



# City of Stockton

Stockton Planning  
Commission

## Meeting Agenda - Final Planning Commission

*Waqar Rizvi, Chair (District 2)*  
*Rajan Nathaniel, Vice-Chair (District 1)*  
*Greg Thompson, Commissioner (At-Large)*  
*Terry Hull, Commissioner (District 3)*  
*Anne N. Mallett, Commissioner (District 4)*  
*Gunneel Boparai, Commissioner (District 5)*  
*Brenda Jones, Commissioner (District 6)*

---

Thursday, August 10, 2023

5:30 PM

Council Chamber, City Hall, 425 N. El Dorado  
Street, Stockton CA

---

1. CALL TO ORDER/ROLL CALL
2. PLEDGE TO FLAG
3. ADOPTION OF CONSENT CALENDAR
- 3.1 [23-0741](#) APPROVAL OF PLANNING COMMISSION MINUTES

**Recommended Action:** RECOMMENDATION

Approval for filing minutes of the April 27, 2023 and May 25, 2023 Planning Commission meetings.

**Department:** Community Development Committee

**Attachments:** [2023-04-27 Planning Commission Minutes](#)  
[2023-05-25 Planning Commission Minutes](#)

4. PUBLIC COMMENT\*
5. PUBLIC HEARINGS/ENVIRONMENTAL ASSESSMENTS
6. NEW BUSINESS\*
7. UNFINISHED BUSINESS
8. REPORTS/COMMUNICATIONS/INFORMATIONAL ITEMS
- 8.1 [23-0512](#) PLANNING COMMISSION INFORMATIONAL PLANNING SESSION ON PROPOSED INDUSTRIAL WAREHOUSE DEVELOPMENT STANDARDS

**Recommended Action:**

RECOMMENDATION

It is recommended that the Planning Commission receive a presentation and provide feedback on potential industrial warehouse development standards to be considered for inclusion in a new industrial warehouse ordinance.

**Department:**

Community Development

**Attachments:**

[Attachment A - Approved Agreement with the California Attorney General](#)

[Attachment B - Approved Settlement Agreement with Sierra Club](#)

**9. COMMISSIONERS COMMENTS**

**10. ADJOURNMENT**

**CERTIFICATE OF POSTING**

I declare, under penalty of perjury, that I am employed by the City of Stockton and that I caused this agenda to be posted in the City Hall notice case on August 3, 2023, in compliance with the Brown Act.

**Eliza R. Garza, CMC  
City Clerk**

By: \_\_\_\_\_

**Deputy**

A. *The meeting will be conducted in accordance with Rosenberg's Rules of Order.*

B. *Each person wishing to address the Planning Commission is encouraged to fill out a speaker card located at the podium. Each speaker will then be called forward to the podium to speak in the order in which their speaker card was received. Speakers are encouraged but not required to provide their name and address when speaking before the Commission.*

*The City of Stockton invites public comments in multiple forms. You provide your comments by using one of these methods:*

- 1. e-Comment - follow the e-comment link on the City's agenda page [stockton.granicusideas.com/meetings](http://stockton.granicusideas.com/meetings)*
- 2. Email - you may email your comments to [city.clerk@stocktonca.gov](mailto:city.clerk@stocktonca.gov)*
- 3. Voicemail - you can leave a voice message by dialing (209) 937-8459.*
- 4. In-Person Comments - a) Speakers must submit "request to speak cards" to the Clerk prior to the Public Comment portion of the agenda. No speaker cards will be accepted after the close of Public Comment. Please redirect any inquiries to [City.Clerk@stocktonca.gov](mailto:City.Clerk@stocktonca.gov). b) Address only issues over which the meeting body has jurisdiction. c) Each speaker will be limited to one 2-minute comment opportunity. Donating time is not authorized. d) Your time will be displayed on the speaker podium for convenience.*

*\*All written and voicemail public comments received by the Clerk's Office 90 minutes prior to the meeting start time will be forwarded to the meeting body members as correspondence and attached the minutes. All comments received after that time will be forwarded as correspondence the following business day.*

C. *All questions from members of the audience to the Planning Commission and/or city staff members shall be directed to the Chairperson of the Planning Commission.*

*All questions from Planning Commission members to staff shall be addressed directly to staff from the member asking the question.*

*No personal comments and/or exchanges will be permitted between members of the audience and individual staff or Commission members. Rather, direction shall be given to staff to follow-up on any issues brought before the Commission. This rule applies to communications outside of the public hearing process.*

D. *Information presented to the Commission shall only pertain directly to the item under consideration. Character assassinations, personal feuds, irrelevant data or repetitions of matters already presented shall not be permitted.*

E. *All rules of Decorum pursuant to Council Policy 4.07- Rules for Conduct of City Council Meetings apply equally to this Commission.*

*Agendas, staff reports and minutes can be viewed on the City of Stockton web*

*site <http://www.stocktongov.com/government/Meetings/boardComMeetings.html>*

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS:**

*State legislation requires disclosure of campaign contributions of \$250 or more, made to any Planning Commissioner, by any person who actively supports or opposes any application pending before the Planning Commission, and such person has a financial interest in the decision. Active support or opposition includes lobbying a Commissioner and/or testifying for or against such an application. Any person having made a \$250 or larger contribution within the preceding 12 months must disclose that fact during the public hearing or on said application.*

*The official City Planning Commission policy is that applications pending before this Commission should not be discussed with the Commission members outside of a public hearing. If any representations are made privately, they must be identified and placed in the public record at the time of the hearing.*

*If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else*

*raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission, at, or prior to, the public hearing.*

*NOTE: All proceedings before this meeting body are conducted in English. The City of Stockton does not furnish language interpreters and, if one is needed, it shall be the responsibility of the person needing one.*

*In accordance with the Americans With Disabilities Act and California Law, it is the policy of the City of Stockton to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are a person with a disability and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the Office of the City Clerk located at 425 North El Dorado Street, Stockton, California 95202 during normal business hours or by calling (209) 937-8458, at least 5 days in advance of the hearing/meeting. Advance notification within this guideline will enable the City/Agency to make reasonable arrangements to ensure accessibility.*

*CONSENT ITEMS: Information concerning the consent items has been forwarded to the Planning Commission prior to the meeting. Unless a Commissioner or member of the audience has questions concerning a particular item and asks that it be removed from the Consent Calendar, the items are approved at one time by a roll call vote. Anyone wishing to speak on a consent item or public hearing item, please complete a "Request to Speak Card" and submit it to the Recording Secretary prior to the meeting.*



# City of Stockton

## Legislation Text

---

**File #:** 23-0741, **Version:** 1

---

### **APPROVAL OF PLANNING COMMISSION MINUTES**

#### RECOMMENDATION

Approval for filing minutes of the April 27, 2023 and May 25, 2023 Planning Commission meetings.

Attachment A - 2023-04-27 Planning Commission Minutes

Attachment B - 2023-05-25 Planning Commission Minutes

**MINUTES  
PLANNING COMMISSION  
MEETING OF APRIL 27, 2023**

---

425 N. El Dorado St. Stockton, CA

---

**1. CALL TO ORDER/ROLL CALL - 5:31**

Roll Call

Present:

Anne Mallett  
Brenda Jones  
Waqar Rizvi  
Gurneel Boparai  
Rajan Nathaniel  
Terry Hull

Absent:

Greg Thompson.

**2. PLEDGE TO FLAG**

The Pledge of Allegiance was led by Commissioner Mallett

**3. ADOPTION OF CONSENT CALENDAR**

**3.1 23-0440 APPROVAL OF PLANNING COMMISSION MINUTES**

Legislation Text

Attachment A - 2023-01-26 Planning Commission Minutes

Approve **Motion 2023-04-27-0301** approving minutes of the January 26, 2023 Planning Commission meeting.

**Moved by:** Anne Mallett, seconded by Rajan Nathaniel .

**Vote:** Motion carried 5-0

**Yes:** Anne Mallett, Brenda Jones, Waqar Rizvi, Gurneel Boparai, and Rajan Nathaniel .

**Recuse:** Terry Hull.

**Absent:** Greg Thompson.

**4. PUBLIC COMMENT**

None

**5. PUBLIC HEARINGS/ENVIRONMENTAL ASSESSMENTS**

None

**6. NEW BUSINESS**

**6.1 23-0393 FISCAL YEAR 2023-2028 CAPITAL IMPROVEMENT PROGRAM  
-CONFORMITY DETERMINATION TO THE ENVISION STOCKTON  
2040 GENERAL PLAN**

Legislation Text

Attachment A - DRAFT FY 2023-2028 Preliminary CIP

Proposed Resolution - Recommending Approval

Approved Resolution 2023-04-27-0601

Approve **Resolution 2023-04-27-0601** forwarding to the City Council that the 2023-2028 Capital Improvement Program (CIP) for Fiscal Years (FY) 2023-24 through 2027-28 conforms to the Envision Stockton 2040 General Plan.

**Moved by:** Rajan Nathaniel , seconded by Terry Hull.

**Vote:** Motion carried 6-0

**Yes:** Anne Mallett, Brenda Jones, Waqar Rizvi, Gurneel Boparai, Rajan Nathaniel , and Terry Hull.

**Absent:** Greg Thompson.

**7. UNFINISHED BUSINESS**

None

**8. REPORTS/COMMUNICATIONS/INFORMATIONAL ITEMS**

**8.1 23-0306 PLANNING COMMISSION INFORMATIONAL STUDY SESSION ON THE  
CITY OF STOCKTON 2023-2031 HOUSING ELEMENT UPDATE**

Informational item only. No action taken.

Legislation Text

Attachment A - Housing Workshop Presentation

Attachment B- Draft Housing Element

The following persons spoke to the following item: Petra Linden

**9. COMMISSIONERS COMMENTS**


Vice Chair Nathaniel - thanked the public and staff

Commissioner Boparai - thanked staff; Small Business Week; Cinco De Mayo Parade

Commissioner Jones - Planning Commissioner Conference

Chair Rizvi - thanked the staff

10. ADJOURNMENT - 6:37 PM



---

MICHAEL MCDOWELL  
SECRETARY, COMMUNITY  
DEVELOPMENT DEPARTMENT



**MINUTES  
PLANNING COMMISSION  
MEETING OF MAY 25, 2023**

---

425 N. El Dorado St. Stockton, CA

---

**1. CALL TO ORDER/ROLL CALL - 5:31 PM**

Roll Call

Present:

Anne Mallett

Brenda Jones

Greg Thompson

Terry Hull

Absent:

Waqar Rizvi, Gurneel Boparai, and Rajan Nathaniel .

Note: Commissioner Boparai arrived at 5:36 PM

**2. PLEDGE TO FLAG**

The Pledge of Allegiance was Led by Commissioner Hull

**3. ADOPTION OF CONSENT CALENDAR**

**3.1 23-0441 APPROVAL OF PLANNING COMMISSION MINUTES**

Legislation Text

Attachment A - 2023-03-23 Planning Commission Minutes

Approve **Motion 2023-05-25-0301** Approving for filing minutes of the March 23, 2023 Planning Commission meeting.

**Moved by:** Terry Hull, seconded by Brenda Jones.

**Vote:** Motion carried 4-0

**Yes:** Anne Mallett, Brenda Jones, Greg Thompson, and Terry Hull.

**Absent:** Waqar Rizvi, Gurneel Boparai, and Rajan Nathaniel .

**4. PUBLIC COMMENT**

Mary Elizabeth - around the bench memo

Council Correspondence - Public Comments

Chair Mallot - noted receipt of correspondence from Paul Kasson, called for a motion to waive staff reading the correspondence into the record.

Approve **Motion 2023-05-25-0401** approving waiving the reading of correspondence into the record.

**Moved by:** Greg Thompson, seconded by Brenda Jones.

**Vote:** Motion carried 4-0

**Yes:** Anne Mallett, Brenda Jones, Greg Thompson, and Terry Hull.

**Absent:** Waqar Rizvi, Gurneel Boparai, and Rajan Nathaniel .

## 5. PUBLIC HEARINGS/ENVIRONMENTAL ASSESSMENTS

### 5.1 23-0398 RECOMMENDATION TO THE CITY COUNCIL TO ADOPT AN ORDINANCE APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT AND DENSITY TRANSFER AGREEMENT BETWEEN A.G. SPANOS CONSTRUCTION INC. AND THE CITY OF STOCKTON FOR THE SPANOS PARK WEST MASTER DEVELOPMENT PLAN

Legislation Text

Attachment A - Location and Context Map

Attachment B - Approved Master Plan

Attachment C - Approved DA/DTA Agreements

Resolution

Exhibit 1 - Proposed Ordinance

Exhibit 1.A - Proposed Amendment

Approved Resolution 2022-05-25-0501

Council Correspondence - Public Comments

The following persons spoke to the following item: Mary Elizabeth

Approve **Resolution 2023-05-25-0501** recommending that City Council

1. Find that the project is categorically exempt from CEQA, pursuant to the CEQA Guidelines, section 15061(b)(3) (General Rule) of Title 14 of the California Code of Regulations

2. Adopt an Ordinance amending the Spanos West Business Park Development Agreement and Density Transfer Agreement.

**Moved by:** Greg Thompson, seconded by Terry Hull.

**Vote:** Motion carried 5-0

**Yes:** Anne Mallett, Brenda Jones, Greg Thompson, Gurneel Boparai, and Terry Hull.

**Absent:** Waqar Rizvi, and Rajan Nathaniel .

## 6. NEW BUSINESS

None

**7. UNFINISHED BUSINESS**

None

**8. REPORTS/COMMUNICATIONS/INFORMATIONAL ITEMS**

Stephanie Ocasio, Community Development Director - cannabis lottery; Draft Housing Element; Neighborhood Action Plan Workshops; pro-housing designation

**9. COMMISSIONERS COMMENTS**

Commissioner Thompson - thanked City Staff

Commissioner Boparai - thanked City Staff

**10. ADJOURNMENT - 6:20 PM**



---

Michael McDowell  
Secretary, Community Development  
Development



# City of Stockton

## Legislation Text

---

**File #:** 23-0512, **Version:** 1

---

### **PLANNING COMMISSION INFORMATIONAL PLANNING SESSION ON PROPOSED INDUSTRIAL WAREHOUSE DEVELOPMENT STANDARDS**

#### RECOMMENDATION

It is recommended that the Planning Commission receive a presentation and provide feedback on potential industrial warehouse development standards to be considered for inclusion in a new industrial warehouse ordinance.

#### Summary

On December 6, 2022, the City Council approved a Memorandum of Agreement with the State of California Attorney General (AG) (Attachment A - AG Agreement) and a Settlement Agreement with the Sierra Club (Attachment B - Sierra Club Agreement) as part of a private industrial development project approval (Mariposa Industrial Project P20-0805). An obligation of both Agreements is for City Staff to present to City Council for their consideration, a new industrial warehouse ordinance that sets minimum development standards that apply to qualifying industrial warehouse development totaling 100,000 square feet or larger in size, and is engaged in logistics use, which is defined as any warehouse or wholesaling and distribution land use which entails facilities to be used for the storage of farm products, furniture, household goods, or other commercial goods of any nature for distribution to wholesalers and/or retailers, including cold storage. The intended result of new development standards is to minimize the potential environmental impacts of qualifying industrial warehouse development.

Per the aforementioned Agreements, City staff must present proposed warehouse standards for the City Council's consideration for adoption prior to December 31, 2023, which was based on the tentative City's Development Code Overhaul project schedule. Since the Development Code Overhaul project may not achieve that deadline, the proposed warehouse standards are being presented in advance via a separate ordinance. If adopted, the ordinance would be codified under Title 16 of the Stockton Municipal Code (Development Code).

This informational planning session is to obtain feedback from the Planning Commission, development community, and interested stakeholders on industrial logistics warehouse development measures contained in the Agreement with the State Attorney General. For warehouse ordinance consideration, a summary of said development measures are provided as Exhibit A of the attached AG Agreement.

#### DISCUSSION

##### Background

As part of the Mariposa Industrial Project (P20-0805) and to minimize environmental and social impacts, the City, Project Applicant, AG, and the Sierra Club negotiated mitigation measures for the Project Environmental Impact Report (EIR). The negotiated mitigation and enforcement measures

predominantly address potential impacts related to Air Quality, Greenhouse Gas Emissions, and Noise. In summary, the Mariposa Industrial Project measures addressed the following concerns:

- Compliance with State and local requirements and processes that apply to the project.
- Design of the facility (site and building) to minimize impacts on surrounding sensitive land uses including residences. Impacts to mitigate include light, noise, odor, water runoff, traffic, air quality, aesthetics, and greenhouse gases.
- Tenant requirements to transition their vehicle fleets to electric vehicles and provide for electric charging facilities, with provisions for incremental phasing.
- Mitigation of temporary impacts resulting from the construction of the facility. Examples include providing a location for food truck parking serving construction workers, requiring electric construction vehicles and equipment, providing ride-sharing options for workers, and limiting the idling of on-site vehicles.

While these measures served as specific environmental mitigations for the Mariposa Industrial Project, they became the basis for the AG and Sierra Club's request for a new industrial warehouse ordinance to establish certain mitigation measures as development standards for future industrial logistics warehouse projects. The City entered into an Agreement with the AG and a separate Settlement Agreement with the Sierra Club to prepare an ordinance that would establish a set of development standards for future 100,000+ square feet industrial warehouse development engaged in logistics uses.

The full set of proposed measures are included as Exhibit A of the attached AG Agreement (Attachment A) which approved in conjunction with the Mariposa Industrial Project on December 6, 2022. Per the approved AG Agreement, City staff must present the proposed warehouse standards for City Council's consideration for adoption prior to December 31, 2023. Since the Development Code overhaul may not achieve that deadline, the proposed warehouse standards will be presented in advance via a separate ordinance.

### Present Situation

While a draft of the proposed warehouse ordinance has yet to be prepared, City staff is seeking preliminary feedback from the Planning Commission, stakeholders, and development community on the AG requested industrial warehouse standards and how they may be practically applied to industrial logistics warehouse development. If certain measures from the AG Agreement are not included in the proposed warehouse ordinance, a justification needs be provided to explain 1) why such measure is infeasible to include; 2) what alternative measure is being proposed for inclusion in lieu of any omitted measure; and 3) how such alternative measure reduces potentially significant environmental impacts.

Based on City staff's review of the requested development measures, they could be incorporated into the Development Code as "Development Standards" that would apply to 1) Site Plan Design, 2) Building Design, and 3) Construction Permit Approval. This generally follows the organization of the existing Development Code and the new ordinance being prepared as part of the Development Code Overhaul. The following is a brief summary how the standards would be considered during the development review process.

### **Applicability/Process:**

- Standards would apply to new industrial warehouse projects totaling 100,000 square feet and greater in size, that is engaged in logistics use, which is defined as any warehouse or wholesaling and distribution land use which entails facilities to be used for the storage of farm products, furniture, household goods, or other commercial goods of any nature for distribution to wholesalers and/or retailers, including cold storage.

Permit applications for industrial buildings would need to specify the intended use of the building for staff to determine if subject to warehouse standards. This may be problematic for proposed shell warehouse building plans that do not have an end user identified and may or may not qualify. In this case, the standards may be applied when tentative improvement plans are submitted by an end user.

- Standards would apply to ministerial application reviews (not subject to the California Environmental Quality Act (CEQA)) and discretionary application reviews (subject to compliance with (CEQA)).

#### **Development Standards:**

- *Site Design Standards:* These would include onsite and offsite design standards for landscaping, lighting, drive aisles, sound walls, building setbacks, parking, and site access that would be reviewed as part of a Site Plan Review process.
- *Building Design Standards:* These would include structure and building standards for building heights, location, materials, paint type, placement of loading docks, and energy efficiency measures (i.e. solar panels, roof materials) that would be reviewed during the Design Review process.
- *Construction Permit Approval:* These would apply to the site and building construction phase that would include grading and site improvements. While it is not uncommon to require measures during construction for dust control, water runoff, and construction vehicle/equipment use, the requested standards specify providing locations for food trucks, and construction worker rideshare programs that go beyond typical requirements that would require contractor monitoring/reporting.

#### **Ongoing Operations/Monitoring:**

The AG Agreement requests standards that would be applied as part of ongoing building tenant operations. This includes on-site truck queuing and idling, designated on-site smoking locations, periodic parking area sweeping, and the provision of on-site food and catering truck service. Staff anticipates this section to be the most difficult to implement as the City's sole monitoring and enforcement arm is code enforcement that operates under a complaint/response driven basis. Building tenant reporting on compliance would need to be required, however, City staff has concerns with available resources to monitor and review the reports. It will be necessary to work with stakeholders, developers, and State agencies to strike a balance with ongoing monitoring and enforcement.

#### **Preliminary Considerations:**

Relating specifically to Stockton, staff's initial observations and considerations of the requested

development standards are as follows:

- Competitive disadvantage placed on Stockton versus other surrounding cities/counties not under these development standard requirements.
- State already regulates building development through the California Green Building Standards Code (mandatory and voluntary measures) which applies to all cities and counties equally. If the State desires voluntary measures to become mandatory, then this should be considered in the California legislature process.
- State and regional permitting agencies (i.e., Clean Air Resources Board, San Joaquin Valley Air Pollution Control District) currently regulate through programs that stipulate measures and timing for compliance. The proposed measures expand and accelerate the timing for development projects in Stockton rather than applying to all local planning agencies in California or greater Central Valley.
- Entitled Project areas (with prior Environmental approvals) would be subject to new development standards in the proposed ordinance.
- The minimum 100,000 square foot threshold for warehouse space captures small-scale operators that may distribute limited commercial goods or furniture and household goods. Observations are that warehouses 400,000 square feet and larger are generally being developed for logistics and wholesale distribution.

### **Next Steps**

The following summarizes the subsequent actions staff intends to take on the proposed Industrial Warehouse ordinance.

- Seek additional feedback from stakeholders and the development community.
- Prepare a draft Industrial Warehouse ordinance for the Planning Commission's consideration - tentatively in Fall 2023.
- Present the Planning Commission's recommendation on the draft ordinance to the City Council for adoption consideration in Winter 2023.

This staff report was prepared by Matt Diaz, Advanced Planning Manager, (209) 937-8598 or via e-mail: [matt.diaz@stocktonca.gov](mailto:matt.diaz@stocktonca.gov) <<mailto:matt.diaz@stocktonca.gov>>

Attachment A - Approved Agreement with the California Attorney General  
Attachment B - Approved Settlement Agreement with Sierra Club

**MEMORANDUM OF AGREEMENT**

This Memorandum of Agreement (“Agreement”) is entered into by and between the City of Stockton (“City”), and Rob Bonta, Attorney General of California, on behalf of the People of the State of California (“Attorney General”), and it is dated and effective as of the date that the last Party signs (“Effective Date”). The City, and the Attorney General are referred to as the “Parties.”

**RECITALS**

WHEREAS areas of the City, including south Stockton, have disproportionately suffered from the environmental impacts of industrial land uses located nearby residences and other sensitive receptors such as schools, parks, and hospitals. According to CalEnviroScreen, a tool used to identify communities exposed to high levels of pollution, south Stockton’s neighborhoods are exposed to pollution burdens in the top 10% of all communities in California, with some communities registering in the top 1%.

WHEREAS because of the extremely high levels of air pollution to which this environmental justice community is disproportionately exposed, the California Air Resources Board (CARB) has designated the area of south Stockton to the northwest of the Project as a top priority for reductions in emissions and improvements in air quality under AB 617. In 2021, CARB approved Stockton’s Community Emissions Reduction Program (CERP) after an extensive public process. The CERP includes projected investments of over \$32 million in emission reduction incentives and a variety of other clean air projects in the south Stockton AB 617 community area and additional measures to reduce exposure to air pollution for sensitive receptors.

WHEREAS in recent years, the proliferation of e-commerce and rising consumer expectations of rapid shipping have contributed to a boom in warehouse development. California, with its ports, population centers, and transportation network, has found itself at the center of this trend.

WHEREAS in response to project applications consistent with this demand, the City has approved millions of square feet of warehouse and logistics space, substantial amounts of which have been or will be constructed in the south Stockton community.

WHEREAS the Attorney General has previously submitted letters to the City regarding concerns with significant environmental impacts being created by such warehouse and distribution facility projects, including the Sanchez Hoggan Annexation Project and the South Stockton Commerce Center Project.

WHEREAS the City seeks to minimize additional environmental impacts from new warehouse and distribution facility development sited in south Stockton and throughout the City.

WHEREAS the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq. and California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000-15387, requires, amongst other things, that the City impose feasible mitigation measures on applicable projects to minimize any significant environmental impacts. The California Supreme Court has determined that CEQA requires a lead agency “to implement all mitigation measures unless those measures are truly infeasible.” *Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 524–25 (citing *City of San Diego v. Board of Trustees of California State University* (2015) 61 Cal.4th 945, 967).

WHEREAS on August 24, 2021, the City released the Draft Environmental Impact Report (EIR) for the Mariposa Industrial Park Project. Public comments submitted on the Draft EIR, including comments from the Attorney General’s Office and the Sierra Club, raised concerns that the project’s



significant environmental impacts were not sufficiently disclosed, analyzed, and mitigated as required by CEQA.

WHEREAS on February 28, 2022, the City released the Final EIR for the Mariposa Industrial Park Project. In response, once again stakeholders, including the Attorney General's Office and the Sierra Club, raised concerns regarding the project, including the lack of feasible mitigation as required under CEQA.

WHEREAS the City, the Attorney General's Office, and the Sierra Club have been engaged in good-faith negotiations regarding additional feasible mitigation measures to reduce the potentially significant environmental impacts that the Mariposa Industrial Park Project may create.

WHEREAS as a result of those good-faith negotiations the City has proposed to require additional feasible mitigation measures on the Mariposa Industrial Park Project to further reduce the project's significant environmental impacts, as identified in the amended Mariposa Industrial Park Final Environmental Impact Report ("Revised Final EIR" State Clearinghouse No. 2020120283). The City Council intends to soon consider adopting: (1) a Resolution certifying that Revised Final EIR together with the adoption of CEQA Findings including a Statement of Overriding Considerations and adoption of a Mitigation Monitoring and Reporting Program ("MMRP"); (2) an Ordinance for the Pre-Zoning of APNs 179-220-10, -12, -13, -16, -17, -18, -19, and -24 (the "Property") to Industrial, Limited; (3) an Ordinance for a Development Agreement; and (4) a Resolution authorizing the filing of an annexation application with the San Joaquin Local Agency Formation Commission (collectively the "Project Approvals").

WHEREAS the City has embarked on a comprehensive update to Title 16 of the City's Municipal Code, known as the Development Code, that is intended to produce a user-friendly Development Code, serving as an effective tool to implement the General Plan, shape future growth, and help realize the community's vision of promoting investment in downtown Stockton and historically underserved areas, preserving and enhancing neighborhood character, and improving community health and safety. The City anticipates adopting and publishing a new updated Development Code in 2023.

WHEREAS the City seeks to establish an ordinance applicable to future warehouse and distribution facility development projects ("warehouse ordinance") in order to set minimum development standards to mitigate environmental impacts from those projects. Such a warehouse ordinance will also provide clarity to stakeholders, including developers and the general public, regarding the requirements needed to construct warehouse and distribution facilities in the City.

### **AGREEMENT**

Either as part of the aforementioned ongoing Development Code amendment process or as a separate, stand-alone process, City staff shall propose a warehouse ordinance to identify and apply all feasible mitigation measures to qualifying warehouse and distribution facility projects to minimize their potentially significant environmental impacts. The proposed warehouse ordinance shall be scheduled for consideration by the City Council before December 31, 2023.

The warehouse ordinance proposed to the City Council shall apply to qualifying facilities engaged in logistics use, which is defined as any warehouse or wholesaling and distribution land use which entails facilities to be used for the storage of farm products, furniture, household goods, or other commercial goods of any nature for distribution to wholesalers and/or retailers, including cold storage. Qualifying facilities do not include self-storage or mini-storage facilities offered for rent or lease to the

general public. Qualifying facilities shall include, at minimum, projects with a building or buildings totaling 100,000 square feet or larger.

In preparing and proposing the warehouse ordinance, City staff shall consider including at minimum the conditions included in Exhibit A. To the extent that the conditions included in Exhibit A are not included in the warehouse ordinance proposed for approval by City Council, City staff shall explain: (1) why such conditions are infeasible as defined under CEQA; (2) what alternative conditions are being proposed for inclusion in-lieu of any such omitted conditions; and (3) how such alternative conditions reduce potentially significant environmental impacts.

If the City enters into this Agreement and adopts the Project Approvals, including all of the Mariposa Industrial Project Enhanced Measures attached to the City's and Developer's separate settlement agreement with the Sierra Club, then the Attorney General shall not file any complaints, claims, grievances, special proceedings, legal challenges, or take any other actions against the City with any state, federal, or local agency or court challenging the City Council's adoption of the Project Approvals or the proposed annexation of the Property to the City of Stockton (the "AG Obligation").


### **GENERAL TERMS AND CONDITIONS**

1. **Agreement Term.** This Agreement shall remain in effect until the City implements and complies with the commitment pursuant to the agreed-on deadline set forth herein.
2. **Default.** The Parties agree and acknowledge that time is of the essence for City staff to propose and for the City Council to consider adopting a warehouse ordinance before the December 31, 2023, deadline set forth in this Agreement. The Parties stipulate that the Superior Court in and for San Joaquin County shall have jurisdiction over the Parties and this Agreement to enforce the provisions of the Agreement until performance in full of all terms of the Agreement. The Court shall have full authority to enforce the Agreement as if the Parties had entered the Agreement as a stipulated judgment pursuant to Code of Civil Procedure, section 664.6. Nothing in this Agreement prevents the Attorney General from seeking any and all remedies for non-compliance with the Agreement.
3. **No Waiver.** This Agreement does not in any way limit or waive the Attorney General's jurisdiction, capacity, authorization, obligation, right, or discretion to determine whether any City action or failure to act complies with CEQA or any other law except as expressly provided in the AG Obligation above.
4. **Amendment.** No addition to or modification of any term or provision of this Agreement will be effective unless set forth in writing and signed by an authorized representative of each of the Parties.
5. **Signing Authority.** By signing this Agreement, the persons executing the Agreement represent that they have the capacity and authority to execute the Agreement as the representative of their respective agency and to bind their respective agency to the terms of this Agreement.
6. **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, discussions, agreements, commitments, and understandings with respect thereto.
7. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
8. **Joint Drafting.** This Agreement has been jointly drafted, and the general rule that it be construed against the drafting party is not applicable.
9. **Severability.** If a court should find any term, covenant, or condition of this Agreement to be invalid or unenforceable, the remainder of the Agreement shall remain in full force and effect.

- 10. Representation by Counsel. Each of the Parties affirmatively represents that it has been represented throughout this matter by attorneys of its own choosing. Each Party has read this Agreement and has had the terms used herein and the consequences thereof explained by its attorneys of choice. This Agreement is freely and voluntarily executed and agreed to by each Party after having been apprised of all relevant information and data furnished by its attorneys of choice. Each Party in executing this Agreement does not rely upon any inducements, promises, or representations made by any other Party except as set forth herein.
- 11. Counterparts and Electronic Signatures. This Agreement may be executed with counterpart signatures, each of which shall be deemed an original. The Agreement will be binding upon the receipt of original, facsimile, or electronically communicated signatures.

DATED: December 19, 2022


ROB BONTA  
 Attorney General of California  
 CHRISTIE VOSBURG  
 Supervising Deputy Attorney General

  
 \_\_\_\_\_  
 SCOTT LICHTIG  
 Deputy Attorney General  
 Attorneys for the People of the State of  
 California

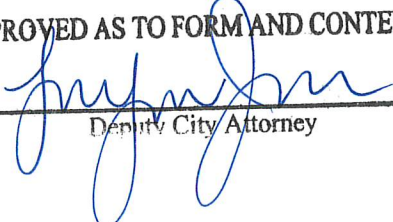
DATED: December 22, 2022

CITY OF STOCKTON

  
 \_\_\_\_\_  
 HARRY BLACK  
 City Manager

ATTEST:  
*for* CLERK OF THE CITY OF STOCKTON  
 By 



APPROVED AS TO FORM AND CONTENT  
 By   
 \_\_\_\_\_  
 Deputy City Attorney

**EXHIBIT A**

In preparing and proposing the warehouse ordinance, City staff shall consider including at minimum the following conditions on qualifying facilities. To the extent that the following conditions are not included in the warehouse ordinance proposed for approval by City Council, City staff shall explain: (1) why such conditions are infeasible as defined under CEQA; (2) what alternative conditions are being proposed for inclusion in-lieu of any such omitted conditions; and (3) how such alternative conditions reduce potentially significant environmental impacts:

**Construction Mitigation:**

- San Joaquin Valley Air Pollution Control District (SJVAPCD) Regulation VIII Compliance: Construction plans and specifications shall include a Dust Control Plan incorporating the applicable requirements of Regulation VIII, which shall be submitted to the SJVAPCD for review and approval prior to beginning construction in accordance with the requirements of Regulation VIII.
- Construction Vehicles & Equipment:
  - The use of electric-powered, battery-powered, natural gas, or hybrid construction equipment and vehicles are required during construction if commercially available. If substantial evidence is provided by the permittee or its contractor that such equipment is not commercially available, including a description of commercially reasonable efforts to secure such equipment, diesel-powered construction equipment greater than 50 horsepower meeting the highest rated California Air Resources Board (CARB) Tier technology available at the time of construction may be used. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of Stockton’s Community Development Department (CDD) and shall require proof from the construction contractor that, despite reasonable best efforts to obtain the highest CARB Tier equipment, such equipment was unavailable.
  - All off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during construction of the qualifying facility(ies) shall be electric powered.
  - Subject to all other idling restrictions, off-road diesel-powered equipment shall not be left in the “on position” for more than 10 hours per day.
- Owners, operators or tenants of qualifying facilities shall provide “cool roof” specifications in construction plans verifying that the proposed roof will utilize cool roofing materials with an aged reflectance and thermal emittance values that are equal to or greater than those specified in the current edition of the CALGreen Building Standards Code, Table A5.106.11.2.3 for Tier 1 and the City’s Green Building Standards within Chapter 15.72 of the Stockton Municipal Code.
- Temporary electrical hookup to the construction yard and associated work areas shall be required.
- The idling of heavy construction equipment for more than 5 minutes shall be prohibited. The owners, operators or tenants shall provide verification that construction specifications establish a

five-minute idling limit for all heavy-duty construction equipment utilized during construction of the proposed qualifying facility(ies). Signage shall be posted throughout the construction site regarding the idling time limit, and the construction contractor shall maintain a log for review. The log shall verify that construction equipment operators are advised of the idling time limit at the start of each construction day. Idling limits shall be noted in the construction specifications. The maintenance of logs documenting compliance shall be required.

- The construction contractors shall maintain on the construction site an inventory of construction equipment, maintenance records, and datasheets, including design specifications and emission control tier classifications.
- Architectural and industrial maintenance coatings (e.g., paints) applied on the qualifying facility(ies) shall be consistent with a VOC content of <10 g/L. Developer or tenant is not expected to exercise control over materials painted offsite by a third party.
- Qualifying facilities shall require the construction contractor to establish one or more locations for food or catering truck service to construction workers and to cooperate with food service providers to provide consistent food service.
- Qualifying facilities shall require the construction contractor to provide transit and ridesharing information for construction workers.

#### Site Design:

- Qualifying facilities shall be constructed in compliance with the most current edition of all adopted City building codes, including the adopted Green Building Standards Code. Prior to the issuance of building permits, the applicant/developer of the qualifying facility(ies) shall demonstrate (e.g., provide building plans) that the proposed buildings are designed and will be built to, at a minimum, meet the Tier 2 advanced energy efficiency requirements of the Nonresidential Voluntary Measures of the California Green Building Standards code, Divisions A5.1, A5.2 and A5.5, Energy Efficiency as outlined under Section A5.203.1.2.
- Qualifying facilities and their associated loading docks must be located no closer than 300 feet from sensitive receptors, and the City staff should consider the public health and safety benefits of requiring a larger buffer, up to 1,000 ft. All such setbacks will be measured from the loading dock or any building edge, whichever is closer, to the property line of any nearby sensitive receptors using the straight-line method. The setbacks and buffers required in this ordinance shall prevail over any less-stringent standards in the City's Development Code. Sensitive receptor shall be defined as any residence including private homes, condominiums, apartments, and living quarters, schools, preschools, daycare centers, correctional facilities, parks/recreation facilities, in-home daycares, and health facilities such as hospitals, long term care facilities, retirement and nursing homes.
- Qualifying facilities must include an onsite landscaped buffer, measured from the property line of all adjacent sensitive receptors. The width of the buffer shall be proportionate to the height of the warehouse building with specified minimums as set forth below unless infeasible. Landscaping shall be installed at the periphery of the qualifying facility(ies) site along adjacent rights of way and the landscaping buffer area shall not include the right of way itself. Landscape buffers shall not be required on interior boundaries of the qualifying facility(ies).

- The width of the buffer shall be set at a 2:1 ratio for all warehouses—for every 1 foot of building height, the buffer shall be 2 feet. The landscaping portion of this buffer shall not be less than 50% of this buffer, but may include areas to be used for bioswales, retention/detention areas and/or other stormwater and water quality management areas.
- The buffer area(s) shall include, at a minimum, a solid decorative wall(s) adjacent to sensitive receptors, natural ground landscaping, and solid screen buffering trees, as described below, unless there is an existing solid block wall. Onsite buffer areas shall not include deceleration lanes or right-turn lanes. To the extent allowed by other applicable City codes, policies and regulations the height of the decorative wall shall be at least 14 feet, except in buffer areas adjacent to sensitive receptors. For areas adjacent to sensitive receptors, the decorative wall shall be a minimum of 14 to 18 feet to the extent otherwise permitted by city codes, policies and regulations.
- Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, and shall be spaced in two rows along the length of the buffer, with trees in each row offset, and each tree no greater than 15 feet on center. Spacing up to 20 feet may be allowed if wide canopy trees are used sufficient to create wall of vegetation that filters warehouse pollution. The property owner, tenant, operator, and any successors in interest shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced with a similar tree as soon as possible.
- All landscaping shall be drought tolerant, and to the extent feasible, species with low biogenic emissions. Palm trees shall not be utilized.
- All landscaping areas shall be properly irrigated for the life of the qualifying facility(ies) to allow for plants and trees to maintain growth with no undue pruning.

#### Operational Mitigation

- Solar Power/Battery Energy Storage Systems:
  - The building permit application for qualifying facilities must demonstrate sufficient solar panels to provide power for the operation's base power use at the start of operations and as base power use demand increases. The application shall include analysis of plans to meet (a) projected power requirements at the start of operations and as base power demand increases corresponding to the implementation of the "clean fleet" requirements, and (b) generating capacity of the solar installation.
  - The photovoltaic system(s) shall include a battery energy storage system to serve the qualifying facility(ies) in the event of a power outage to the extent required by the most current edition of the California Building Standards Code.
  - Stockton's Community Development Department (CDD) shall verify the size and scope of the solar project based upon the analysis of the projected power requirements and generating capacity as well as the available solar panel installation space.
  - In the event sufficient space is not available on the subject lot to accommodate the needed number of solar panels to produce the operation's base or anticipated power use, the applicant of the qualifying facility(ies) shall demonstrate how all available space has

been maximized (e.g., roof, parking areas, etc.) for photovoltaic and battery energy storage system use. Areas which provide truck movement may be excluded from these calculations unless otherwise deemed acceptable by the supplied reports and applicable building standards.

- The owners, operators or tenants, or qualified solar system contractor engaged by the developer or tenant, shall install the system when the City has approved building permits and the necessary equipment has arrived. The tenant/operator of the qualifying facility(ies) shall commence operation of the system only when it has received permission to operate from the utility. The photovoltaic system owner shall be responsible for maintaining the system(s) at not less than 80% of the rated power for 20 years. At the end of the 20-year period, the owners, operators or tenants shall install a new photovoltaic system meeting the capacity and operational requirements of this measure, or continue to maintain the existing system, for the life of the qualifying facility(ies).
- Electric Vehicles (EV): The following mitigation measures shall be implemented during all on-going business operations and shall be included as part of contractual lease agreement language to ensure the tenants/operators of the qualifying facility(ies) are informed of all on-going operational responsibilities.
  - Heavy-Duty EV Trucks: The property owners, operators or tenants of the qualifying facility(ies) shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025, or when commercially available for the intended application, whichever date is later.
  - Medium-Duty EV Vehicles: The property owners, operators or tenants of the qualifying facility(ies) shall utilize a "clean fleet" of vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations as follows: For any vehicle (Class 2 through 6) domiciled on site, the following "clean fleet" requirements apply: (i) 33% of the fleet will be zero emission vehicles at start of operations, (ii) 65% of the fleet will be zero emission vehicles by December 31, 2023, (iii) 80% of the fleet will be zero emission vehicles by December 31, 2025, and (iv) 100% of the fleet will be zero emission vehicles by December 31, 2027.
  - "Domiciled on site" shall mean the vehicle is either (i) parked or kept overnight at the qualifying facility(ies) more than 70% of the calendar year or (ii) dedicated to the qualifying facility(ies) site (defined as more than 70% of the truck routes during the calendar year that start at the qualifying facility(ies) site even if parked or kept elsewhere). The tenant/operator of the qualifying facility(ies) shall not be responsible to meet "clean fleet" requirements for vehicles used by common carriers operating under their own authority that provide delivery services to or from the qualifying facility(ies) site.
  - Zero-emission vehicles which require service can be temporarily replaced with alternate vehicles. Replacement vehicles shall be used for only the minimum time required for servicing fleet vehicles.

- A zero-emission vehicle shall ordinarily be considered commercially available if the vehicle is capable of serving the intended purpose and is included in California's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project, <https://californiahvip.org/> or listed as available in the US on the Global Commercial Vehicle Drive to Zero inventory, <https://globaldrivetozero.org/>. The City shall be responsible for the final determination of commercial availability, based on all the facts and circumstances at the time the determination is made. In order for the City to make a determination that such vehicles are commercially unavailable, the operator must submit documentation from a minimum of three (3) EV dealers identified on the [californiahvip.org](https://californiahvip.org/) website demonstrating the inability to obtain the required EVs or equipment needed within 6 months.
- The tenant/operator of the qualifying facility(ies) shall utilize the zero emission vehicles/trucks required to meet the "clean fleet" requirements. Within 30 days of issuance of the final certificate of occupancy, the tenant/operator shall demonstrate to the satisfaction of CDD staff, that the applicable clean fleet requirements are being met. In the event that there is a disruption in the manufacturing of zero emission vehicles/trucks or that sufficient vehicles/trucks are not commercially available for the intended application, the "clean fleet requirements" may be adjusted as minimally as possible by the CDD to accommodate the manufacturing disruption or unavailability of commercially available vehicles/trucks.
- The tenant/operator of the qualifying facility(ies) shall implement the proposed measures after CDD review and approval. Any extension of time granted to implement this condition shall be limited to the shortest period of time necessary to allow for 100% electrification under the clean fleet requirements. The CDD staff may seek the recommendation of the California Air Resources Board in determining whether there has been a manufacturing disruption or insufficient vehicles/trucks commercially available for the intended application.
- Within 12 months of failing to meet a "clean fleet" requirement, the tenant/operator of the qualifying facility(ies) shall implement a Voluntary Emissions Reduction Agreement (VERA) providing pound for pound mitigation of the criteria pollutant, toxic air contaminants, and GHG emissions quantified by the City through a process that develops, funds, and implements emission reduction projects, with the Air District serving a role of administrator of the emission reduction projects and verifier of the successful mitigation effort. The VERA shall prioritize projects in the area surrounding the new qualifying facility(ies). The tenant/operator shall continue to fund the VERA each year in an amount necessary to achieve pound for pound mitigation of emissions resulting from not meeting the clean fleet requirements until the owner/tenant/lessee fully complies.
- At all times during operation, and to the extent the applicable utility authorizes and has capacity to support, the tenant/operator of the qualifying facility(ies) shall be required to provide electric charging facilities on site sufficient to charge all electric trucks domiciled on the site, and such facilities shall be made available for all electric trucks that use the qualifying facility(ies).
- The tenant/operator of the qualifying facility(ies) shall require all forklifts, yard trucks, and other equipment used for on-site movement of trucks, trailers and warehoused goods, as well as landscaping maintenance equipment used on the site, to be electrically powered or zero-emission.



The tenant/operator shall provide on-site electrical charging facilities to adequately service such electric vehicles and equipment.

- EV Compliance Reporting:
  - The tenant/operator of the qualifying facility(ies) shall procure the zero emission vehicles/trucks required to meet the "clean fleet" requirements above. Within 30 days of issuance of the final certificate of occupancy, the tenant/operator shall submit a condition of approval compliance report outlining compliance with each clean fleet requirement applicable and including documentation demonstrating compliance with each requirement. The tenant/operator shall submit similar reports every two years thereafter until full compliance with the applicable clean fleet requirements is achieved. The City shall consider each report at a noticed public hearing and determine whether the tenant/operator has complied with the applicable clean fleet requirements. If the tenant/operator has not met each 100% clean fleet requirement by December 31, 2027, then the tenant/operator shall submit reports annually until the 100% clean fleet requirement is implemented. The City shall consider each subsequent report at a noticed public hearing and determine whether the Operator has complied with the clean fleet requirements, including any minimal adjustments to the requirements by the CDD to accommodate the manufacturing disruption or unavailability of commercially available vehicles/trucks, as described above. Notice of the above hearings shall be provided to all properties located within 1,000 feet of the qualifying facility(ies) site and through the ASK Stockton list serve.
  - After the 100% clean fleet requirement has been implemented and confirmed by the CDD, the tenant/operator shall submit to the CDD an on-going compliance report every three years containing all necessary documentation to verify that the clean fleet requirements are being met. At the time it confirms that the 100% clean fleet requirement has been implemented, the CDD will establish the due date for the first on-going compliance report. Each subsequent on-going compliance report shall be due within 30 days of, but not later than, the three-year anniversary of the preceding due date. The on-going compliance reports and accompanying documentation shall be made available to the public upon request
- For qualifying facilities at which cold storage and associated transport refrigeration units (TRUs) are proposed or may be a future use, unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide cold storage, a conduit shall be installed during construction of the building shell from the electrical room to 100% of the loading dock doors that have potential to serve the refrigerated space. If tenant improvement building permits are issued for any such cold storage space, electric plug-in units shall be installed at every dock door servicing the cold storage space to allow TRUs to plug in and truck operators with TRUs shall be required to utilize the electric plug-in units when at loading docks serving such refrigerated space.
- Prior to the issuance of the first building permit, the applicant/developer shall demonstrate compliance with the SJVAPCD Rule 9510 (Indirect Source Review) to reduce growth in both NOx and PM10 emissions, as required by SJVAPCD and City requirements.

- The tenant/operator of the qualifying facility(ies) shall enroll and participate the in SmartWay program for eligible businesses.
- Truck Routes and Ingress/Egress:
  - Entry gates into the loading dock/truck court area of the qualifying facility(ies) shall be sufficiently positioned to ensure all trucks and other vehicles are contained onsite and inside the property line. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited unless queuing occurs in a deceleration lane or right turn lane exclusively serving the qualified facility(ies).
  - Applicants shall submit to the CDD, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on collector streets (or streets of a higher commercial classification), and vehicle entries shall be designed to prevent truck access on streets that are not collector streets (or streets of a higher commercial classification), including, but not limited to, by limiting the width of vehicle entries.
  - Prior to issuance of certificate of occupancy, the tenant/operator of the qualifying facility(ies) shall establish and submit for approval to the CDD a truck routing plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the use of the tenant/operator, including, but not limited to, hours of operations, types of items to be stored within the building, and proposed truck routing to and from the proposed facility(ies) to designated truck routes that avoids passing sensitive receptors, to the greatest extent possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. The tenant/operator shall be responsible for enforcement of the plan. A revised plan shall be submitted to the CDD prior to a business license being issued by the City for any new tenant/operator of the property. The CDD shall have discretion to determine if changes to the plan are necessary including any additional measures to alleviate truck routing and parking issues that may arise during the life of the facility(ies). Signs and drive aisle pavement markings shall clearly identify the onsite circulation pattern to minimize unnecessary on-site vehicular travel.
  - The tenant/operator of the qualifying facility(ies) shall post signs, that may be required by the City, in prominent locations inside and outside of the building indicating that off-site parking for any employee, truck, or other operation related vehicle is strictly prohibited. City may require facility operator to post signs on surface or residential streets indicating that off-site truck parking is prohibited by City ordinance and/or the Truck Routing Plan.
  - Signs shall be installed, as required by the City, at all qualifying facility(ies) truck exit driveways directing truck drivers to the truck route as indicated in the Truck Routing Plan and State Highway System.
  - Upon commencement of operations, the tenant/operator of the qualifying facility(ies) shall be required to restrict truck idling onsite to a maximum of three minutes, subject to exceptions defined by CARB's commercial vehicle idling requirements. The facility must

post highly-visible signs identifying these idling restrictions at the site entry and at other on-site locations frequented by truck drivers and include these restrictions in employee training and guidance material.

- Signs at the qualifying facility(ies) shall be installed, as required by the City, in public view with contact information for a local designated representative who works for the facility(ies) operator and who is designated to receive complaints about excessive dust, fumes, or odors, and truck and parking complaints for the site, as well as contact information for the San Joaquin Valley Air Pollution Control District's on-line complaint system and its complaint call-line: 1-800-281-7003. Any complaints made to the facility(ies) operator's designee shall be answered within 72 hours of receipt.
- Workforce-Related Mitigation:
  - Prior to issuance of occupancy permits, the applicant/developer shall demonstrate to the satisfaction of the City, that the proposed parking areas for employee passenger automobiles are designed and will be built to accommodate EV charging stations, at no cost to employees. At minimum, the parking areas and the number of EV charging stations for employee passenger automobiles shall equal the Tier 1 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.1.
  - Prior to issuance of occupancy permits, the applicant/developer shall demonstrate to the satisfaction of the City, that the proposed parking areas for passenger automobiles are designed and will be built to provide parking for low-emitting, fuel-efficient, and carpool/van vehicles. At minimum, the number of preferential parking spaces for passenger automobiles shall equal the Tier 1 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.1.1.
  - The tenant/operator of the qualifying facility(ies) shall establish locations for food or catering truck service and cooperate with food service providers to provide consistent food service to operations employees.
  - The tenant/operator of the qualifying facility(ies) shall provide employees transit route and schedule information on systems serving the qualifying facility(ies) area and coordinate ridesharing amongst employees.
  - Designated Smoking Areas: The tenant/operator of the qualifying facility(ies) shall ensure that any outdoor areas allowing smoking are at least 25 feet from the nearest property line.
- Yard Sweeping: Owners, operators or tenants of the qualifying facility(ies) shall provide periodic yard and parking area sweeping to minimize dust generation
- Diesel Generators: Owners, operators or tenants of the qualifying facility(ies) shall prohibit the use of diesel generators, except in emergency situations (including when the utility delays a facility's new electrical service connection), in which case such generators shall have Best Available Control Technology (BACT) that meets CARB's Tier 4 emission standards.

Additional Mitigation

- To the extent a qualifying facility seeks and secures a Development Agreement with/from the City, the applicant, or its successor in interest, and the City shall comply with Government Code section 65865.1 and Stockton Development Code section 16.128.110. The City shall schedule a public hearing at the Planning Commission, with notice to all affected parties, at least every 12 months after approval of the Development Agreement, to receive and discuss the annual report on the status of the qualifying facility(ies)'s compliance with the Development Agreement. At those same hearings, the City shall review all the qualifying facility(ies)'s mitigation measures and conditions of approval for compliance.
- Applicants seeking one or more discretionary permits for proposed qualifying facility(ies) shall engage in a community outreach effort to engage the existing community in determining issues of concern that can be addressed through site design and other means during the land use entitlement process. Suggested outreach efforts include but are not limited to, hosting community meetings, making presentations at advisory and community councils, and hosting job fairs.

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release of All Claims (“Agreement”) is entered into by and between the Sierra Club, a California nonprofit public benefit association, the City of Stockton (“City”), a municipal services corporation, and Greenlaw Development, LLC, a California limited liability company (“Developer”), (collectively referred to as “Parties” or singularly “Party”), to terminate fully and finally all disputes concerning the matters set forth below.

### **RECITALS**

WHEREAS, Developer, proposes to develop an approximately 203-acre site in the South Stockton area commonly known as the Mariposa Industrial Park for light industrial land uses (the “Project”). The conceptual site plan proposes construction and operation of 3,616,870 square feet of warehouse and ancillary office uses, approximately 1,831 auto parking spaces, 1,107 truck and trailer parking spaces, and related infrastructure. Developer has applied to the City for the following project approvals: (1) adoption of a Resolution certifying the Mariposa Industrial Park Environmental Impact Report (SCH #2020120283) (“EIR”), including a Statement of Overriding Considerations, and adoption of a Mitigation Monitoring and Reporting Program (“MMRP”); and (2) adoption of an Ordinance for the Pre-zoning of APNs 179-220-10; -11; -12; -13; -16; -17; -18-; 19; and -24 (the “Property”) to Industrial, Limited (IL); and (3) adoption an Ordinance for a Development Agreement; and (4) adoption of a Resolution authorizing the filing of an annexation application with the San Joaquin Local Agency Formation Commission (collectively the “Project Approvals”); and

WHEREAS, The Sierra Club and the California Attorney General submitted comments on the EIR requesting that additional air quality and other mitigation measures be included in the EIR and MMRP for the Project and that a fund to mitigate impacts on affected residents be created; and

WHEREAS, the Parties wish to resolve fully and finally all disputes which may exist between the Parties concerning the Project Approvals.

NOW, THEREFORE, based upon the foregoing recitals and the terms, conditions, covenants, and agreements contained above and incorporated in full below, the Parties agree as follows:

### **AGREEMENT**

For good and valuable consideration, the receipt of which is acknowledged by each Party hereto, the Parties promise and agree as follows:

1. If the City approves the Project, and (i) the certified EIR and adopted MMRP include all of the Mitigation Measures in the attached Mariposa Industrial Project Enhanced Measures, and (ii) the authorized Development Agreement includes all of the revised terms in the attached Mariposa Industrial Project Enhanced Measures, then (iii) neither the Sierra Club nor any of its affiliates will file any complaints, claims, grievances, special proceedings or any other actions against the City or Developer with any state,

federal, or local agency or court challenging the Project Approvals or the proposed annexation of the Project site to the City of Stockton. If an affiliate of the Sierra Club is determined to have made a challenge to the Project Approvals or the proposed annexation of the Project site to the City of Stockton in violation of this Section 1, such violation shall constitute a breach of this Agreement by the Sierra Club.

2. The City will draft and consider a comprehensive Warehouse Sustainability Ordinance for future projects that establishes development standards for the construction of industrial warehousing and distribution facilities that exceed 100,000 square feet subject to periodic review for consistency with current regulatory agency recommendations before December 31, 2023. The City may incorporate the addition of warehouse sustainability requirements through its current Development Code revision/update process, provided that the ordinance is considered before December 31, 2023. City staff shall recommend adoption of the ordinance.
3. The City agrees that the Mitigation Measures in the attached Mariposa Industrial Project Enhanced Measures are designed to mitigate potentially significant environmental impacts of warehouse projects. If, prior to adopting the Warehouse Sustainability Ordinance, the City considers approving a project that proposes to develop industrial warehousing or distribution facilities that exceed 100,000 square feet, the City shall include all such applicable measures from the Mariposa Industrial Project Enhanced Measures in any Environmental Impact Report or Mitigated Negative Declaration for the project and consider requiring the project to comply with them.
4. Developer agrees to comply with the attached Mariposa Industrial Project Enhanced Measures and will comply with all applicable City building code requirements.
5. If the City approves the Project, the City will coordinate with the County of San Joaquin to develop and install signage prohibiting non-emergency vehicle access to the project site from Clark Drive or Marfargoa Road. Developer will be responsible for the costs of signage determined to be appropriate by the City and the County.
6. Developer shall pay Sierra Club \$34,350 as reimbursement for Sierra Club's attorney's fees and costs incurred in the administrative phase of the Project Approvals. Payment shall be made to the Shute, Mihaly & Weinberger LLP trust account. Developer shall make this payment within ten (10) days of the expiration of the statute of limitations set forth in Section 21167 of the Public Resources Code on actions or proceedings to attack, review, set aside, void, or annul the City of Stockton's determination of CEQA compliance for the Project Approvals, provided that no such action or proceeding has been initiated by the Sierra Club or its affiliates.
7. This Agreement shall be effective and binding upon the Parties only after the execution of both (1) this Agreement by all parties, and (2) the execution of a Memorandum of Understanding between the California Attorney General and the City relating to the City considering an ordinance to establish development standards for industrial warehouse land uses.

## 8. Miscellaneous.

- a. **Exclusive Remedies.** The Parties' sole and exclusive remedy for breach of this Agreement shall be an action for specific performance or injunction. In no event shall any Party be entitled to monetary damages for breach of this Agreement. In addition, no legal action for specific performance or injunction shall be brought or maintained until: (a) the non-breaching Party provides written notice to the breaching Party which explains with particularity the nature of the claimed breach, and (b) within thirty (30) days after receipt of said notice, the breaching Party fails to cure the claimed breach or, in the case of a claimed breach which cannot be reasonably remedied within a thirty (30) day period, the breaching Party fails to commence to cure the claimed breach within such thirty (30) day period, and thereafter diligently complete the activities reasonably necessary to remedy the claimed breach.
- b. All notices and other communications required to be provided pursuant to this Agreement shall be by electronic mail and by first class mail to the following persons at the following addresses:

**SIERRA CLUB:**

Margo Praus  
Delta-Sierra Group  
P.O. Box 9258  
Stockton, CA 95208  
margopraus@msn.com

with copy to:

Sierra Club  
Aaron Isherwood, Coordinating Attorney  
2101 Webster St., Suite 1300  
Oakland, CA 94612  
aaron.isherwood@sierraclub.org

with copy to:

Shute, Mihaly & Weinberger LLP  
Heather Minner  
396 Hayes Street  
San Francisco, CA 94102  
minner@smwlaw.com

**GREENLAW DEVELOPMENT, LLC:**

Greenlaw Partners  
18301 Von Karmen Avenue, Suite 250  
Irvine, CA 92612  
Attn: Rob Mitchell  
Email: rob@greenlawpartners.com

with copy to:

Cochran Law Group  
18301 Von Karman Avenue, Suite 270  
Irvine, California 92612  
Attn: Thia Cochran  
Email: thia@cochranlawgroup.com

with copy to:

Law Office of Daniel P. Doporto  
Daniel P. Doporto  
3478 Buskirk Avenue, Suite 1000  
Pleasant Hill, CA 94523  
Email: ddoporto@doportolaw.com

**CITY OF STOCKTON:**

City Attorney's Office  
425 N. El Dorado Street  
Stockton, CA 95202  
City.attorney@stocktonca.gov

with copy to:

City Manager's Office  
425 N. El Dorado Street  
Stockton, CA 95202  
City.manager@stocktonca.gov

- c. **Binding on Successors.** The terms, covenants, and conditions of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assignees of the respective Parties. Developer shall record a copy of this Agreement against the Property. Developer will provide a copy of the recorded Agreement to Sierra Club within fifteen (15) days of such recording. The Parties shall give notice to all other Parties of any successor or assignee to the Party.



- d. **Non-Admission of Liability.** The Parties acknowledge and agree that this Agreement is a settlement of disputed claims. Neither the fact that the Parties have settled nor the terms of this Agreement shall be construed in any manner as an admission of any liability by any Party.
- e. **Assistance of Counsel.** The Parties each specifically represent that they have consulted to their satisfaction with and received independent advice from their respective counsel prior to executing this Agreement concerning the terms and conditions of this Agreement.
- f. **Waiver.** Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.
- g. **Severability.** Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.
- h. **Governing Law and Venue.** This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said State without giving effect to conflicts of laws principles. Any action to enforce, invalidate, or interpret any provision of this Agreement shall be brought in San Joaquin County Superior Court.
- i. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied between the Parties to this Agreement. No representation, inducement, promise, agreement or warranty not contained in this Agreement, including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding, unless executed in writing by all of the Parties to this Agreement.
- j. Each of the signatories hereto represents and warrants that he or she is competent and authorized to enter into this Agreement on behalf of the Party for whom he or she purports to sign.
- k. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which shall constitute on agreement.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned execute this Settlement Agreement and Release, and hereby agree to all terms and condition herein, on the dates set forth below.

ATTACHMENT B

**SIERRA CLUB**

By: Margy Proux  
Name: Margy Proux  
Its: Chair, Delta-Sierra Group  
Date: 11-11-2022

**GREENLAW DEVELOPMENT, LLC**

By: [Signature]  
Name: Rob Mitchell  
Its: Partner  
Date: 11/20/22

**CITY OF STOCKTON**

By: [Signature]  
Name: Harry Black  
Its: City Manager  
Date: 12/22/22

ATTEST:  
for CLERK OF THE CITY OF STOCKTON  
By: [Signature]



**APPROVED AS TO FORM**

By: [Signature]  
Name: Taryn Jones for  
City Attorney  
Date: 12/22/22

Attachment (1): Mariposa Industrial Project Enhanced Measures  
1585908 7

**The Final EIR Mitigation Measures will be revised to include the following:**

AMM AIR-1: Solar Power: Owners, operators or tenants shall include with the building permit application, sufficient solar panels to provide power for the operation's base power use at the start of operations and as base power use demand increases. Project sponsor shall include analysis of (a) projected power requirements at the start of operations and as base power demand increases corresponding to the implementation of the "clean fleet" requirements, and (b) generating capacity of the solar installation.

AMM AIR -1 (continued): CDD shall verify the size and scope of the solar project based upon the analysis of the projected power requirements and generating capacity as well as the available solar panel installation space. The photovoltaic system shall include a battery storage system to serve the facility in the event of a power outage to the extent required by the 2022 or later California Building Standards Code.

AMM AIR -1 (continued): In the event sufficient space is not available on the subject lot to accommodate the needed number of solar panels to produce the operation's base or anticipated power use, the applicant shall demonstrate how all available space has been maximized (e.g., roof, parking areas, etc.). Areas which provide truck movement may be excluded from these calculations unless otherwise deemed acceptable by the supplied reports.

AMM AIR -1 (continued): The developer or tenant, or qualified solar provider engaged by the developer or tenant shall timely order all equipment and shall install the system when the City has approved building permits and the necessary equipment has arrived. The developer or tenant shall commence operation of the system when it has received permission to operate from the utility. The photovoltaic system owner shall be responsible for maintaining the system(s) at not less than 80% of the rated power for 20 years. At the end of the 20-year period, the building owner shall install a new photovoltaic system meeting the capacity and operational requirements of this measure, or continue to maintain the existing system, for the life of the project.

MARIPOSA INDUSTRIAL PROJECT  
ENHANCED MEASURES

<p>EMM AIR-1: Prior to the issuance of the first building permit, the applicant/developer shall demonstrate compliance with the SJVAPCD Rule 9510 (Indirect Source Review) to reduce growth in both NOx and PM10 emissions, as required by SJVAPCD and City requirements.</p>
<p>AMM AIR-1: Architectural Coatings: Construction plans shall require that architectural and industrial maintenance coatings (e.g., paints) applied on the project site shall be consistent with a VOC content of &lt;10 g/L. Developer or tenant is not expected to exercise control over materials painted offsite by a third party.</p>
<p>AMM AIR-3: Construction Worker Trip Reduction: Project construction plans and specifications will require contractor to provide transit and ridesharing information for construction workers.</p>
<p>AMM AIR-2: SJVAPCD Regulation VIII Compliance: Construction plans and specifications shall include a Dust Control Plan incorporating the applicable requirements of Regulation VIII, which shall be submitted to the SJVAPCD for review and approval prior to beginning construction in accordance with the requirements of Regulation VIII.</p>
<p>AMM AIR -2: Emission Standards for Heavy-Duty Trucks: The following mitigation measures shall be implemented during all on-going business operations and shall be included as part of contractual lease agreement language to ensure the tenants/lessees are informed of all on-going operational responsibilities.</p> <p>The property owner/tenant/lessee shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025 or when commercially available for the intended application, whichever date is later.</p> <p>A zero-emission vehicle shall ordinarily be considered commercially available if the vehicle is capable of serving the intended purpose and is included in California's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project, <a href="https://californiahvip.org/">https://californiahvip.org/</a> or listed as available in the US on the Global Commercial Vehicle Drive to Zero inventory,</p>

<https://globaldrivetozero.org/>. The City shall be responsible for the final determination of commercial availability, based on all the facts and circumstances at the time the determination is made, and may (but is not required to) consult with the California Air Resources Board before making such final determination. In order for the City to make a determination that such vehicles are commercially unavailable, the operator must submit documentation from a minimum of three (3) EV dealers identified on the [californiahvip.org](http://californiahvip.org) website demonstrating the inability to obtain the required EVs or equipment needed within 6 months.

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

Zero-emission heavy-duty trucks which require service can be temporarily replaced with model year 2014 or later trucks. Replacement trucks shall be used for only the minimum time required for servicing fleet trucks.

**AMM AIR-3: Zero Emission Vehicles:** The property owner/tenant/lessee shall utilize a "clean fleet" of vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations as follows: For any vehicle (Class 2 through 6) domiciled at the project site, the following "clean fleet" requirements apply: (i) 33% of the fleet will be zero emission vehicles at start of operations, (ii) 65% of the fleet will be zero emission vehicles by December 31, 2023, (iii) 80% of the fleet will be zero emission vehicles by December 31, 2025, and (iv) 100% of the fleet will be zero emission vehicles by December 31, 2027.

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

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

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

MARIPOSA INDUSTRIAL PROJECT  
ENHANCED MEASURES

AMM AIR-4: Demonstrate Compliance with Clean Fleet Requirements: The applicant, property owner, tenant, lessee, or other party operating the facility (the "Operator") shall utilize the zero emission vehicles/trucks required to meet the "clean fleet" requirements in AMM AIR-2 (for Class 7 and 8 vehicles) and AMM AIR-3 (for Class 2 through 6 vehicles) above. Within 30-days of occupancy, the Operator shall demonstrate to the satisfaction of CDD staff, that the applicable clean fleet requirements are being met.

AMM AIR-4 (continued): In the event that vehicles/trucks are not commercially available for the intended application, the "clean fleet requirements" may be adjusted as minimally as possible by the CDD to accommodate the unavailability of commercially available vehicles/trucks.

AMM AIR 4 (continued) The City shall quantify the air pollution and GHG emissions resulting from any modification of this condition. Within 12 months of failing to meet a "clean fleet" requirement the property owner/tenant/lessee shall implement a Voluntary Emissions Reduction Agreement (VERA) providing pound for pound mitigation of the criteria pollutant, toxic air contaminants, and GHG emissions quantified by the City through a process that develops, funds, and implements emission reduction projects, with the Air District serving a role of administrator of the emission reduction projects and verifier of the successful mitigation effort. The VERA shall prioritize projects in the South Stockton and surrounding area. Property owner/tenant/lessee shall continue to fund the VERA each year in an amount necessary to achieve pound for pound mitigation of emissions resulting from not meeting the clean fleet requirements until the owner/tenant/lessee fully complies.

AMM AIR-4 (continued): The Operator shall implement the proposed measures after CDD review and approval. Any extension of time granted to implement this condition shall be limited to the shortest period of time necessary to allow for 100% electrification under the clean fleet requirements. The CDD staff may seek the recommendation of the California Air Resources Board in determining whether there has been a manufacturing disruption or insufficient vehicles/trucks commercially available for the intended application.

AMM AIR-4 (continued): Construction Meal Destinations: Project construction plans and specifications will require the contractor to establish one or more locations for food or catering truck service to construction workers and to cooperate with food service providers to provide consistent food service.

AMM AIR-5: Condition of Approved Compliance Report: The Operator shall submit a condition of approval compliance report within 30 days of, but not later than, the following dates: December 31, 2023, December 31, 2025, and December 31, 2027. The report shall outline clean fleet requirements applicable at each report interval and include documentation demonstrating compliance with each requirement. The City shall consider each report at a noticed public hearing and determine whether the Operator has complied with the applicable clean fleet requirements. If the Operator has not met each 100% clean fleet requirement by December 31, 2027, then the Operator shall submit subsequent reports every year until the 100% clean fleet requirement is implemented. The City shall consider each subsequent report at a noticed public hearing and determine whether the Operator has complied with the clean fleet requirements, including any minimal adjustments to the requirements by the CDD to accommodate the manufacturing disruption or unavailability of commercially available vehicles/trucks, as described in the previous paragraph. Notice of the above hearings shall be provided to all properties located within 1,000 feet of the project site and through the ASK Stockton list serve.

AMM AIR-5 (continued): After the 100% clean fleet requirement has been implemented and confirmed by the CDD, the Operator shall submit to the CDD an on-going compliance report every three years containing all necessary documentation to verify that the Operator is meeting the clean fleet requirements. At the time it confirms that the 100% clean fleet requirement has been implemented, the CDD will establish the due date for the first on-going compliance report. Each subsequent on-going compliance report shall be due within 30 days of, but not later than, the three-year anniversary of the preceding due date. The on-going compliance reports and accompanying documentation shall be made available to the public upon request.

AMM AIR-6: Zero Emission Forklifts, Yard Trucks and Yard Equipment: Owners, operators or tenants shall require all forklifts, yard trucks, and other equipment used for on-site movement of trucks, trailers and warehoused goods, as well as landscaping maintenance equipment used on the site, to be electrically powered or zero-emission. The owner, operator or tenant shall provide on-site electrical charging facilities to adequately service electric vehicles and equipment.

AMM AIR-7: Truck Idling Restrictions: Owners, operators or tenants shall be required to make their best effort to restrict truck idling onsite to a maximum of three minutes, subject to exceptions defined by CARB in the document: *commercial\_vehicle\_idling\_requirements\_July 2016*. Idling restrictions shall be enforced by highly-visible posting at the

MARIPOSA INDUSTRIAL PROJECT  
ENHANCED MEASURES

<p>site entry, posting at other on-site locations frequented by truck drivers, conspicuous inclusion in employee training and guidance material and owner, operator or tenant direct action as required.</p> <p>AMM AIR-8: Electric Truck Charging: At all times during project operation, owners, operators or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site.</p> <p>AMM AIR-9: Project Operations, Food Service: Owners, operators or tenants shall establish locations for food or catering truck service and cooperate with food service providers to provide consistent food service to operations employees.</p> <p>AMM AIR-10: Project Operations, Employee Trip Reduction: Owners, operators or tenants shall provide employees transit route and schedule information on systems serving the project area and coordinate ridesharing amongst employees.</p> <p>AMM AIR-11: Yard Sweeping: Owners, operators or tenants shall provide periodic yard and parking area sweeping to minimize dust generation</p> <p>AMM AIR-12: Diesel Generators: Owners, operators or tenants shall prohibit the use of diesel generators, except in emergency situations, in which case such generators shall have Best Available Control Technology (BACT) that meets CARB's Tier 4 emission standards.</p> <p>AMM AIR-13: Truck Emission Control: Owners, operators or tenants shall ensure that trucks or truck fleets domiciled at the project site be model year 2014 or later, and maintained consistent with current CARB emission control regulations.</p> <p>AMM AIR-14: All tenant lease agreements for the project site shall include a provision requiring the tenant/lessee to comply with all applicable requirements of the MMRP, a copy of which shall be attached to each tenant/lease agreement.</p>
<p>AMM AIR-14 (continued): SmartWay: Owners, operators or tenants shall enroll and participate the in SmartWay program for eligible businesses</p>
<p>AMM AIR-15: Designated Smoking Areas: Owners, operators or tenants shall ensure that any outdoor areas allowing smoking are at least 25 feet from the nearest property line.</p>
<p>AMM AIR 16: Project construction shall be subject to all adopted City building codes, including the adopted Green Building Standards Code, version July 2022 or later. Prior to the issuance of building permits, the applicant/developer</p>



<p>shall demonstrate (e.g., provide building plans) that the proposed buildings are designed and will be built to, at a minimum, meet the Nonresidential Voluntary Measures of the California Green Building Standards code, Divisions A5.1, 5.2 and 5.5, including but not limited to the Tier 2 standards in those Divisions, where applicable, such as the Tier 2 advanced energy efficiency requirements as outlined under Section A5.203.1.2.</p>
<p>EMM AG-1: The project shall participate in and comply with the City's Agricultural Lands Mitigation Program, under which developers of the property shall contribute agricultural mitigation land or shall pay the Agricultural Land Mitigation Fee to the City.</p>
<p><b>The City and Applicant will revise the proposed Development Agreement to provide the following:</b></p>
<p>In the DA text and in Exhibit B, to clarify that cold storage facilities are prohibited on the site and transport refrigeration units (TRUs) may not enter the site. In the DA text provide that any future proposal to construct cold storage facilities on the site or to allow TRUs to enter the site would require an amendment to the Development Agreement that shall be deemed and processed as a Major Modification to the Development Agreement, an application to the City for a conditional use permit, and be subject to review under the California Environmental Quality Act and Stockton Municipal Code Chapter 16.168.</p>
<p>Section 8.3 of the DA will be revised as follows:</p> <p><b>8.3 Mitigation Measures.</b> Developer agrees to and shall comply with all applicable mitigation measures attached hereto as Exhibit C and with all applicable mitigation measures in the MIP EIR, as described in the Mitigation Monitoring/Reporting Program approved by the City on _____, 2023. Developer shall include in all tenant lease agreements for the project site a provision requiring the tenant/lessee to comply with all applicable requirements of the measures in this Section 8.3, a copy of which shall be attached to each to each tenant/lease agreement.</p>
<p>Section 10.1 of the DA will be revised as follows:</p> <p><b>10.1 Annual Review.</b> As required by California Government Code Section 65865.1 and pursuant to Section 16.128.110 of the Development Agreement Ordinance, the City of Stockton Planning Commission shall review</p>

MARIPOSA INDUSTRIAL PROJECT  
ENHANCED MEASURES

this Agreement and all actions taken pursuant to the terms of this Agreement with respect to the development of the Project every twelve (12) months at a duly-noticed public hearing to determine good faith compliance with this Agreement (“Annual Review”). Specifically, the Annual Review shall be conducted for the purposes of determining good faith compliance with the terms and/or conditions of this Agreement, including compliance with the mitigation measures in Section 8.3 of this Agreement. Each Annual Review shall also document the status of Project development. In the event the Planning Commission recommends modification or termination of this Agreement in connection with such Annual Review, the action to effectuate such modification or termination must be taken by City Council.

In the DA text, to require the City to coordinate with the County to develop and install signage prohibiting non-emergency vehicle access to the project site from Clark Drive or Marfargoa Road. The Applicant will be responsible for the costs of the signage determined to be appropriate by the City and the County.

In the text, to require the following:

Construction plans shall include a 10-foot by 65-foot landscaped berm along the 623-lineal foot and 493-lineal foot portions of the west line of the site, located north and south of Marfargoa Road, which will be required by and shown on Exhibit B to the Development Agreement. Landscaping of the berm shall include fast-growing evergreen trees to provide maximum visual screening, as determined by a qualified landscape architect. Construction plans shall also include a 10-foot wall along the 881-lineal foot and 1,316-lineal foot portions of the west line of the site, located north and south of Clark Drive, which will be required by and shown on Exhibit B to the Development Agreement. Construction plans shall also identify a 60-foot “no truck” zone along the entire length of the west line of the site, which will be required by and shown on Exhibit B to the Development Agreement. Construction plans shall also identify and prohibit building construction within a setback area located a minimum of 300 feet from the property line of residential properties along Marfargoa Road and Clark Drive. Notwithstanding the foregoing, the stairwells of ancillary/accessory buildings may encroach into the 300-foot setback area.

In the text, to provide that, prior to the issuance of a grading permit, the Applicant will provide \$200,000 to a non-profit organization serving disadvantaged residents of San Joaquin County approved by the City’s Community Development Director, to fund a program to reduce exposure to emissions and noise from vehicle and truck traffic and industrial operations, for residents located within the geographic area bounded by Munford Avenue, Mariposa Road, Little John’s Creek and the SR99 Frontage Road. The program may fund or reimburse home air filtration systems, HVAC

MARIPOSA INDUSTRIAL PROJECT  
ENHANCED MEASURES

modifications, window replacements, weather stripping, or similar improvements; publicly available electric vehicle charging station(s); and/or air quality monitoring sensors with publicly available real time data (such as PurpleAir sensors).

1584972.4