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DELTA STEWARDSHIP COUNCIL

A California State Agency

November 4, 2019

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RE: Comments on the Revised Notice of Preparation (NOP) of a Master Environmental Impact Report (MEIR) for the City of Sacramento 2040 General Plan Update and Climate Action Plan, SCH #2019012048

Dear Mr. Johnson:

Thank you for the opportunity to comment on the City of Sacramento 2040 General Plan Update and Climate Action Plan Revised Notice of Preparation (NOP) of a Master Environmental Impact Report (MEIR). The Delta Stewardship Council (Council) recognizes the City of Sacramento's (City's) objectives to determine the extent and types of development needed to achieve the community's vision for physical, economic, social, and environmental goals. The Council submitted comments on the City's initial NOP on February 28, 2019. This letter updates those comments to reflect the new project description provided in the Revised NOP, released on October 3, 2019.

The Council is an independent State of California agency established by the Sacramento-San Joaquin Delta Reform Act of 2009 (SBX7 1; Delta Reform Act). As stated in the Delta Reform Act, the State has coequal goals for the Delta: providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place (Water Code §85054). The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan, regulatory portions of which became effective on September 1, 2013.

Covered Action Determination and Certification of Consistency with the Delta Plan

Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh, which are referred to as "covered actions". The Council exercises that authority through

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

development and implementation of the Delta Plan. **State and local agencies are required to demonstrate consistency with 14 regulatory policies identified in the Delta Plan when carrying out, approving, or funding a covered action.**

Based on the project description and exhibits in the NOP, the proposed City of Sacramento 2040 General Plan Update and Climate Action Plan may meet the definition of a covered action. Portions of the project location (i.e., the Pocket community within the General Plan Policy Area and the town of Freeport in the City's Sphere of Influence) fall within the boundaries of the Legal Delta (Water Code section 12220).

According to the Delta Reform Act, it is the State or local agency approving, funding, or carrying out the project that ultimately must determine if that project is a covered action and, if so, file a Certification of Consistency with the Delta Plan (Water Code section 85225) prior to project implementation. As the City proceeds with planning and environmental impact analysis, we invite you to engage Council staff in early consultation to discuss General Plan policies and programs, Climate Action Plan measures, and MEIR mitigation measures that would enable consistency with the Delta Plan. More information on covered actions, early consultation, and the certification process can be found on the Council website at:

<http://deltacouncil.ca.gov/delta-plan/covered-actions>.

Comments Regarding Delta Plan Policies and Potential Consistency Certification

The following section describes regulatory Delta Plan policies that may apply to the proposed project based on the NOP. This information is offered to assist the City to prepare environmental documents that can be used to support the project's eventual Certification of Consistency. This information may also assist the City to describe the relationship between the proposed project and the Delta Plan in the MEIR.

General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan

Delta Plan Policy **G P1** (23 CCR section 5002) specifies what must be addressed in a Certification of Consistency by a proponent of a project that is a covered action. The following is a subset of these requirements that are relevant to the General Plan Update and Climate Action Plan. A covered action must fulfill these requirements to demonstrate consistency with the Delta Plan:

Mitigation Measures

Delta Plan Policy **G P1** (23 CCR section 5002(b)(2)) requires that actions not exempt from the California Environmental Quality Act (CEQA) and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with those identified in the Delta Plan as amended April 26, 2018 or substitute mitigation measures that are equally or more effective. Mitigation measures in the Delta Plan's Mitigation Monitoring and Reporting Program (Delta Plan MMRP) are available at:

<http://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf>. Please note that this regulatory requirement has been amended since the date of the Council's previous letter.

The Notice of Completion identifies 28 resource areas in which the General Plan Update and Climate Action Plan could result in potentially significant environmental impacts that may require mitigation, with 16 areas specifically identified in the NOP as major issues for the MEIR update. Council staff recommends that the City review the mitigation measures in the Delta Plan MMRP for each of these resource areas. If the Draft MEIR identifies significant impacts that require mitigation, Council staff recommends that the City apply the mitigation measures identified in the Delta Plan MMRP, when applicable and feasible.

Best Available Science

Delta Plan Policy **G P1** (23 CCR section 5002(b)(3)) states that actions subject to Delta Plan regulations must document use of best available science as relevant to the purpose and nature of the project. The regulatory definition of "best available science" is provided in Appendix 1A of the Delta Plan (<http://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf>).

Best available science is defined in the Delta Plan as the best scientific information and data for informing management and policy decisions. Six criteria are used to define best available science: relevance, inclusiveness, objectivity, transparency and openness, timeliness, and peer review. (23 CCR section 5001(f)). This policy generally requires that the process used by the City to analyze project alternatives, impacts, and mitigation measures for the General Plan Update and Climate Action Plan be clearly documented in the MEIR and supporting record, and effectively communicated to foster improved understanding and decision making.

Delta as Place Policy 1: Locate New Urban Development Wisely

Delta Plan Policy **DP P1** (23 CCR section 5010) places certain limits on new development within the Delta. As it relates to General Plan Update and Climate Action Plan, Policy DP P1 states that new residential, commercial, or industrial development must be limited to areas that city or county general plans as of the date of the Delta Plan's adoption (May 2013) designate for residential, commercial, and industrial development in cities or their spheres of influence. This policy is intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk.

The Revised NOP clarifies that the General Plan Update will include an update to numerous Special Study Areas, including the Town of Freeport Special Study Area. Exhibit 1 of the Revised NOP shows that the Town of Freeport Study Special Area extends beyond the City's Sphere of Influence. Please analyze the extent to which implementation of the General Plan Update and Climate Action Plan would result in land use changes within portions of the City and Sphere of Influence located within the Delta relative to designations that were in place in May 2013 within the Land Use section of the MEIR as well as in the growth inducement and cumulative impact discussions. Please include an analysis of the extent to which implementation of the General Plan Update and Climate Action Plan would result in land use changes within the Town of Freeport Special Study Area that is outside of the City and its Sphere of Influence. The Council seeks to ensure that these updated plans would continue to

avoid the potential to induce new residential, commercial, or industrial development that would be inconsistent with Policy DP P1 in the Delta.

Risk Reduction Policy RR P1: Prioritization of State Investments

Delta Plan Policy **RR P1** (23 CCR section 5012) requires that discretionary State investments in Delta flood risk management be prioritized to address emergency preparedness, response, and recovery. On April 26 2018, the Council adopted amendments to Policy RR P1 which identified a set of islands or tracts that are a very high priority for state investments, two of which fall within the City of Sacramento¹. (<http://deltacouncil.ca.gov/pdf/delta-plan/2018-04-26-amended-chapter-7.pdf>). These are Maintenance Area 9 North and Maintenance Area 9 South, which are located next to the Pocket community and near the town of Freeport. The City's updated Safety Element and the updated Pocket area Community Plan should identify goals, strategies, measures, policies, or objectives that reflect the resources and risks identified in these areas.

Closing Comments

We invite the City to engage with Council staff in early consultation to collaborate and discuss potential General Plan policies and programs, Climate Action Plan measures, and MEIR mitigation measures as the planning and environmental impact analysis processes proceed prior to submittal of a Certification of Consistency. Please contact Avery Livengood at (916) 445-0782 (Avery.Livengood@deltacouncil.ca.gov) with any questions.

Sincerely,



Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council

¹ To implement the change to Policy RR P1, the Council is currently conducting rulemaking under the Administrative Procedure Act to amend 23 CCR section 5012