ADDENDUM TO FINAL ENVIRONMENTAL IMPACT REPORT-
SAN MATEO RAIL CORRIDOR PLAN AND
BAY MEADOWS SPECIFIC PLAN AMENDMENT
(Certified by the San Mateo City Council on April 18, 2005 and November 7, 2005)

1.0 INTRODUCTION

The California Environmental Quality Act (CEQA) requires public agencies to analyze and consider the environmental consequences of their decisions to approve development projects over which they exercise discretion. CEQA achieves this objective by requiring agencies to prepare Environmental Impact Reports (EIR’s) for projects with the potential to cause significant impacts on the physical environment. EIR’s are public documents that assess environmental effects related to the planning, construction, and operation of a project, and indicate ways to reduce or avoid possible environmental damage. An EIR also discloses growth-inducing impacts, effects found not to be significant, significant cumulative impacts, and significant impacts that cannot be avoided, if any. The purpose of an EIR is to inform. EIR’s are not policy documents that recommend project approval or denial.

As lead agency, the City of San Mateo prepared an Environmental Impact Report (EIR) for the San Mateo Rail Corridor Plan and the Bay Meadows Specific Plan Amendment, in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code, section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, Section 15000 et seq., as amended). The City Council certified the final EIR (Final EIR) for the San Mateo Rail Corridor Plan & Bay Meadows II Specific Plan Amendment at a public hearing on April 18, 2005, and approved the Bay Meadows Specific Plan Amendment, re-certified the Final EIR for that project, and adopted the findings and statement of overriding considerations at a public hearing on November 7, 2005. As noted at page 1-6 of the Final EIR, the analysis in the Final EIR was at a “project” level of detail, which anticipated the potential impacts of future discretionary approvals to implement the project. The Final EIR expressly states that applications for subsequent Site Plan and Architectural Review (SPAR) would not require preparation of subsequent environmental documentation, unless otherwise required by CEQA Section 21166.

Public Resources Code Section 21166 limits the ability of an agency to require an additional EIR, once one has been certified for a project. Section 21166 provides as follows:

21166. Subsequent or Supplemental Impact Report; Conditions.

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.
The CEQA Guidelines further refine the circumstances under which a supplemental or subsequent EIR may be required. Guidelines Section 15162 provides as follows:

15162. Subsequent EIRs and Negative Declarations.

"(a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative."

The project applicant has now submitted SPAR applications for implementation in accordance with the Specific Plan Amendment. Before acting on these applications the Planning Commission and the City Council must apply the standards outlined above to determine whether a subsequent or supplement EIR is required. In reviewing the previously certified Final EIR, City staff identified developments in two issue areas that merit discussion that have arisen since
certification of that EIR. These are: (1) the adequacy of the traffic impact analysis in light of the Caltrain JPB’s consideration of alternative grade separation designs, and (2) issues concerning the analysis of climate change impacts in CEQA documents. After reviewing the facts and analyzing the circumstances, the San Mateo City staff has determined that although there have been new developments in these issue areas since the City’s certification of the Final EIR for the Bay Meadows project, a new EIR is not required, because none of the circumstances described in CEQA Section 21166 as implemented by CEQA Guidelines Section 15162 present themselves. Staff has prepared this addendum to discuss these issues and the basis for this determination.

2.0 THE JPB’s CONSIDERATION OF GRADE SEPARATION ALTERNATIVES

2.1 Description of the Issue

The Specific Plan Amendment as analyzed in the Final EIR anticipated a base program of 1,250,000 square feet of office uses, 1,250 residential units and 150,000 square feet of retail uses. A minimum of 1,000 units and 500,000 square feet of office are required to be provided at build-out of the project under the Specific Plan Amendment. (The Final EIR studied the impacts of a range of development intensity within the Bay Meadows project and the larger San Mateo Rail Corridor that informed the City of the impacts that would result at this level of development.) The project applicant has now completed the design process for project implementation. Consistent with the minimum and maximum limits in the Specific Plan Amendment, the applicant proposes three initial SPAR applications for 17 of the 18 developable blocks at the project site, which together anticipate approximately 750,000 square feet of office, approximately 93,000 square feet of retail/restaurant uses and 1,066 units of housing. (The first of these three SPAR applications is presently before the Planning Commission.) At build-out the final project will consist of approximately 1,250 units of housing, 750,000 square feet of office and 93,000 square feet of retail restaurant uses. Again, the project remains consistent with the minimum and maximum development limits analyzed in the Final EIR.

The previously approved project, discussed in the Final EIR and summarized below, also included a variety of road improvements, including the construction of grade separated crossings at 25th, 28th and 31st Avenues. Grade separation is the process of aligning a junction of two or more transport axes at different heights (grades) so they will not disrupt the traffic flow on other transit routes when they cross each other. If there is no grade separation at all, the junction is called "at-grade". Currently, there is an at-grade crossing at 25th Avenue, but no crossing at all at 28th and 31st Avenues because those Avenues dead-end at El Camino Real because the race track acts as a physical barrier to the extension of the streets east of the railway right-of-way. The analysis of the Corridor Plan impacts anticipated that the Joint Powers Board would implement the grade separated crossings, but the timing of the improvements was uncertain. Consequently, in response to comments to the draft EIR concerning the impacts caused by delay in the anticipated improvements, Gary Black of Hexagon Transportation Consultants, Inc. prepared a memorandum re Bay Meadows II Phasing Plan, dated November 19, 2004 (Appendix E of the Response to Comments for the EIR), which considered what level of development could be sustained without impacts prior to the completion of various road improvements contemplated by the Corridor Plan, including the grade separations on 28th and 31st avenues. The memo assumed that there would be connectivity at 25th Avenue, but that 28th and 31st avenues would remain blocked off, and concluded that the Bay Meadows project could develop up to a level that would generate 1,127 net new PM peak hour trips before needing the grade separations at 28th and 31st.
(See Appendix E, Page 2 of memo dated November 19, 2004). By adding 1,127 to the existing trips one arrives at the 1,562 PM peak hour trip maximum that is reflected in Mitigation Measure Traffic-BM18 and Condition of Approval 40 (A). Condition of Approval 40(A) states the following:

Pre-Grade Separations: No building permit shall be issued which would individually or cumulatively permit an amount of development that would generate traffic in excess of 1,562 trips unless and until the Peninsula Corridor Joint Powers Board has commenced construction of grade separated crossings at either or both of 28th and 31st Avenues *Mitigation Measure Traffic-BM18.

Since the certification of the Final EIR (and in response to concerns about the rising cost of construction), the JPB has proposed a study to consider alternatives to the grade separation on 25th Avenue, which may involve either a delay in construction of the grade separation at 25th Avenue or a decision to eliminate the existing at-grade crossing at 25th Avenue. (The JPB has not proposed abandonment of the grade separation project altogether. It is studying closure of 25th Avenue and relocation of the grade separated crossings to 28th and 31st Avenue.) At the time of the certification of the Final EIR, the grade separation at 25th Avenue was an approved development, funded, and expected to be implemented in due course. Today, the 25th Avenue grade separation continues to be an approved development with funding, and there is an existing at-grade crossing over the tracks at 25th. At this point, the JPB is merely considering alternatives, but has not officially modified its plans with regards to the 25th Avenue grade separation. The fact that the JPB is now studying alternatives does not, in and of itself, trigger the need for a new CEQA review for the Bay Meadows project. Any approval by the JPB will independently trigger the need for CEQA review of the impacts of the JPB’s proposed project.

As previously discussed, in response to comments to the Draft EIR, Gary Black of Hexagon Transportation Consultants, Inc., prepared a memorandum dated November 19, 2004 (Appendix E of the Response to Comments for the EIR), which considered what level of development could be sustained without impacts prior to the completion of various road improvements contemplated by the Corridor Plan, including the separations on 28th and 31st avenues. The memorandum concluded that the Bay Meadows project could develop up to a level that would generate 1,127 net new trips before needing the grade separations. (See Appendix E, Page 2 of memo dated November 19, 2004).

In calculating the 1,127 net new trips that could be accommodated before the grade separated crossings at 28th or 31st were needed, the November 19, 2004 memorandum from Gary Black considered the Baseline Conditions at the site, which included a connection over 25th Avenue, because that grade separation was an approved development, funded, and expected to be implemented in due course. (See page 4.3-6 of the Final EIR.) The fact that the 25th Avenue grade separation was assumed as part of the Baseline Conditions makes no difference to the calculation of the traffic capacity, because whether the connection is grade separated or at grade is irrelevant. The important factor is whether traffic can flow through the connection. It is noteworthy that the Final EIR also shows that the proposed grade separation at 25th Avenue did not add significant traffic capacity. More specifically, Table 6 of Gary Black’s memo dated November 3, 2004 (Appendix B of Response to Comments to the EIR) showed what the different assumptions and empirical data showed for a variety of intersections. The data in Table 6 suggest that the increase in average daily traffic (ADT) volumes from the existing conditions
(8,300 ADT on 25th Avenue West of El Camino) to the Baseline Condition (which includes the
25th Avenue grade separation) would be only 200 average daily trips (8,300 to 8,500), thereby
suggesting that the loss of the grade separation at 25th Avenue would not be significant in terms
of traffic capacity.

In any event, the traffic conditions anticipated at the time of the approval of the Specific Plan
Amendment are unchanged; there is a connection at 25th, and none at 28th or 31st. The project
shall comply with the trip budget limitations; therefore no different impacts are anticipated.

Because the analysis in the Final EIR did not study the impacts that would be caused by closing
25th Avenue and relocating the grade separation, City staff asked Hexagon Transportation
Consultants to analyze impacts that would be caused by this change. The attached analysis
(Attachment #1) from Hexagon Transportation Consultants, Inc., dated March 27, 2008,
demonstrates that the long-term traffic conditions resulting from a scenario where the connection
at 25th and one at either 28th or 31st (as assumed in the post grade-separated condition in the Final
EIR) is replaced by a connection at 28th and 31st would not result in any significant impacts to
the intersections affected by this change. In fact, the long-term traffic conditions resulting from
this proposed change, would be as good as the previously proposed plan. Thus, neither the
possible delay of the 25th Avenue grade separation nor the alternative improvements at 28th
and 31st, constitute substantial changes to the project pursuant to Section 15162(a)(1). Because it is
likely that the additional capacity from the proposed new improvements will be as good as that
expected in the Final EIR, there is no "new significant environmental effects or substantial
increase in the severity of previously identified significant effects." (Section 15162(a)(1).)

2.2 Application of CEQA Guideline Section 15612

Is there substantial evidence in the record revealing that there have been substantial changes
proposed in the project which will require major revisions of the previous EIR due to the
involvement of new significant environmental effects or a substantial increase in the severity
of previously identified significant effects as a result of the JPB's consideration of alternate
designs for grade separations?

No, there is no evidence suggesting that any changes to the project have been proposed. As
noted above, the previous EIR analyzed the impacts of the Specific Plan Amendment authorizing
a range of development between a base program of 1,250,000 square feet of office uses, 1,250
residential units, and 150,000 square feet of retail uses, and a minimum of 500,000 square feet of
office and 1,000 units of office at build out. The three proposed SPARs would authorize the
construction of approximately 750,000 square feet of office uses, 93,000 square feet of
retail/restaurant uses and 1,066 housing units. These levels of development are within the ranges
previously approved. In addition, the final conditions of approval for the Specific Plan
Amendment created a “trip budget” to limit the amount of development that could be constructed
prior to commencement of construction of the required grade separated crossings over the
Caltrain tracks. The trips generated by the proposed SPARs, in conjunction with the Traffic
Management Plan and the limitation on the issuance of building permits as described in
Condition 40, are within the pre-grade separation trip budget. Therefore, no change in the
project has been proposed.
Is there substantial evidence in the record revealing that there have been substantial changes with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects as a result of the JPB’s consideration of alternate designs for grade separations?

No, there is no evidence suggesting that there have been substantial changes with respect to the circumstances under which the project is undertaken which will require major revisions to the previous EIR. At the time of the certification of the previous EIR, the JPB had plans to construct a grade separation at 25th Avenue that would facilitate the construction of an additional grade separation at 28th and/or 31st Avenue. While the JPB has not made a final decision with respect to its grade separation project, cost concerns have caused the JPB to examine alternative designs, including the closure of 25th Avenue, and the construction of a grade separation at 28th and/or 31st Avenue. Unless and until the JPB affirmatively changes its current plans, the only connection over the tracks is at 25th, which is completely consistent with the Final EIR’s analysis. In an abundance of caution, the City has analyzed what would happen if the JPB takes a different action in the future, which would result in the closing 25th Avenue. This analysis reveals that no new significant environmental effects would result from the closure of 25th Avenue (to be replaced by grade separations at 28th and 31st), and there will be no increase in the severity of any previously identified significant effects. Nonetheless, it is important to note that there has been no change at this time from the circumstances analyzed in the EIR.

Is there substantial evidence in the record revealing that there is new information of substantial importance related to the JPB’s consideration of alternate designs for grade separations, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified that shows: (1) the project will have one or more significant effects not discussed in the EIR, (2) significant effects previously shown will be substantially more severe that shown in the previous EIR, (3) mitigation measure or alternatives previously found to be infeasible would in fact be feasible, or (4) there are considerably different mitigation measure or alternatives from those analyzed in the previous EIR that would substantially reduce one or more significant effects?

No, there is no evidence suggesting that there is new information of substantial importance relating to new significant effects or the severity of previously identified significant effects, or new alternatives or mitigation measures or the efficacy of previously considered alternatives or mitigation measures. At the time of the certification of the previous EIR, the JPB had plans to construct a grade separation at 25th Avenue that would facilitate the construction of an additional grade separation at 28th and/or 31st Avenue. While the JPB has not made a final decision with respect to its grade separation project, cost concerns have caused the JPB to examine alternative designs, including the closure of 25th Avenue, and the construction of a grade separation at 28th and/or 31st Avenue. Unless and until the JPB affirmatively changes its current plans, the only connection over the tracks is at 25th, which is completely consistent with the Final EIR’s analysis. In an abundance of caution, the City has analyzed what would happen if the JPB takes a different action in the future, which would result in the closing 25th Avenue. This analysis reveals that no new significant environmental effects would result from the closure of 25th Avenue, and there will be no increase in the severity of any previously identified significant effects. As a consequence of this conclusion, it can be concluded that no new mitigation measures or
alternatives need be analyzed. Nonetheless, it is important to note that there has been no change at this time from the circumstances analyzed in the EIR.

3.0 GLOBAL CLIMATE CHANGE

3.1 Description of the Issue

Global climate change refers to changes in average climatic conditions on Earth as a whole, including temperature, wind patterns, precipitation and storms. Global temperatures are moderated by naturally occurring atmospheric gases, including water vapor, carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O). These gases allow solar radiation (sunlight) into the Earth’s atmosphere, but prevent radiative heat from escaping, thus warming the Earth’s atmosphere.

Global climate change attributable to the emission of greenhouse gases (“GHG”) (mainly CO₂, CH₄ and N₂O) generated by human activity is currently one of the most important and widely debated scientific, economic and political issues in the United States. Historical records indicate that global climate changes have occurred in the past due to natural phenomena (such as during previous ice ages). Some data indicate that the current global conditions differ from past climate changes in rate and magnitude. These data have led political leaders to take actions aimed at reducing the emissions of GHG generated by human activity.

Carbon dioxide is the most abundant GHG. GHGs are the result of both natural and human activity. Forest fires, decomposition, industrial processes, landfills, and consumption of fossil fuels for power generation, transportation, heating, and cooking are the primary sources of GHG emissions. According to the California Energy Commission (CEC), emissions from fossil fuel consumption represent approximately 81 percent of GHG emissions and transportation creates 41 percent of GHG emissions in California.

The scientific understanding of the fundamental processes responsible for global climate change has improved over the past decade, and predictive capabilities are advancing. However, there remain significant uncertainties, for example, in predictions of local effects of climate change, occurrence of extreme weather events, effects of aerosols, changes in clouds, shifts in the intensity and distribution of precipitation, and changes in oceanic circulation. Due to the complexity of the Earth’s climate system, the uncertainty surrounding climate change may never be completely eliminated. Because of these uncertainties, there continues to be significant debate with respect to the appropriate actions to limit and/or respond to climate change. In addition, it is impossible to link a single development project with future specific climate change impacts.

Regulatory Setting

In response to growing scientific and political concern regarding global climate change, California has recently adopted a series of laws to reduce both the level of GHGs in the atmosphere and to reduce emissions of GHGs from commercial and private activities within the State. In September 2002, Governor Gray Davis signed Assembly Bill (AB) 1493, requiring the development and adoption of regulations to achieve “the maximum feasible reduction of greenhouse gases” emitted by noncommercial passenger vehicles, light-duty trucks, and other
vehicles used primarily for personal transportation in the State. However, setting emission standards on automobiles is solely the responsibility of the federal EPA. The CAA allows States to set state-specific emission standards on automobiles if they first obtain a waiver from the USEPA. The USEPA has not yet ruled on California’s request for a waiver, thereby possibly delaying CARB’s proposed implementation schedule.

There has also been activity at the federal level with respect to the regulation of GHGs. In *Massachusetts v. Environmental Protection Agency* (Docket No. 05–1120), argued November 29, 2006 and decided April 2, 2007, the U.S. Supreme Court held that that not only did the EPA have authority to regulate greenhouse gases, but that the EPA’s reasons for not regulating this area did not fit the statutory requirements. As such, the U.S. Supreme Court ruled that the EPA should be required to regulate CO₂ and other greenhouse gases as pollutants under the Clean Air Act. To date, the EPA has not developed a regulatory program for greenhouse gas emissions.

In September, 2006, Governor Schwarzenegger signed into law the California Global Warming Solutions Act of 2006 (Assembly Bill 32, codified at Section 38500 et seq. of the California Health & Safety Code). This law requires the California Air Resources Board (CARB) to determine what the statewide greenhouse gas emissions level was in 1990 and design and implement emission limits, regulations, and other measures, such that by 2020 statewide greenhouse gas emissions are reduced in a technologically feasible and cost-effective manner to the 1990 level.

In part, the Global Warming Solutions Act established a timetable for CARB to complete each of the following responsibilities:

- By June 30, 2007, publish a list of discrete early action GHG emissions reduction measures
- By January 1, 2008, adopt regulations to require the reporting and verification of the GHGs and to monitor and enforce compliance with the program established under the Global Warming Solutions Act
- By January 1, 2009, prepare and approve scoping plan for achieving the maximum technologically feasible and cost-effective reductions of GHGs from sources or categories of sources of GHGs
- By January 1, 2010, adopt regulations to implement measures identified on the list published as the discrete early action GHG emissions reduction measures
- By January 1, 2011, adopt greenhouse gas emission limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning on January 1, 2012.

Although no specific language in the Global Warming Solutions Act refers to CEQA compliance, comment letters from the California Attorney General encourages CEQA lead
agencies and other agencies to consider global warming impacts and GHG emissions as a part of the environmental review process.

More recently, legislation has been chaptered (SB 97 (Dutton))\(^1\) that requires the Governor’s Office of Planning and Research (OPR) to prepare, develop, and transmit to the Resources Agency proposed additions to the CEQA Guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions, including, but not limited to, effects associated with transportation or energy consumption. The Resources Agency is required to certify and adopt those guidelines by January 1, 2010. OPR is required to periodically update the guidelines to incorporate new information or criteria established by CARB pursuant to AB 32.

The Bay Area Air Quality Management District (BAAQMD) has observed these state-wide efforts. This agency, however, has not established GHG emissions standards for development.

**Threshold of Significance**

At this time there are no quantitative emission thresholds and there are no established significance criteria to determine project impacts with respect to climate change or GHGs. Emitting GHGs into the atmosphere is not itself an adverse environmental effect. Rather, it is the increased accumulation of GHGs in the atmosphere that may result in global climate change. The consequences of that climate change can cause adverse environmental effects. Due to the complex physical, chemical, and atmospheric mechanisms involved in global climate change, it is not possible to predict the specific impact, if any, to global climate change from one project’s relatively small incremental increase in emissions.

**Significance of Impacts**

Because it is impossible to trace the impacts of a single project to a change in overall climate, potential impacts from GHG emissions should not be considered on a project-level basis. Rather, the impacts, if any, would occur on a cumulative basis. While the previously approved project would result in emissions of GHGs, the significance of the impact of a single project on global climate cannot be determined at this time. First, no guidance exists to indicate what level of GHG emissions would be considered substantial enough to result in a significant adverse impact on global climate. Even though the GHG emissions associated with an individual development project could be estimated, there is no emissions threshold that can be used to evaluate the significance of these emissions. Second, global climate change models are not sensitive enough to be able to predict the effect of a single project on global temperatures and the

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\(^1\) SB 97 (Dutton) was enrolled by the California legislature on August 21, 2007, and then signed into law by the Governor. SB 97 (Dutton) provides that in an EIR, negative declaration, mitigated negative declaration, or other document required by CEQA for either transportation projects funded under the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, or projects funded under the Disaster Preparedness and Flood Prevention Bond Act of 2006, the failure to analyze adequately the effects of greenhouse gas emissions otherwise required to be reduced pursuant to regulations adopted under AB 32 does not create a cause of action for a violation of CEQA. The bill provides that the provision applies retroactively for any of the above documents that are not final, and will sunset on January 1, 2010.
resultant effect on climate; therefore, they cannot be used to evaluate the significance of a project’s impact. Additionally, there is currently no generally accepted methodology to determine whether GHG emissions associated with a specific project represents new emissions or existing, displaced emissions. Thus, insufficient information and predictive tools exist to assess whether a single project would result in a significant impact on global climate. For these reasons, determining the significance of the impact of the previously approved project on global climate is speculative.

Nonetheless, the Bay Meadows II project would be a mixed-use, infill transit-oriented development project that is intended to minimize vehicle trips between residential and commercial uses as well as constructing additional residential units in close proximity to the jobs-rich area. The project site is located near major freeways and is well-served by public transit as the Hillsdale CalTrain station is directly adjacent to the southwest corner of the project site. The Bay Meadows project also incorporates “smart growth” features including creating walkable neighborhoods, providing housing near mass transit and jobs-rich area, and incorporating sustainable measures into the building design. Moreover, infill development reduces pressure to develop greenfields such as open spaces and parkland by reclaiming under utilized sites. Infill development allows funds to be used for maintaining or upgrading existing services rather than diverting funds for expansion to new areas.

Improving energy efficiency and using renewable energy sources are effective ways to improve air quality and reduce energy consumption costs. In addition to the “smart growth” features discussed above, the Bay Meadows project proposes to incorporate the following sustainable elements (among others):

- a mix of land uses that will contribute to the overall reduction in vehicle miles traveled, promote alternative methods of transportation and create provisions for non-vehicular travel (pedestrian pathways and paseos, bike paths, etc.) within the project site;

- urban infill development providing access to several modes of public transportation for travel between neighboring cities;

- high density multi-family housing opportunities located in a job-rich area;

- contribution to air quality improvements through the creation of shade to reduce ambient heat produced by paved surfaces by integrating an urban forest concept into the overall landscape design of the project;

- use of a plant palette that requires low maintenance and climate appropriate plant species;

- natural treatment of stormwater run-off through the use of bio-filtration planters, rain gardens, bioswales and a storm water detention pond.

- Recycling of existing asphalt and other building materials.

It is not possible at this time to quantify the exact reductions in greenhouse gas emissions anticipated from the smart growth and sustainability design features of the Bay Meadows project. By incorporating energy and vehicle miles traveled (VMT) reducing project features such as designing, constructing, and operating the project to comply with Title 24, installing appliances,
fixtures, and infrastructure that use less energy and water, creating a fifteen (15) acre park/open space system and by locating high density housing near to mass transit and employment centers, the Bay Meadows project will result in lower GHG emission rates compared to current standards and practices. Given the lack of standards and the project features consistency with the State and City’s goals, the contribution to the cumulative impact of global climate change is considered less than significant.

3.2 Application of CEQA Guideline Section 15612

Is there substantial evidence in the record revealing that there have been substantial changes proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects as a result of the recent changes in the regulatory environment with respect to global climate change?

No, the changes in the regulatory environment on global climate change have developed independently from this project, and there is no evidence suggesting that any changes to the project have been proposed. As noted above, the previous EIR analyzed the impacts of the Specific Plan Amendment authorizing a range of development between a maximum of 1,250,000 square feet of office uses, 1,250 residential units, and 150,000 square feet of retail uses, and a minimum of 500,000 square feet of office and 1,000 units of office at build out. The three proposed SPARs would authorize the construction of approximately 750,000 square feet of office uses, 93,000 square feet of retail/restaurant uses and 1,066 housing units. These levels of development are within the ranges previously approved. Therefore, no change in the project has been proposed.

Is there substantial evidence in the record revealing that there have been substantial changes with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects as a result of recent developments with respect to the regulatory environment on global climate change?

No, there is no evidence suggesting that there have been substantial changes with respect to the circumstances under which the project is undertaken which will require major revisions to the previous EIR. The regulatory developments with respect to global climate change in and by themselves do not provide substantial evidence of new significant environmental effects. These regulatory changes establish a process by which the appropriate regulatory agencies will develop guidelines for analyzing the significance of impacts on global climate change of local development proposals. In the absence of any meaningful guidance on this issue, a conclusion that the effects of the proposed development on global climate change will be significant is speculative.

Is there substantial evidence in the record revealing that there is new information of substantial importance related to the recent developments relating to the regulatory environment on issues of global climate change, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified that shows: (1) the project will have one or more significant effects not discussed in
the EIR, (2) significant effects previously shown will be substantially more severe that shown in the previous EIR, (3) mitigation measure or alternatives previously found to be infeasible would in fact be feasible, or (4) there are considerably different mitigation measure or alternatives from those analyzed in the previous EIR that would substantially reduce one or more significant effects?

No, the recent developments with respect to the regulatory environment on global climate change does not constitute new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified. The concept of global climate change has been publicly discussed and debated for many years now, and was certainly a known concern at the time the previous EIR was certified. No comment was made on the DEIR concerning the need to address the proposed projects impacts on global climate change. The Association of Environmental Professionals report in their paper entitled *Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents* that at least two courts have held that issues related to global climate change are not new information triggering the need for supplemental environmental documents in cases where final EIR’s have been certified.

4.0 BASIS FOR DECISION TO PREPARE AN ADDENDUM

CEQA Guidelines Section 15164 explains when an addendum to an EIR is required:

15164. Addendum to an EIR or Negative Declaration.

"(a) The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

(b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

(c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.

(d) The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.

(e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence."

Although there have been no changes to the project, an addendum is appropriate because there have been minor technical additions and new information and because none of the conditions
described in Section 15162 calling for preparation of a subsequent EIR have occurred. More specifically, even though the project will consist of less than the maximum development contemplated by the Specific Plan Amendment, the JPB may delay or alter the previous plans for the grade separations, and there have been recent statutory changes regarding global climate change. These occurrences do not constitute substantial changes to the project or the circumstances due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Similarly, neither subsequent considerations by the JPB nor statutory changes regarding global climate change constitute new information that would show new effects or substantially more severe effects. Likewise, there are no known mitigation measures that would in fact be feasible or that would substantially reduce significant effects, that the project proponent has declined to adopt. Furthermore, there have been no other changes, evidence or new information which would require revisions to the previous EIR. Because none of the criterion in section 15162 has been met, an addendum is appropriate.

Attachment 1: Analysis of the Bay Meadows II Site Plan and Architectural Review (SPAR) Applications, Hexagon Transportation Consultants, Inc. (March 2008)