RESOLUTION NO. 2007-842

Adopted by the Sacramento City Council

November 20, 2007

ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING PLAN FOR THE FREEPORT MARKETPLACE PROJECT (P03-018)

BACKGROUND

A. On September 13, 2007, the City Planning Commission conducted a public hearing on, and forwarded to the City Council a recommendation to approve with conditions the Freeport Marketplace project.

B. On November 20, 2007, the City Council conducted a public hearing, for which notice was given pursuant to Sacramento City Code Section 16.24.0097, 17.204.020(C), 17.208.020(C), 17.212.035, 17.216.035, 17.220.035, and 17.200.010(C)(2)(a, b, and c)(publication, posting, and mail 500") and received and considered evidence concerning the Freeport Marketplace project.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council finds as follows:

A. The Project Initial Study identified potentially significant effects of the Project. Revisions to the Project made by or agreed to by the Project applicant before the proposed mitigated negative declaration and initial study were released for public review were determined by the City's Environmental Planning Services to avoid or reduce the potentially significant effects to a less than significant level, and, therefore, there was no substantial evidence that the Project as revised and conditioned would have a significant effect on the environment. A Mitigated Negative Declaration (MND) for the Project was then completed, noticed and circulated in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Sacramento Local Environmental

Procedures as follows:

1. On June 7, 2007, a Notice of Intent to Adopt the MND (NOI) dated June 6, 2007, was circulated for public comments for 30 days. The NOI was sent to those public agencies that have jurisdiction by law with respect to the proposed project and to other interested parties and agencies, including property owners within 500 feet of the boundaries of the proposed project. The comments of such persons and agencies were sought.

2. On June 7, 2007, the project site was posted with the NOI, the NOI was published in the Daily Recorder, a newspaper of general circulation, and the NOI was posted in the office of the Sacramento County Clerk.

3. On August 27, 2007, revisions were made to the Initial Study in the Biological Resources section to provide clarification regarding the preservation of additional trees. Additionally, entitlements for two variances were added to the project list of entitlements not previously included. The revisions were made to clarify information and do not identify or create any new potential impacts. Pursuant to CEQA Guidelines Section 15073.5(c)(4) the revisions made on August 27, 2007, do not require recirculation of the Initial Study/Mitigated Negative Declaration.

Section 2. The City Council has reviewed and considered the information contained in the MND, including the Initial Study, the revisions and conditions incorporated into the Project, and the comments received during the public review process and the hearing on the Project. The City Council has determined that the MND constitutes an adequate, accurate, objective and complete review of the environmental effects of the proposed project.

Section 3. The Project is located within two nautical miles of a public use airport, is consistent with the Comprehensive Land Use Plan and is not located within the restricted zones identified for safety hazards and/or noise. The City Council has determined that the Project will not result in a safety or noise hazard for persons using the airport or for persons residing or working in the Project area.

Section 4. Based on its review of the MND and on the basis of the whole record, the City Council finds that the MND reflects the City Council's independent judgment and analysis and that there is no substantial evidence that the Project will have a significant effect on the environment.

Section 5. The City Council adopts the MND for the Project.

Section 6. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15074, and in support of its approval of the Project, the City Council adopts a Mitigation Monitoring Plan to require all reasonably feasible mitigation measures be implemented by means of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Plan.

Section 7. Upon approval of the Project, the City's Environmental Planning Services shall file or cause to be filed a Notice of Determination with the Sacramento County Clerk and, if the project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to section 21152(a) of the Public Resources Code and section 15075 of the State EIR Guidelines adopted pursuant thereto.

Section 8. Pursuant to Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

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Exhibit A: Mitigation Monitoring Plan
Exhibit B: Comment Letters

Adopted by the City of Sacramento City Council on November 20, 2007 by the following vote:

Ayes: Councilmembers Cohn, Fong, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: Councilmember Hammond.

Mayor Heather Fargo

Attest:

Stephanie Mizuno, Assistant City Clerk

MITIGATION MONITORING PLAN

FOR
FREEPORT MARKETPLACE (P03-018)

TYPE OF ENVIRONMENTAL DOCUMENT:
INITIAL STUDY/ NEGATIVE DECLARATION

PREPARED FOR:
CITY OF SACRAMENTO, DEVELOPMENT SERVICES DEPARTMENT

DATE:
MAY 30, 2007

ADOPTED BY:
CITY OF SACRAMENTO
CITY PROGRAMNING COMMISSION

DATE:

_____

ATTEST:

_____

FREEPORT MARKETPLACE (P03-018)
MITIGATION MONITORING PROGRAM

This Mitigation Monitoring Program (MMP) has been required by and prepared for the City of Sacramento Development Services Department, Environmental Programming Services, 2101 Arena Blvd, Suite 200, Sacramento, CA 95834, pursuant to CEQA Guidelines Section 21081.6.

SECTION 1: PROJECT IDENTIFICATION

Project Name / File Number: Freeport Marketplace / P03-018
Owner/Developer- Name: John Saca
Address: 77 Cadillac Drive, Suite 150
Sacramento, CA 95825

Project Location / Legal Description of Property (if recorded):
The project site is located on the southeast corner at the intersection of Freeport Boulevard and Meadowview Road, in the Airport Meadowview Community Plan area of the City of Sacramento, Sacramento County (APN: 052-0010-077 and -079).

Project Description:
The proposed project includes the development of four commercial buildings including a 17,272 s.f. drugstore, a 3,177 s.f. fast food restaurant, a 5,952 s.f. retail space (possible sit-down restaurant), and a 25,785 s.f. veterinary clinic on 6.1 vacant acres for a total of approximately 52,186 s.f. of commercial mixed use buildings in the proposed Shopping Center (SC) zone within the Airport Meadowview Community Plan area. Specific entitlements include:

- **General Plan Amendment** of 6.1 acres from the Low Density Residential (4-15 du/na) to the Community/Neighborhood Commercial & Offices land use designation;
- **Community Plan Amendment** of 6.1 acres from the Residential 7-15 du/na to the Commercial land use designation;
- **Rezone** of 6.1 acres from the Single-family Alternative (R-1A) to the Shopping Center (SC) zone;
- **Tentative Map** to merge two parcels comprising 6.1 acres and then subdividing same into four parcels;
- **Special Permit** to construct and operate a drive-through facility;
- **Special Permit** to construct and operate a drive through facility;
- **Variance** to modify the required vehicle stacking distance for a drive-through facility;
- **Special Permit** to construct and operate a veterinarian clinic in the Shopping Center (SC) zone;
- **Variance** to waive a portion of a required masonry wall separating commercial and residential uses;
- **Plan Review** of an approximate 52,186 square foot commercial mixed use development in the Shopping Center (SC) zone.

SECTION 2: GENERAL INFORMATION

The Program includes mitigation for Transportation, Biological Resources, and Cultural Resources. The intent of the Program is to prescribe and enforce a means for properly and successfully implementing the mitigation measures as identified within the Initial Study for this project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this Program shall be funded by the owner/developer identified above. This Mitigation Monitoring Program (MMP) is designed to aid the City of Sacramento in its implementation and monitoring of mitigation measures adopted for the proposed project.

The mitigation measures have been taken from the Initial Study and are assigned the same number they have in the document. The MMP describes the actions that must take place to implement each mitigation measure, the timing of those actions, and the entities responsible for implementing and monitoring the actions. The developer will be responsible for fully understanding and effectively implementing the mitigation measures contained with the MMP. The City of Sacramento will be responsible for ensuring compliance.

			VERIFICATION OF COMPLIANCE		
Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initials / Date)
6. TRANSPORTATION AND CIRCULATION					
T-1 Provide and construct a dedicated right-turn lane on the northbound approach at the intersection of Meadowview Road at Freeport Boulevard to the satisfaction of the City of Sacramento Development Services Department, Development Engineering Division. The project applicant shall revise the site plan and include the dedicated right-turn lane in the improvement plans.	Applicant / Developer	City Development Services Department	Include the dedicated right-turn lane in the improvement plans.	At the time of submitting the improvement plans	
T-2 Modify the timing of the traffic signal at the southbound I-5 exit ramp to Pocket Road to allocate more green time to the southbound approach. The applicant/developer for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and future retiming of this signal.	Applicant / Developer	City Development Services Department and City DOT	Project Applicant pay fair share to City DOT	Prior to issuance of building permit	

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7. BIOLOGICAL RESOURCES					
BR-1. Prior to issuance of grading permits, the project applicant/developer shall have a biologist conduct a pre-construction survey to determine whether the stick nest identified in the 19-inch valley oak (Tree #: 6421 in the Abacus report) is being used. If so, no removal of the nest tree or disturbance of the active nest should occur during the nesting season for the species using the nest (generally March through July).	Applicant / Developer	City of Sacramento - Development Services Departmen (DSD); DFG	Pre-construction biological surveys shall be completed as specified and submitted with grading/ building plans.	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Development Services Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance of any grading or building permit. Measures shall also be implemented concurrent with construction activities.	
BR-2a Prior to issuance of a grading permit, a pre-construction survey shall be completed by a qualified biologist, within 30 days prior to construction, to determine whether any Swainson's hawk nest trees will be removed on-site, or active Swainson's hawk nest sites occur within ½ mile of the development site. These surveys shall be conducted according to the Swainson's Hawk Technical Advisory Committee's (May 31, 2000)	Applicant / Developer	City of Sacramento - DSD; DFG	Mitigation Measures, shall be included on the Construction Specifications. Pre-construction biological surveys shall be completed as specified and submitted with grading/ building plans.	Prior to issuance of any grading, and/or construction permit, measures identified on plans shall be verified for compliance. The Development Services Dept. shall assure that measures are identified on	

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methodology or updated methodologies, as approved by the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), using experienced Swainson's hawk surveyors.				construction plans and confirm compliance prior to issuance of any grading permit.	
2b. If breeding Swainson's hawks (i.e. exhibiting nest building or nesting behavior) are identified, no new disturbances (e.g. heavy equipment operation associated with construction) shall occur within ½ mile of an active nest between March 1 and September 15, or until a qualified biologist, with concurrence by CDFG, has determined that young have fledged or that the nest is no longer occupied. If the active nest site is located within ¼ mile of existing urban development, the no new disturbance zone can be limited to the ¼ mile versus the ½ mile.					
2c. If construction or other project related activities which may cause					

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nest abandonment or forced fledgling are proposed within the ¼ mile buffer zone, intensive monitoring (funded by the project sponsor) by a Department of Fish and Game approved raptor biologist will be required. Exact implementation of this measure will be based on specific site conditions.					
2d. Trees on the site that need to be removed to accommodate construction shall be felled between September 15 and January 31, outside of the general nesting season for raptors and other birds. Alternately, a pre-construction survey for nesting birds shall be conducted prior to tree removal between February 1 and September 15. Temporal restrictions shall be determined by a qualified biologist.	Applicant / Developer	City of Sacramento - DSD;	Applicant / Developer shall provide written verification prior to issuance of Grading Permit.	Measures shall be implemented prior to and concurrent with construction activities.	
BR-3. Prior to issuance of grading permits, the project applicant shall be required to purchase compensatory Swainson's hawk foraging habitat credits for each developed acre, at	Applicant / Developer	City of Sacramento -			

			VERIFICATION OF COMPLIANCE		
Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initials / Date)
the required ratio, from an approved mitigation bank, or develop other arrangements acceptable to and approved by the CDFG.		DSD and Urban Forest Services Division	Verification of compliance from the Urban Forest Services Arborist shall be provided to Development Services Staff prior to issuance of building permits.	Measure shall be implemented prior to issuance of any building permits or as agreed upon by the Urban Forest Services Arborist	
BR-4. If Tree #'s 6415 and 6417 are removed, prior to issuance of Certificate of Occupancy removal of Tree #6411, a 14-inch diameter-at-breast height (DBH) valley oak, shall require the planting of six (6) 24-inch box trees on the subject site.	Applicant / Developer	City of Sacramento - DSD and Urban Forest Services Division	Mitigation Measures, shall be included on the Construction Specifications and Plan		
BR-5. If Tree #'s 6415 and 6417 are removed, prior to issuance of Certificate of Occupancy, removal of Tree #6415, a 14-inch DBH valley oak shall require the planting of six (6) 24-inch box trees on the subject site.	Applicant / Developer	City of Sacramento - DSD and Urban Forest Services Division			
BR-6. If Tree #'s 6415 and 6417 are removed, prior to issuance of Certificate of Occupancy, removal of Tree #6417, a 3 stemmed (18, 15, 9-inch DBH) valley oak, shall require the planting ten (10) 24-inch box trees					

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Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initials / Date)
on the subject site.					
14. CULTURAL RESOURCES: CR-1 In the event that any prehistoric subsurface archeological features or deposits, including locally darkened	Applicant / Developer	City Development Services Department	Mitigation Measures shall be included on the Map and within the Standard	Measures shall be implemented in field during grading and construction activities.	

			VERIFICATION OF COMPLIANCE		
Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initials / Date)
soil ("midden"), that could conceal cultural deposits, animal bone, obsidian and/or mortars are discovered during construction-related earth-moving activities, all work within 50 meters of the resources shall be halted, and the City shall consult with a qualified archeologist to assess the significance of the find. Archeological test excavations shall be conducted by a qualified archeologist to aid in determining the nature and integrity of the find. If the find is determined to be significant by the qualified archeologist, representatives of the City and the qualified archeologist shall coordinate to determine the appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis and professional museum curation. In addition, a report shall be prepared by the qualified archeologist according to current	Applicant /		Construction Specifications. Verification of compliance shall be provided to the Development Services Staff	Measures shall	

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Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initials / Date)
professional standards. CR-2 If a Native American site is discovered, the evaluation process shall include consultation with the appropriate Native American representatives. If Native American archeological, ethnographic, or spiritual resources are involved, all identification and treatment shall be conducted by qualified archeologists, who are certified by the Society of Professional Archeologists (SOPA) and/or meet the federal standards as stated in the Code of Federal Regulations (36 CFR 61), and Native American representatives, who are approved by the local Native American community as scholars of the cultural traditions. In the event that no such Native American is available, persons who represent tribal governments and/or organizations in the locale in which resources could be affected shall be	Developer	City Development Services Department	Mitigation Measures shall be included on the Map and within the Standard Construction Specifications. Verification of compliance shall be provided to the Development Services Staff	be implemented in field during grading and construction activities.	

			VERIFICATION OF COMPLIANCE		
Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing	Verification of Compliance (Initials / Date)
consulted. If historic archeological sites are involved, all identified treatment is to be carried out by qualified historical archeologists, who shall meet either Register of Professional Archeologists (RPA), or 36 CFR 61 requirements.	Applicant / Developer	City Development Services Department	Mitigation Measures shall be included on the Map and within the Standard Construction Specifications. If required, verification of compliance shall be provided to the Development Services Staff	Measures shall be implemented in field during grading and construction activities.	
CR-3 If a human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find, and the County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.					

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF WATER RESOURCES
1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 942360001
(916) 653-5791

RECEIVED
JUN 26 2007

June 21, 2007

Scott Johnson
City of Sacramento
2101 Area Boulevard, Suite 200
Sacramento, California 95834

Freeport Marketplace (P03-018)
State Clearinghouse (SCH) Number: 2007062029

The project corresponding to the subject SCH identification number has come to our attention. The limited project description suggests your project may be an encroachment on the State Adopted Plan of Flood Control. You may refer to the California Code of Regulations, Title 23 and Designated Floodway maps at http://recbd.ca.gov/. Please be advised that your county office also has copies of the Board's designated floodways for your review. If indeed your project encroaches on an adopted food control plan, you will need to obtain an encroachment permit from the Reclamation Board prior to initiating any activities. The attached Fact Sheet explains the permitting process. Please note that the permitting process may take as much as 45 to 60 days to process. Also note that a condition of the permit requires the securing all of the appropriate additional permits before initiating work. This information is provided so that you may plan accordingly.

If after careful evaluation, it is your assessment that your project is not within the authority of the Reclamation Board, you may disregard this notice. For further information, please contact me at (916) 574-1249.

Sincerely,

Christopher Huitt
Staff Environmental Scientist
Floodway Protection Section

cc: Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, CA 95814

Encroachment Permits Fact Sheet

Basis for Authority
State law (Water Code Sections 8534, 8608, 8609, and 8710 – 8723) tasks the Reclamation Board with enforcing appropriate standards for the construction, maintenance, and protection of adopted flood control plans. Regulations implementing these directives are found in California Code of Regulations (CCR) Title 23, Division 1.

Area of Reclamation Board Jurisdiction
The adopted plan of flood control under the jurisdiction and authority of the Reclamation Board includes the Sacramento and San Joaquin Rivers and their tributaries and distributaries and the designated floodways.

Streams regulated by the Reclamation Board can be found in Title 23 Section 112. Information on designated floodways can be found on the Reclamation Board's website at http://recbd.ca.gov/designated_floodway/ and CCR Title 23 Sections 101 - 107.

Regulatory Process
The Reclamation Board ensures the integrity of the flood control system through a permit process (Water Code Section 8710). A permit must be obtained prior to initiating any activity, including excavation and construction, removal or planting of landscaping within floodways, levees, and 10 feet landward of the landside levee toes. Additionally, activities located outside of the adopted plan of flood control but which may foreseeable interfere with the functioning or operation of the plan of flood control is also subject to a permit of the Reclamation Board.

Details regarding the permitting process and the regulations can be found on the Reclamation Board's website at http://recbd.ca.gov/ under "Frequently Asked Questions" and "Regulations," respectively. The application form and the accompanying environmental questionnaire can be found on the Reclamation Board's website at http://recbd.ca.gov/forms.cfm.

Application Review Process
Applications when deemed complete will undergo technical and environmental review by Reclamation Board and/or Department of Water Resources staff.

Technical Review
A technical review is conducted of the application to ensure consistency with the regulatory standards designed to ensure the function and structural integrity of the adopted plan of flood control for the protection of public welfare and safety. Standards and permitted uses of designated floodways are found in CCR Title 23 Sections 107 and Article 8 (Sections 111 to 137). The permit contains 12 standard conditions and additional special conditions may be placed on the permit as the situation warrants. Special conditions, for example, may include mitigation for the hydraulic impacts of the project by reducing or eliminating the additional flood risk to third parties that may caused by the project.

Additional information may be requested in support of the technical review of

your application pursuant to CCR Title 23 Section 8(b)(4). This information may include but not limited to geotechnical exploration, soil testing, hydraulic or sediment transport studies, and other analyses may be required at any time prior to a determination on the application.

Environmental Review

A determination on an encroachment application is a discretionary action by the Reclamation Board and its staff and subject to the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code 21000 et seq.). Additional environmental considerations are placed on the issuance of the encroachment permit by Water Code Section 8608 and the corresponding implementing regulations (California Code of Regulations – CCR Title 23 Sections 10 and 16).

In most cases, the Reclamation Board will be assuming the role of a "responsible agency" within the meaning of CEQA. In these situations, the application must include a certified CEQA document by the "lead agency" [CCR Title 23 Section 8(b)(2)]. We emphasize that such a document must include within its project description and environmental assessment of the activities for which are being considered under the permit.

Encroachment applications will also undergo a review by an interagency Environmental Review Committee (ERC) pursuant to CCR Title 23 Section 10. Review of your application will be facilitated by providing as much additional environmental information as pertinent and available to the applicant at the time of submission of the encroachment application.

These additional documentations may include the following documentation:

- California Department of Fish and Game Streambed Alteration Notification (http://www.dfg.ca.gov/1600/),
- Clean Water Act Section 404 applications, and Rivers and Harbors Section 10 application (US Army Corp of Engineers),
- Clean Water Act Section 401 Water Quality Certification, and
- corresponding determinations by the respective regulatory agencies to the aforementioned applications, including Biological Opinions, if available at the time of submission of your application.

The submission of this information, if pertinent to your application, will expedite review and prevent overlapping requirements. This information should be made available as a supplement to your application as it becomes available. Transmittal information should reference the application number provided by the Reclamation Board.

In some limited situations, such as for minor projects, there may be no other agency with approval authority over the project, other than the encroachment permit by Reclamation Board. In these limited instances, the Reclamation Board

may choose to serve as the "lead agency" within the meaning of CEQA and in most cases the projects are of such a nature that a categorical or statutory exemption will apply. The Reclamation Board cannot invest staff resources to prepare complex environmental documentation.

Additional information may be requested in support of the environmental review of your application pursuant to CCR Title 23 Section 8(b)(4). This information may include biological surveys or other environmental surveys and may be required at anytime prior to a determination on the application.

SRCSD

10545 Armstrong Avenue
Mather, CA 95655
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Fax: [916] 876-6160
Website: www.srcsd.com

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Marcia Maurer
Chief Financial Officer

June 14, 2007

Scott Johnson
Associate Planner
City of Sacramento
Development Services Department
2101 Arena Blvd. Ste 200
Sacramento, CA 95843

Subject: SRCSD's Comments on the Freeport Marketplace Project Draft Mitigated Negative Declaration

The Sacramento Regional County Sanitation District (SRCSD) has reviewed the subject document and has the following comments:

Local service for the Freeport Marketplace development will be provided by the City of Sacramento's local sewer collection system. Ultimate conveyance to the Sacramento Regional Wastewater Treatment Plant (SRWTP) will be provided via the 96-inch City Interceptor. The City Interceptor has limited capacity. The effects this project may have on increasing flows to this system and any potential to exceed the maximum capacity of the City Interceptor should be recognized and evaluated.

If you have any questions regarding these comments please contact me at 916. 876.9994.

Sincerely,

Sarenna Deeble
Policy and Planning

cc: SRCSD Development Services
CSD-1 Development Services
Michael Meyer
Ruben Robles

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