Cowell Property and, therefore, all significant and unavoidable impacts identified in the Final SEIR would not occur.

The District finds that all feasible mitigation measures identified in the Final SEIR within the purview of the District will be implemented with the project, and that the remaining significant and unavoidable impacts are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, technological and/or other benefits based upon the facts set forth in the Findings of Fact (provided under separate cover), the Final SEIR and the administrative record, as follows:

- The New Brentwood Center will benefit the residents of east Contra Costa County and further the District's mission of providing accessible, innovative and outstanding higher education opportunities and support services.
- The project will provide sufficient property to develop 88,000 gross square feet of college space. This facility size is projected to be adequate for long-range educational needs in the enrollment area.
- The facility will be in an ideal central location to serve the enrollment area and will have access within one quarter of a mile to the state highway serving that area. The current leased facility is several miles from the highway which decreases its apparent accessibility and convenience for people seeking higher education.
- The project will move the community college from the Cowell Property (the site originally zoned for a community college) to the site studied in the SEIR. Although the District has no authority to

Property still has an approved community college land use. Because the District is not the land use regulatory body with authority over the uses allowed on the Cowell Property (the City is) and the District does not control the Cowell Property, the District cannot legally change the land use designation for the Cowell Property, and hence, the District did not include such a change of use in its project proposal.

As described above, the intersection of the SR 4 Bypass and Marsh Creek Road, however, is expected to operate at an unacceptable level of service (LOS) D during both peak hours under Cumulative No Project conditions. The addition of project traffic would increase the V/C ratio by more than 0.1. This impact is considered potentially significant based on significance criteria used in the Vineyards EIR.

Construction of an overpass at this location is included in the East Contra Costa Regional Fee and Financing Authority (ECCRFFA) Plan. Construction of the SR 4 Bypass/Marsh Creek Road overpass would provide acceptable operations at this location. However, the fee program does not identify funding sources to fully fund all of the projects in the ECCRFFA Plan, including the SR 4 Bypass/Marsh Creek Road overpass. No other feasible mitigation has been identified for this intersection. Thus, the impact is considered significant and unavoidable.

5.0 FINDINGS REGARDING CONSIDERATIONS THAT MAKE ALTERNATIVES ANALYZED IN THE EIR INFEASIBLE

As previously described, the Vineyards EIR was certified by the City in 2004 for the Vineyards Project. The Vineyards EIR analyzed a reasonable range of alternatives to the Vineyards Project, as required by CEQA.

The SEIR further expanded the reasonable range of alternatives in the Vineyards EIR by analyzing an alternative land use for the Cowell Property (presently designated Community College by the City's General Plan), given that the project proposes to relocate the community college use to a portion of the Pioneer Square site and given that it is not likely that two community college campuses would ever be developed in close proximity to one another.

The alternative was presented in the SEIR to compare the impacts of the proposed project with those that might result if the land use on the Cowell Property were changed by the City in the future. Analysis of this alternative allows the greater community to discern what could take place on the Cowell Property if the City, in concert with the owners of the Cowell Property, later decide to consider alternative uses for the Cowell Property, and how such changed use would potentially avoid or substantially lessen all significant impacts of the project analyzed in the SEIR.

5.1 ALTERNATIVE LAND USE DESIGNATION

Under the proposed project, the New Brentwood Center community college uses and facilities would be relocated from the approximately 29-acre Cowell Property where it was previously proposed to a 17-acre portion of the 27-acre Pioneer Square site. The Cowell Property is currently designated by the City's General Plan as Community College and the Pioneer Square site is designated Mixed-Use Business Park. Thus, the proposed project would displace approximately 63 percent (17 acres divided by 27 acres) of the mixed-use development that would otherwise be allowed on the Pioneer Square site.

The Alternative Land Use Designation would change the land use on the Cowell Property from Community College to Mixed-Use Business Park and transfer the 63 percent of Mixed-Use Business Park uses otherwise allowed on the 17-acre portion of the Pioneer Square site (and now displaced by the

releasing all legal interest in the Cowell Property as a part of the proposed project. Accordingly, there is no organization in Contra Costa County with the ability to establish a community college campus on the Cowell Property. It is also reasonable to assume that at some point the City will approve a change to the General Plan land use designation on the Cowell Property, or it will remain undeveloped.

6.0 FINDINGS WITH RESPECT TO MITIGATION OF SIGNIFICANT ADVERSE IMPACTS AND ADOPTION OF MITIGATION MONITORING PLAN

Based on the entire record before the District, and having considered the significant and unavoidable impacts of the project, the District hereby determines that all feasible mitigation within the responsibility and jurisdiction of the District has been adopted to reduce or avoid the potentially significant impacts identified in the SEIR, and that no additional feasible mitigation is available to further reduce significant impacts. The feasible mitigation measures are discussed in Sections 4.1 and 4.2, above, and are set forth in the MMRP.

CEQA provides that each public agency mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so (Public Resources Code § 21001.1[b]). In mitigating or avoiding a significant effect of a project, a public agency may exercise only those express or implied powers provided by law other than under CEQA (Public Resources Code § 21004). The District has specific powers to mitigate effects that occur within its jurisdiction, namely within the District.

Public Resources Code § 21081.6 requires the District to adopt a monitoring or compliance program regarding the changes in the project and mitigation measures imposed to lessen or avoid significant effects on the environment. The MMRP for the New Brentwood Center project is hereby adopted by the District because it fulfills the CEQA mitigation monitoring requirements, as follows:

- The MMRP is designed to ensure compliance with the changes in the project and mitigation measures imposed on the project during project implementation
- Measures to mitigate or avoid significant effects on the environment are fully enforceable through conditions of approval, permit conditions, agreements or other measures

Exhibit B

NEW BRENTWOOD CENTER

**Statement of Overriding Considerations
(Pursuant to the State CEQA Guidelines)**

**Final Supplemental Environmental Impact Report
(State Clearinghouse No. 2010112046)**

May 2011

change the land use designation on the Cowell Property, it is reasonable to assume that a community college will not be built there. The Contra Costa Community College District is the only community college district recognized by the Board of Governors of the California Community Colleges in Contra Costa County with jurisdiction to establish a community college campus in this area of the County, and the District is releasing all legal interest in the Cowell Property as a part of the project. Accordingly, there is no organization in Contra Costa County with the ability to establish a community college campus on the Cowell Property. It is also reasonable to assume that at some point the City will approve a change to the General Plan land use designation on the Cowell Property, or it will remain undeveloped.

- The District will own the facility. This will end ongoing rental expense and provide greater control to modify the facility as educational needs change with the passage of time.
- Ownership of the facility will provide one of the remaining elements necessary to qualify for recognition as a formal Education Center. The state wants to ensure that its investment in a formal Education Center is permanently secure.

**Table 1
Mitigation Monitoring and Reporting Program – New Brentwood Center Project**

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|--|--|--|--|--|
| Air Quality | | | | | |
| <p>4.2-1 - Grading plans, building plans and specifications shall stipulate that, in compliance with the BAAQMD <i>CEQA Air Quality Guidelines</i>, the following basic construction mitigation measures shall be implemented:</p> <ul style="list-style-type: none"> ▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas and unpaved access roads) shall be watered two times per day. ▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ▪ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ▪ All vehicle speeds on unpaved roads shall be limited to 15 mph. ▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. ▪ Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, | <p>Implement all control measures listed in Mitigation Measure 4.2-1 during construction</p> | <p>Contra Costa Community College and District construction contractor</p> | <p>Prior to the start of grading, review final construction specifications to ensure that all requirements listed in Mitigation Measure 4.2-1 are included</p> <p>Conduct periodic site visits during grading and construction to verify that control measures are being implemented</p> | <p>Halt grading and/or construction until control measures are implemented</p> | |

Exhibit C

NEW BRENTWOOD CENTER

**Mitigation Monitoring and Reporting Program
(Pursuant to the State CEQA Guidelines)**

**Final Supplemental Environmental Impact Report
(State Clearinghouse No. 2010112046)**

May 2011

**Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project**

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|---|--|---|---|--|--|
| surrounding State Park. Equipment storage areas shall be screened from the view of offsite residences, the John Marsh Home, and roadways. | | | | | |
| <p>3.7-G.1 - The project proponent shall prepare a lighting plan. To minimize potential disturbance that may be caused by outdoor lighting to the maximum extent possible, and to avoid excessive contributions to atmospheric nightsky conditions, outdoor lighting shall include the following standards:</p> <ul style="list-style-type: none"> ▪ Parking lot and exterior building lighting shall be installed to the approval of the Community Development and Police Departments. ▪ All lighting shall be shielded from abutting properties. ▪ No lighting shall be of the type or in a location such that it constitutes a hazard to vehicular traffic, either on private property or on abutting streets. ▪ The spacing and height of the standards and luminars shall be such that a maximum of seven foot candles and a minimum of one foot candle of illumination are obtained on all vehicle access ways and parking areas. ▪ The height of light standards shall not exceed 20 feet. ▪ To prevent damage from automobiles, | Prepare lighting plan that includes the standards listed in Mitigation Measure 3.7-G.1 | Contra Costa Community College District | Prior to the start of construction, review lighting plan to ensure that it meets the requirements of Mitigation Measure 3.7-G.1 | Postpone the start of construction until lighting plan has been prepared | |

**Table 1
Mitigation Monitoring and Reporting Program – New Brentwood Center Project**

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|---|---|--|--|--|--|
| <p>Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <ul style="list-style-type: none"> All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. A publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints shall be posted. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. | | | | | |
| Transportation/Traffic | | | | | |
| <p>4.4-3 - Prior to start of construction, the prime contractor shall prepare a Construction Traffic Management Plan, which shall include the following items:</p> <ul style="list-style-type: none"> Proposed truck routes to be used Construction hours, including limits on the number of truck trips during the AM and PM peak traffic periods (6:00 to 9:00 AM and 4:00 to 6:00 PM), if conditions | <p>Prepare and implement Construction Traffic Management Plan, including the items listed in Mitigation Measure 4.4-3</p> | <p>Contra Costa Community College and District construction contractor</p> | <p>Prior to the start of construction, review Construction Traffic Management Plan to ensure that all requirements listed in Mitigation Measure 4.4-3 are included</p> | <p>Postpone the start of construction until plan has been prepared and requirements have been included</p> | |

Table 1
Mitigation Monitoring and Reporting Program – New Brentwood Center Project

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|--------------------------|---------------------------|--|----------------------------------|--|
| <p>demonstrate the need</p> <ul style="list-style-type: none"> ▪ Proposed employee parking plan (number of spaces and planned locations) to be accommodated within the site ▪ Proposed construction equipment and materials staging areas, showing minimal conflicts with traffic, pedestrian and bicycle circulation patterns ▪ Expected traffic detours needed, planned duration, and traffic control plans including potential sidewalk closures and plans to accommodate vehicular, pedestrian and bicycle detours. | | | | | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|---|---|--|---|--|
| Aesthetics | | | | | |
| 3.7-A.1 - The project proponent shall prepare a landscaping plan. The plan shall be prepared by a licensed landscape architect and shall pay special attention to screening portions of the development that may be considered visually unappealing and disharmonious from view of the John Marsh Home and | Prepare landscape plan that provides required screening | Contra Costa Community College District | Prior to the start of construction, review landscape plan to ensure that it meets the requirements of Mitigation Measure 3.7-A.1 | Postpone the start of construction until landscape plan has been prepared | |

**Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project**

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|---|---|--|--|--|--|
| <p>standards shall be mounted on reinforced concrete pedestals or otherwise protected.</p> <ul style="list-style-type: none"> ▪ Under canopy lighting elements shall be recessed or concealed in such a manner as not to be directly visible from a public street. ▪ Lighting shall be installed around the perimeter of the building and be vandal resistant. | | | | | |
| <p>3.7-G.2 - To minimize glare generated by the proposed project, the project proponent shall design the project with non-reflective glass and construction materials to the extent feasible.</p> | <p>Prepare architectural plans that use non-reflective glass and construction materials</p> | <p>Contra Costa Community College District</p> | <p>Prior to the start of construction, review architectural plans to ensure that it meets the requirements of Mitigation Measure 3.7-G.2</p> | <p>Postpone the start of construction until plans have been prepared</p> | |
| Biological Resources | | | | | |
| <p>3.8-E.1 - A qualified biologist will conduct pre-construction surveys for CRLF in all construction areas located within 300 feet of Marsh Creek. Following preconstruction surveys with negative results, all vegetation within the project impact area adjacent to and in the creek (or other relevant wetland habitats) will be removed and exclusion fencing will be established around the perimeter of the project impact area.</p> <p>If CRLF are found at or near the site then the project proponent shall implement all conditions pertaining to CRLF which are</p> | <p>Conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure 3.8-E.1</p> | <p>Contra Costa Community College and District construction contractor</p> | <p>Prior to the start of grading or construction, conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure 3.8-E.1</p> | <p>Postpone the start of grading and/or construction until surveys have been completed</p> | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|--|---|---|---|--|
| construction surveys, it will be relocated as necessary to a location in Marsh Creek deemed suitable by the biologist (i.e., at a location in Marsh Creek which is a sufficient distance from construction activities). Because attempting to locate pond turtle nests will not result in a realistic probability of detection, if a western pond turtle is found in Marsh Creek adjacent to the site, exclusion fencing will be used to eliminate the possibility of nest establishment in uplands adjacent to that portion of Marsh Creek. This measure may be required for other species (see mitigation for California red-legged frog). | 3.8-F.1 | | with the requirements listed in Mitigation Measure 3.8-F.1 | completed | |
| 3.8-F.2 - A qualified biologist will provide project contractors and construction crews with a worker-awareness program before any work within Marsh Creek or adjacent upland habitats that are appropriate for western pond turtles. This program will be used to describe the species, its habits and habitats, its legal status and required protection, and all applicable mitigation measures. | Provide construction contractors and crews with a worker-awareness program | Contra Costa Community College District and construction contractor | Prior to the start of grading or construction, provide a worker-awareness program | Postpone the start of grading and/or construction until a program has been provided | |
| 3.8-G.1 - Demolition and construction should be scheduled, to the extent feasible, to avoid the nesting season, which extends from February through August. If it is not possible to schedule demolition and construction between September and January, then one of the following options (Mitigation 3.8-G.2 or 3.8-G.3) shall be implemented. | Schedule demolition and construction to avoid nesting season If nesting season cannot be avoided, implement Mitigation Measure 3.8-G.2 or | Contra Costa Community College District and construction contractor | If demolition and construction would occur during nesting season, conduct pre-construction surveys and comply with the requirements of Mitigation Measure | Postpone the start of demolition and construction until surveys have been completed | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|---|--|---|--|--|
| <p>included in the incidental take authorization issued by USFWS for the Vineyards at Marsh Creek project.</p> <p>Once exclusion fencing has been erected between the project construction zone and Marsh Creek, a qualified biologist will then survey the construction zone to confirm that no CRLF are present. In addition, the applicant shall take appropriate measures to ensure that CRLF are not affected by project activities. Such measures may include minimization of disturbance within the banks of the creek, minimization of construction and staging impacts within riparian habitat, additional pre-construction surveys for CRLF, and periodic monitoring of the site for this species during construction.</p> | | | | | |
| <p>3.8-E.2 - A qualified biologist will provide project contractors and construction crews with a worker-awareness program before any work within Marsh Creek or adjacent upland habitats that are appropriate for CRLF. This program will be used to describe the species, its habits and habitats, its legal status and required protection, and all applicable mitigation measures.</p> | <p>Provide construction contractors and crews with a worker-awareness program</p> | <p>Contra Costa Community College District and construction contractor</p> | <p>Prior to the start of grading and/or construction, provide a worker-awareness program</p> | <p>Postpone the start of grading and/or construction until program has been provided</p> | |
| <p>3.8-F.1 - A qualified biologist will conduct pre-construction surveys for western pond turtles in all construction areas located within 300 feet of Marsh Creek or stock ponds. If a western pond turtle is found during pre-</p> | <p>Conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure</p> | <p>Contra Costa Community College District and construction contractor</p> | <p>Prior to the start of grading and/or construction, conduct pre-construction surveys and comply</p> | <p>Postpone the start of grading and/or construction until surveys have been</p> | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|---|--|---|--|--|
| <p>included in the incidental take authorization issued by USFWS for the Vineyards at Marsh Creek project.</p> <p>Once exclusion fencing has been erected between the project construction zone and Marsh Creek, a qualified biologist will then survey the construction zone to confirm that no CRLF are present. In addition, the applicant shall take appropriate measures to ensure that CRLF are not affected by project activities. Such measures may include minimization of disturbance within the banks of the creek, minimization of construction and staging impacts within riparian habitat, additional pre-construction surveys for CRLF, and periodic monitoring of the site for this species during construction.</p> | | | | | |
| <p>3.8-E.2 - A qualified biologist will provide project contractors and construction crews with a worker-awareness program before any work within Marsh Creek or adjacent upland habitats that are appropriate for CRLF. This program will be used to describe the species, its habits and habitats, its legal status and required protection, and all applicable mitigation measures.</p> | <p>Provide construction contractors and crews with a worker-awareness program</p> | <p>Contra Costa Community College District and construction contractor</p> | <p>Prior to the start of grading and/or construction, provide a worker-awareness program</p> | <p>Postpone the start of grading and/or construction until program has been provided</p> | |
| <p>3.8-F.1 - A qualified biologist will conduct pre-construction surveys for western pond turtles in all construction areas located within 300 feet of Marsh Creek or stock ponds. If a western pond turtle is found during pre-</p> | <p>Conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure</p> | <p>Contra Costa Community College District and construction contractor</p> | <p>Prior to the start of grading and/or construction, conduct pre-construction surveys and comply</p> | <p>Postpone the start of grading and/or construction until surveys have been</p> | |

**Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project**

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|--|---|---|---|--|
| construction surveys, it will be relocated as necessary to a location in Marsh Creek deemed suitable by the biologist (i.e., at a location in Marsh Creek which is a sufficient distance from construction activities). Because attempting to locate pond turtle nests will not result in a realistic probability of detection, if a western pond turtle is found in Marsh Creek adjacent to the site, exclusion fencing will be used to eliminate the possibility of nest establishment in uplands adjacent to that portion of Marsh Creek. This measure may be required for other species (see mitigation for California red-legged frog). | 3.8-F.1 | | with the requirements listed in Mitigation Measure 3.8-F.1 | completed | |
| 3.8-F.2 - A qualified biologist will provide project contractors and construction crews with a worker-awareness program before any work within Marsh Creek or adjacent upland habitats that are appropriate for western pond turtles. This program will be used to describe the species, its habits and habitats, its legal status and required protection, and all applicable mitigation measures. | Provide construction contractors and crews with a worker-awareness program | Contra Costa Community College District and construction contractor | Prior to the start of grading or construction, provide a worker-awareness program | Postpone the start of grading and/or construction until a program has been provided | |
| 3.8-G.1 - Demolition and construction should be scheduled, to the extent feasible, to avoid the nesting season, which extends from February through August. If it is not possible to schedule demolition and construction between September and January, then one of the following options (Mitigation 3.8-G.2 or 3.8-G.3) shall be implemented. | Schedule demolition and construction to avoid nesting season If nesting season cannot be avoided, implement Mitigation Measure 3.8-G.2 or | Contra Costa Community College District and construction contractor | If demolition and construction would occur during nesting season, conduct pre-construction surveys and comply with the requirements of Mitigation Measure | Postpone the start of demolition and construction until surveys have been completed | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|---|---------------------------|--|----------------------------------|--|
| <p>AND</p> <p>3.8-G.2 - Trees containing known or potential raptor nest sites may be removed during the non-breeding season to discourage future nesting attempts on the condition that no raptor pair is currently utilizing the nest site. Monitoring evidence that any nests in trees planned for early removal are unattended by reproductive-aged birds must be provided. Alternatively, Mitigation 3.8-G.3 may be used.</p> <p>OR</p> <p>3.8-G.3 - Pre-construction surveys for nesting raptors shall be conducted by a qualified biologist to ensure that no raptor nests will be disturbed during project implementation. A pre-construction survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, a qualified biologist shall inspect all trees in and immediately adjacent to the impact areas for raptor nests. If an active raptor nest is found sufficiently close (as determined by the</p> | <p>3.8-G.3</p> <p>Conduct pre-construction surveys and comply with the requirements of Mitigation Measure 3.8-G.3</p> | | <p>3.8-G.2</p> | | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|---|---|---|--|--|--|
| qualified biologist) to the construction area to be affected by these activities, the qualified biologist shall determine a construction-free buffer zone to be established around the nest. | | | | | |
| <p>3.8-I - In order to ensure that nesting Swainson's Hawks will not be affected by construction in the project area, a qualified biologist shall conduct pre-construction surveys. Survey Period I occurs from January 1 – March 20, Period II from March 20 – April 5, Period III from April 5 – April 20, Period IV from April 21 – June 10, and Period V is from June 10 – July 30. Three surveys shall be completed in at least each of the two survey periods immediately prior to a project's initiation. If a nest site is found, then, similar to Mitigation Measures 3.8-G.2 and G.3, above, either of the following procedures must be followed:</p> <ol style="list-style-type: none"> 1. Trees containing known or potential raptor nest sites may be removed during the non-breeding season to discourage future nesting attempts on the condition that no Swainson's Hawk pair is currently utilizing the nest site. Monitoring evidence that any nests in trees planned for early removal are unattended by reproductive-aged birds must be provided; or 2. If an active Swainson's Hawk nest is found on or sufficiently close (as | <p>Conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure 3.8-I</p> | <p>Contra Costa Community College and construction contractor</p> | <p>Prior to the start of grading and/or construction, conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure 3.8-I</p> | <p>Postpone the start of grading and/or construction until surveys have been completed</p> | |

**Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project**

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|---|--|---|---|---|--|
| determined by the qualified biologist) to the construction area to be affected by construction activities, a qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest and an incidental take permit (2081 permit) shall be obtained from California Department of Fish and Game prior to impacting the tree or initiating project construction. | | | | | |
| 3.8-H.1 - Numbers and locations of burrowing owls will be periodically monitored until project implementation in order to determine the number and location of burrowing owls on the project site. | Periodically monitor site | Contra Costa Community College District and construction contractor | Until project implementation, periodically monitor site | None | |
| 3.8-H.3 - Passive relocation techniques, following CDFG (1995) guidelines, involve the placement of one-way exclusion devices on occupied and potentially occupied burrows. This is done to 'evict' owls from sites, to preclude nest establishment and/or the probability of killing owls. However, because the Vineyards Project area is 481 acres, and occupied by California ground squirrels which continually create new burrows, monitoring of the owl population on site will be necessary in addition to implementation of this method. Given the size of this project, the applicant shall employ the following approach. Monitoring should be conducted at a level of | Monitor the site and exclude owls from all occupied burrows Complete any eviction outside the breeding season | Contra Costa Community College District and construction contractor | Prior to the start of grading and/or construction, monitor site | Postpone the start of grading and/or construction until monitoring has been completed | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

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|--|---|--|--|--|--|
| <p>effort appropriate to the season and apparent owl population to identify specific locations within the project site that are occupied by owls (i.e., if initial observations detect numerous owls, more survey and monitoring effort is indicated. Conversely, a paucity of owl observations may indicate that little monitoring is required to achieve the requisite level of confidence that no owls will be harmed). Owls shall be excluded from all occupied burrows within the project area. Any owl eviction must be completed outside the Burrowing Owl breeding season.</p> | | | | | |
| <p>3.8-H.4 - Ground squirrels create and maintain burrows used by Burrowing Owls. However, as explained above, successfully excluding owls from large sites with extant squirrel populations, using only one-way doors, is difficult to implement with a reasonable probability of success. Accordingly, habitat management, in addition to passive eviction and monitoring will be used. In areas where construction is proposed during the nesting season (February – August), habitat management measures shall be performed outside of the nesting season designed to reduce burrow availability and habitat quality. This measure must be preceded by surveys (see Mitigations H.1 and H.3), to ensure that this activity does not result in loss of individual burrowing owls.</p> | <p>Conduct surveys and implement habitat management measures consistent with the requirements of Mitigation Measure 3.8-H.4</p> | <p>Contra Costa Community College District and construction contractor</p> | <p>Prior to the start of grading and/or construction, conduct surveys and perform habitat management measures consistent with Mitigation Measure 3.8-H.4</p> | <p>Postpone the start of grading and/or construction until surveys have been completed and habitat management measures have been implemented</p> | |

**Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project**

| Mitigation Measure | Implementation Procedure | Monitoring Responsibility | Monitoring/Reporting Action & Schedule | Non-Compliance Sanction/Activity | Monitoring Compliance Record Name/Date |
|--|---|--|--|--|--|
| <p>3.8-J - If construction is to occur during the breeding season (February – August), pre-construction surveys in habitats appropriate for the Loggerhead Shrike, California Horned Lark, and California Yellow Warbler should be conducted by a qualified biologist no more than 15 days prior to the initiation of construction in any given area. Pre-construction surveys should be used to ensure that no nests will be disturbed during project implementation. If nests are found during these surveys, the preferred mitigation will be to determine whether the nest will become complete before the onset of construction activities. In this event, the nest will be allowed to remain undisturbed. Alternatively, if the status of the nest at the time of detection, coupled with the species' specific egg-laying, incubation, and chick-rearing interval indicates that the nest will not be completed prior to the onset of otherwise approved construction, arrangements will be made to transport the nest to a CDFG-approved wildlife rehabilitation facility. The nest will be protected by a construction and disturbance-free buffer of sufficient size until the eggs hatch. Following hatch and a sufficient interval for any chicks to become capable of self-thermoregulation, the entire nest and contents will be transported to the approved facility for rearing.</p> | <p>Conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure 3.8-J</p> | <p>Contra Costa Community College and District construction contractor</p> | <p>Prior to the start of grading and/or construction, conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure 3.8-J</p> | <p>Postpone the start of grading and/or construction until surveys have been completed</p> | |

Table 2
Mitigation Monitoring and Reporting Program – Vineyards Project

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| 3.8-K.1 - A pre-demolition survey for roosting bats should be conducted prior to any removal of trees. The survey should be conducted by a qualified biologist (i.e., a biologist holding a CDFG collection permit and a Memorandum of Understanding with CDFG allowing the biologist to handle and collect bats). No activities that would result in disturbance to active roosts would proceed prior to completion of the surveys. If no active roosts are found, then no further action would be warranted. If either a maternity roost or hibernacula is present, the following mitigation measure shall be implemented. | Conduct pre-demolition surveys and comply with the requirements listed in Mitigation Measure 3.8-K.1 | Contra Costa Community College and District construction contractor | Prior to the start of demolition, conduct pre-demolition surveys and comply with the requirements listed in Mitigation Measure 3.8-K.1 | Postpone the start of demolition until surveys have been completed | |
| 3.8-K.2 - If active maternity roosts or hibernacula are found in trees which will be removed as part of project construction, demolition of that tree should commence before maternity colonies form (i.e., prior to March 1) or after young are volant (flying) (i.e., after July 31). Disturbance-free buffer zones as determined by a qualified bat biologist should be observed during the maternity roost season (March 1 - July 31). If a non-breeding bat hibernacula is found in a tree scheduled to be removed, the individuals should be safely evicted, under the direction of a qualified bat biologist (as determined by a Memorandum of Understanding with CDFG), by opening the roosting area to allow airflow through the cavity. Demolition | If active maternity roosts or hibernacula are found, implement the measures listed in Mitigation Measure 3.8-K.2 | Contra Costa Community College and District construction contractor | Prior to the start of demolition, implement the measures listed in Mitigation Measure 3.8-K.2 | Postpone the start of demolition until measures have been implemented | |

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| <p>should then follow at least one night after initial disturbance for airflow. This action should allow bats to leave during darkness, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight.</p> <p>Trees with roosts that need to be removed should first be disturbed at dusk, just prior to removal that same evening, to allow bats to escape during the darker hours.</p> | | | | | |
| <p>Mitigation 3.8-M - The following mitigation measures would result in less than significant impacts to the potential loss of individual kit foxes during Vineyards project construction:</p> <ul style="list-style-type: none"> ▪ Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities for any project activity likely to impact the San Joaquin kit fox. If construction is phased, pre-construction surveys shall be conducted for each phase according to the timing and schedule stated above. ▪ An employee education program shall be conducted. A qualified biologist will provide project contractors and construction crews with a worker-awareness program before any grading or construction work occurs on the | <p>Conduct pre-construction surveys and comply with the requirements listed in Mitigation Measure 3.8-J</p> <p>Conduct employee education program and comply with the requirements listed in Mitigation Measure 3.8-M</p> | <p>Contra Costa Community College and District construction contractor</p> | <p>Prior to the start of grading and/or construction, conduct pre-construction surveys and employee education program</p> <p>During construction, comply with the requirements listed in Mitigation Measure 3.8-M</p> | <p>Postpone the start of grading and/or construction until surveys and education program have been completed and the requirements have been met</p> | |

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| <p>Vineyards project site. This program will be used to describe the species, its habits and habitats, its legal status and required protection, and all applicable mitigation measures</p> <ul style="list-style-type: none"> ▪ Project-related vehicles shall observe a 20-mph speed limit in the project area, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. ▪ To the extent practicable, nighttime construction shall be minimized. ▪ Off-road traffic outside of designated project areas shall be prohibited. ▪ To prevent inadvertent entrapment of kit foxes or other animals during the construction phases of the projects, all excavated, steep-walled holes or trenches more than two feet deep shall be covered at the close of each working day by plywood or similar materials or equipped with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals. ▪ All construction pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at a construction site for one or more | | | | | |

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| <p>overnight periods shall be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in anyway. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the Service has been consulted. If necessary, and under the direct supervision of a qualified biologist, the pipe may be moved once to remove it from the path of construction activity.</p> <ul style="list-style-type: none"> All food related trash items; such as wrappers, cans, bottles, and food scraps, shall be disposed of in a closed container and removed at least once a week from a construction or project site. | | | | | |
| <p>3.8-R - If encroachment into the riparian setback is necessary, then a commensurate amount of riparian habitat along Marsh Creek will be enhanced to compensate for the loss of habitat caused by the encroachment. Part of the enhancement area may be the restoration of the area previously affected by the ECCID irrigation canal. The ratio of enhancement habitat will vary depending upon the extent of encroachment into the 100 foot setback buffer: encroachment into the first 50% shall be mitigated at a ratio of 1:1 (mitigation:impacts); encroachment into the remaining 50% shall be mitigated at a ratio of 2:1 (mitigation:impacts).</p> | <p>Compensate for the loss of riparian habitat, if encroachment is necessary and comply with the requirements listed in Mitigation Measure 3.8-R</p> | <p>Contra Costa Community College District and construction contractor</p> | <p>Prior to start of grading and/or construction, determine if the project will encroach into riparian setback</p> <p>If encroachment is necessary, provide compensation that complies with the items listed Mitigation Measure 3.8-R</p> | <p>Postpone the start of grading and/or construction if encroachment into setback is necessary to determine required compensation</p> | |

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| Cultural Resources | | | | | |
| <p>3.12-A - Prior to the construction of the Village Center area, the proposed Marsh Creek Trail Segment, and other improvements and construction activities within the southeastern section of the Vineyards site, a program to mitigate impacts to CCO-548 shall be developed and implemented. The mitigation program shall include (but not be limited to) the following actions:</p> <ul style="list-style-type: none"> Avoidance: Consultation with a qualified archaeologist during design of projects in the vicinity of CCO-548. To the extent feasible, construction activity shall avoid resources within CCO-548. Controlled Data Recovery: If avoidance of resources in CCO-548 is not feasible, a qualified archaeologist shall conduct controlled data recovery of resources. Resources shall be catalogued and analyzed and a final report of findings of mitigation data shall be submitted to the Northwest Information Center to demonstrate that mitigation has been completed. To the extent required by law, culturally affiliated Native Americans shall be consulted during "controlled data recovery," if resources in CCO-548 cannot be avoided. The disposition of non-burial artifacts shall be | <p>Implement APTP prepared by Holman & Associates for Vineyards Project and comply with the actions listed in Mitigation Measure 3.12-A</p> | <p>Contra Costa Community College and District contractor</p> | <p>During grading and construction, implement APTP and comply with the actions listed in Mitigation Measure 3.12-A</p> | <p>Halt grading and construction until the actions have been implemented</p> | |

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| <p>determined in consultation with the culturally affiliated Native Americans.</p> <ul style="list-style-type: none"> ▪ Archaeological Monitoring/Recordation/Removal: A qualified archaeologist shall monitor all construction related grading and earthmoving activities in the southeastern portion of the Vineyards site. If cultural resources are encountered during construction, all work within the vicinity of the find shall stop immediately. The cultural resource shall be identified, recorded, and/or removed by a qualified archaeologist before grading and trenching activities can recommence in the area of discovery. To the extent required by law, culturally affiliated Native Americans shall be consulted during “archaeological monitoring/recordation/removal,” if such activities are required. ▪ If any human remains are discovered, all work within the vicinity of the discovery shall stop immediately and the County Coroner will be notified. If the coroner determines the remains to be of Native American origin, he or she shall notify the Native American Heritage Commission (NAHC). The NAHC shall then identify the most likely descendant(s) (MLD) to be consulted regarding treatment and/or reburial of the remains (Section 5097.98 of the Public | | | | | |

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| <p>Resources Code). If an MLD cannot be identified, or the MLD fails to make a recommendation regarding the treatment of the remains within 48 hours after gaining access to the remains, the Native American human remains and associated grave goods shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance. Work can continue once the MLD's recommendations have been implemented or the remains have been reburied if no agreement can be reached with the MLD (Section 5097.98 of the Public Resources Code).</p> <ul style="list-style-type: none"> ▪ Human remains that are encountered shall be sensitively treated under the professional guidance of a qualified archaeologist. Any human remains that are identified in areas that will be impacted by construction activities shall be exposed utilizing standard archaeological procedures. All skeletal material and associated grave goods shall be carefully removed for reburial in an area as close to their original location as possible. This area shall be protected from future disturbance. Burial inventories shall be completed and made available for inspection at the completion of burial removal. ▪ Measures to address the treatment of | | | | | |

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| unknown archaeological properties included in the Archaeological Properties Treatment Plan (APTP) prepared by Holman & Associates (April 2005) shall be implemented with project construction. | | | | | |
| Geology and Soils | | | | | |
| 3.9-C - Prior to issuance of grading permits a qualified engineering geologist shall be retained to prepare a detailed geotechnical engineering design study for proposed building sites. Any recommended design and engineering solutions to ensure sufficient foundation stability shall be incorporated into the project's design plans. Prior to the issuance of the first building permit, the State Architect shall verify that the project conforms to the seismic requirements stipulated in the Uniform Building Code (UBC) for Seismic Zone 4, the zone of highest seismic risk. | Prepare a detailed geotechnical study Incorporate any recommended design and engineering solutions in project plans | Contra Costa Community College District | Prior to the start of grading, review detailed geotechnical study and ensure that recommendations are incorporated in project plans | Postpone grading until study has been completed and recommendations have been incorporated in plans | |
| 3.9-K - As required by the UBC, site-specific detailed design studies shall be prepared by a licensed engineering geologist and reviewed by the State Architect prior to the issuance of grading permits for any development on the Vineyards at Marsh Creek project site. The evaluation of expansive soils and the formulation and implementation of design criteria for foundation and pavement design in expansive soils shall be addressed. Such | Prepare study that evaluates expansive soils that includes one or more of the design criteria listed in Mitigation Measure 3.9-K Incorporate all recommendations of | Contra Costa Community College District | Prior to the start of grading, review evaluation to ensure that the criteria listed in Mitigation Measure 3.9-K are included and incorporated in project plans | Postpone the start of grading until evaluation has been completed and recommendations have been incorporated in plans | |

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| <p>criteria shall include one or more of the following:</p> <ul style="list-style-type: none"> ▪ Minimize the use of expansive soil as fill within upper portions of building pads. ▪ Compact expansive soil fill wetter than optimum moisture content. ▪ Extend shallow foundations below the zone of seasonal moisture fluctuations. ▪ Use deep foundations such as drilled piers, or stiff grid or mat foundations that can move without cracking, in areas of expansive soil or rock. ▪ Control site drainage to minimize seasonal wetting and drying of expansive materials. ▪ Provide non-expansive fill layers under foundations, slabs, and pavements. ▪ Treat expansive soils with lime or cement in the area of improvements to reduce the effects of expansive materials. <p>All recommendations of the engineering geologist, shall be incorporated in the proposed construction plan, prior to approval of the grading permit. The engineering geologist services shall be retained throughout site grading and s/he shall be contacted prior to grading and when onsite conditions necessitate deviations from the approved plan.</p> | <p>engineering geologist in project plans</p> | | | | |

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| The engineering geologist shall conduct assessments on a regular basis during site grading and initial construction phases. | | | | | |
| Hazards or Hazardous Materials | | | | | |
| 3.11-C - Prior to the issuance of the first grading permit, the applicant will be required to obtain "as built" drawings or otherwise validate the location, size and depth of underground crude oil and natural gas pipelines. No construction shall occur within 10 feet of the pipelines, except for pipelines below new roadways. For these pipelines, the contractor shall employ safety and containment policies and procedures to avoid the potential of risk or upset of the pipelines. | Prepare "as built" drawings or otherwise validate location, size and depth of pipelines and comply with the requirements of Mitigation Measure 3.11-C | Contra Costa Community College District and construction contractor | Prior to the start of grading, validate location, size and depth of pipelines During construction, implement the requirements listed in Mitigation Measure 3.11-C | Postpone the start of grading until validation is complete Halt grading until the requirements are met | |
| Noise | | | | | |
| 3.6-A.1 - The following mitigation measure is required. All construction activities shall abide by the provisions as set forth within the City of Brentwood Municipal Code Section 9.32.050, <i>Prohibited Special Noise Sources</i> . Specifically, construction activities adjacent to residential uses and State Parks land shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday and 9:00 a.m. through 4:00 p.m. on Saturdays and prohibited on Sundays and federal holidays. | Limit construction to the hours listed in Mitigation Measure 3.6-A.1 | Contra Costa Community College District and construction contractor | During construction, comply with the hours listed in Mitigation Measure 3.6-A.1 | Halt construction | |