

YOLO LOCAL AGENCY FORMATION COMMISSION

Resolution № 2022-03

Adopting Findings as a Responsible Agency for the Subsequent Environmental Impact Report and Statement of Overriding Considerations for the Davis Innovation and Sustainability Campus (DiSC 2022) (SCH# 2014112012)

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, set forth in Government Code Sections 56000 et seq., governs the organization and reorganization of cities and special districts by local agency formation commissions (LAFCo) established in each county, as defined and specified in Government Code Sections 56000 et seq. (unless otherwise indicated all statutory references are to the Government Code); and,

WHEREAS, Government Code Section 56425 provides LAFCo with the power to develop and determine the sphere of influence (SOI) of each city and special district and enact policies designed to promote the logical and orderly development of areas within the sphere; and,

WHEREAS, on February 1, 2022, the City of Davis approved the DiSC 2022 Project (Project) and on June 7, 2022, the voters of the City of Davis will decide whether to ratify the General Plan Amendment and the Baseline Project Features for the Project; and,

WHEREAS, Government Code Section 56428 authorizes any person or local agency to file a written request to amend an SOI. On March 28, 2022 Daniel Ramos submitted an application to amend the City of Davis' SOI for a 118.5-acre area which includes the DiSC 2022 Project and the "Mace Triangle" (APNs 033-630-006, -009, -011, -012); and,

WHEREAS, LAFCo staff has reviewed the SOI Amendment pursuant to the California Environmental Quality Act (CEQA) as a "project" per CEQA Guidelines Section 21065 because it is an activity which may cause a direct or indirect physical change to the environment; and

WHEREAS, the City of Davis certified the Environmental Impact Report for an earlier version of the Project, on September 19, 2017. After the project was put on hold, the applicant modified the Project and the City adopted a Subsequent EIR for the Project that was eventually rejected by the voters in 2020. The City then adopted an Addendum to tailor the Subsequent EIR for the DiSC 2022 Project. These environmental documents are each relevant to the environmental analysis of the Project and are collectively referred to as "the EIR," for ease of use; and

WHEREAS, the environmental effects of the SOI Amendment request are included and considered in the DiSC 2022 EIR certified by the City of Davis as the Lead Agency; and

WHEREAS, on February 1, 2022, the Davis City Council adopted Resolution No. 22-009, adopting an Addendum, which included: the SEIR and responses to comments; and adopting CEQA Findings of Fact, Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations, a copy of which is attached hereto; and

WHEREAS, Yolo LAFCo has limited approval and implementing authority over the DiSC 2022 Project and thus served as a responsible agency for the project pursuant to the requirements of CEQA; and

WHEREAS, Yolo LAFCo complied with CEQA as a Responsible Agency by responding to the Notice of Preparation from the Lead Agency and reviewed the Draft Environmental Impact Report for the original Project, the Subsequent EIR, and Addendum for the DiSC 2022 Project regarding issues germane to LAFCo's statutory responsibilities; and

WHEREAS, CEQA requires a Responsible Agency to accept an EIR as prepared by the Lead Agency and to treat the document as being legally adequate absent specified circumstances not present herein.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED that the Yolo Local Agency Formation Commission hereby adopts Resolution 2022-03 as follows:

1. Yolo LAFCo adopts and incorporates herein as true and accurate all of the statements and recitals set forth in the preceding portions of this resolution and the entirety of the Findings of Fact and Statement of Overriding Considerations attached hereto as **Exhibit A**.
2. Yolo LAFCo makes the following additional findings, conclusions, and determinations:
 - a. **CEQA Findings--Responsible Agency.** Yolo LAFCo is considered a Responsible Agency under CEQA for the EIR. Yolo LAFCo's CEQA review as a Responsible Agency is more limited than a Lead Agency and Yolo LAFCo has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it carries out, finances, or approves. Yolo LAFCo's use of the EIR is limited to the SOI Amendment and potential future annexation of the subject parcel by the City of Davis. Pursuant to CEQA Guidelines section 15096, Yolo LAFCo has considered the EIR prepared by the City of Davis and has determined that it is acceptable and legally adequate for use by Yolo LAFCo.
 - b. **Findings for Less Than Significant Environmental Impacts.** Various significant and potentially significant environmental impacts have been mitigated to less than significant levels, as set forth in the EIR's Findings of Fact and Statement of Overriding Considerations. With respect to those significant impacts identified in the EIR that require mitigation to be reduced to a less than significant level, LAFCo hereby finds that the measures at issue are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes either have been adopted by the City or can and should be adopted by other agencies. (Pub. Resources Code, § 21081, subd. (a)(2).)
 - c. **Findings for Significant and Unavoidable Impacts.** Certain significant and potentially significant environmental impacts are unavoidable as set forth in the EIR's Findings of Fact and Statement of Overriding Considerations. The impacts discussed were determined by the City of Davis to be significant and unavoidable. Upon review of the impacts identified by the City as being significant and unavoidable, Yolo LAFCo has determined these impacts will remain significant and unavoidable after approval of the SOI Amendment and that there are no additional feasible mitigation measures that can be legally imposed by Yolo LAFCo. Yolo LAFCo specifically acknowledges these impacts and Yolo LAFCo adopts, to the extent applicable, the discussion of the significant and unavoidable impacts as set

forth in the EIR's Findings of Fact and Statement of Overriding Considerations attached hereto as **Exhibit A** and incorporated herein by reference. With respect to those significant impacts that were subject to mitigation but could still not be reduced to less than significant levels, Yolo LAFCo hereby finds that the measures at issue are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes either have been adopted by the City or can and should be adopted by other agencies. (Pub. Resources Code, § 21081, subd. (a)(2).)

- d. **Findings for Project Alternatives.** Project alternatives are discussed at length within the EIR. The alternatives set forth in the EIR were directed at the City, in that the different options presented different permutations of a development proposal. Since the Davis City Council has already rejected these alternatives as infeasible in detailed findings, Yolo LAFCo, given its lack of direct authority over land use under Cortese-Knox, is not in a position to impose a different version of the development on the City. LAFCo's role is to determine the plan for future development and, if appropriate, amend the City's SOI in compliance with LAFCo's policies and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, § 56000 et seq.). Although LAFCo has reviewed the City findings for the project alternatives, LAFCo declines to make separate findings regarding alternatives rejected by the City or to otherwise entertain alternatives over which it has no jurisdiction. For reasons set forth in the CEQA Findings of Fact and Statement of Overriding Considerations, the Davis City Council rejected the alternatives set forth in the EIR as being infeasible or unacceptable for various reasons. The Commission finds these reasons acceptable and adopts them as its own to the extent that its statutory authority allows it to consider concerns such as those weighed by the Davis City Council in approving the Project and rejecting alternatives. With respect to the alternatives rejected as infeasible by the City, LAFCo hereby finds that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR. (Pub. Resources Code, § 21081, subd. (a)(3).)
- e. **Statement of Overriding Considerations.** As set forth in the preceding sections, Yolo LAFCo's approval of the SOI Amendment will result in impacts that remain significant and unavoidable. The City balanced the benefits of the Project against its significant and unavoidable environmental impacts and determined that the benefits of the Project outweigh its unavoidable adverse environmental impacts. Similarly, Yolo LAFCo also approves the SOI Amendment because the substantial economic, social, legal, technological, and other benefits that the Project will produce render the significant effects acceptable. This determination is based on the EIR and other information in the record. In light of the foregoing economic, social, recreational and planning benefits provided by the Project, pursuant to CEQA Guidelines section 15093, the Commission finds and determines that these considerable benefits of the SOI Amendment outweigh the unavoidable adverse effects and the adverse environmental effects that cannot be mitigated to a level of environmental insignificance, are deemed acceptable.
- f. **Mitigation Monitoring Plan.** Yolo LAFCo is aware of the Mitigation Monitoring Plan adopted by the City to ensure implementation of the above-mentioned mitigation measures, as well as all others within the City's control. The Mitigation Monitoring Plan is incorporated by reference herein. Since the EIR did not

recommend or identify any mitigation measures that should be implemented by Yolo LAFCo, the Commission has no need to formally adopt any of its own mitigation measures or any separate mitigation monitoring plan or program.

3. The Executive Officer is directed to file a Notice of Determination with the County Clerk for Yolo County within five (5) days of the adoption of this resolution.

PASSED AND ADOPTED by the Yolo Local Agency Formation Commission, State of California, this 26th day of May 2022, by the following vote:

Ayes:
Noes:
Abstentions:
Absent:

Olin Woods, Chair
Yolo Local Agency Formation Commission

Attest:



Christine Crawford, Executive Officer
Yolo Local Agency Formation Commission

Approved as to form:



Eric May, Commission Counsel

X. STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO THE DISC 2022 PROJECT FINDINGS

As described in Section III of these Findings, the following significant and unavoidable impacts could occur with implementation of the project:

- Project implementation may substantially degrade the existing visual character or quality of the project site and its surroundings (SEIR Impact 3-2; Addendum, Section I, Question 'd').
- Project implementation may result in a significant impact related to the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Important Farmlands) to non-agricultural use, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency (SEIR Impact 3-5; Addendum, Section II, Question 'a').
- Project implementation may result in a significant impact related to the loss of forest or agricultural land or conversion of forest or agricultural land to non-forest or non-agricultural use (SEIR Impact 3-7; Addendum, Section II, Question 'd').
- Project implementation may violate an air quality standard or contribute substantially to an existing or projected air quality violation during operations, and a conflict with or obstruction of implementation of applicable air quality plans (SEIR Impact 3-11; Addendum, Section III, Question 'a').
- Project implementation may generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment (SEIR Impact 3-37; Addendum, Section VIII, Question 'a').
- Project implementation may conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs (SEIR Impact 3-38; Addendum, Section VIII, Question 'b').
- Project implementation may conflict with a program, plan ordinance, or policy addressing the circulation system under Existing Plus Project conditions (SEIR Impact 3-70; Addendum, Section XVII, Question 'a').
- Project implementation may result in a significant increase in Vehicle Miles Traveled (SEIR Impact 3-72; Addendum, Section XVII, Question 'b').
- Project implementation may result in significant impacts to Pedestrian and Bicycle Facilities (SEIR Impact 3-75; Addendum, Section XVII, Question "a").
- Project implementation may result in significant impacts to Transit Services (SEIR Impact 3-76; Addendum, Section XVII, Question 'a').
- Project implementation may result in significant cumulative impacts related to long-term changes in visual character of the region (SEIR Impact 3-85; Addendum, Section XXI, Question 'b').

- Project implementation may result in significant impacts related to cumulative loss of agricultural land (SEIR Impact 3-87; Addendum, Section XXI, Question 'b').
- Project implementation may result in a cumulatively considerable net increase of any criteria pollutant (SEIR Impact 3-88; Addendum, Section XXI, Question 'b').
- Project implementation may result in significant cumulative impacts related to greenhouse gas (GHG) emissions and global climate change (SEIR Impact 3-93; Addendum, Section XXI, Question 'b').
- Project implementation may result in significant cumulative impacts to fire protection services from the proposed project in combination with future developments in the City of Davis (SEIR Impact 3-102; Addendum, Section XXI, Question 'b').
- Project implementation may conflict with a program, plan, ordinance or policy addressing the circulation system under Cumulative Plus Project conditions (SEIR Impact 3-104; Addendum, Section XXI, Question 'b').
- Project implementation may result in a significant cumulative Increase in Vehicle Miles Traveled (SEIR Impact 3-105; Addendum, Section XXI, Question 'b').
- Project implementation may result in significant cumulative impacts to pedestrian, bicycle, and transit facilities (SEIR Impact 3-106; Addendum, Section XXI, Question 'b').

The following reasons demonstrate that the benefits of the project outweigh its unavoidable adverse environmental effect, thereby justifying approval of the proposed project. There is substantial evidence that these public benefits outweigh the significant impacts of the project, and therefore, the above-identified impacts are acceptable to the City of Davis. The project will provide for the following benefits:

1. Economic benefits through tax revenues and project fees;
2. Create jobs through construction of the proposed project;
3. Provide additional housing in the City of Davis;
4. Increase the economic potential of the University of California and create long-term jobs;
5. Fulfill a vision that has been identified and studied by the City for over two decades, and that has been embraced by the City Council for at least 10 years;
6. Create a space to retain and grow Davis-based businesses and start-ups;
7. Position the City of Davis for post-COVID economic recovery, stressing the importance of providing shovel-ready sites;
8. Assist the City of Davis in its goal of reaching fiscal sustainability;
9. Provide a revenue source that will be used to maintain and enhance community amenities; and
10. Exceed the City of Davis's affordable housing requirements and sustainability requirements, and set a precedent regionally with respect to sustainability.

With respect to Item 1, the DiSC 2022 Economic Analysis compared the estimated tax revenue to be generated by the proposed project to the estimated cost of providing public services to the project. The

proposed project would generate tax revenues through property tax, transfer tax, sales and use tax, transient occupancy tax, and public safety tax. Other revenue sources would be generated through City permitting, construction tax, and development impact fees, as well as the School Impact Fee and County Facilities and Services Authorization Fee. According to the DiSC 2022 Economic Analysis, the proposed project would have a net fiscal surplus to the City's General Fund at buildout of approximately \$3.88 million annually.

It is noted that while several of the above-identified significant and unavoidable impacts are related to traffic, due primarily to the fact that they are extraterritorial impacts (i.e., outside of the City's jurisdiction), the Addendum requires the applicant to provide fair share contributions to the prospective improvements (e.g., see Mitigation Measure 3-70(a)), which would result in a substantial infusion of monies towards the needed improvements. In addition, the project includes construction of transportation improvements, such as a transit plaza on Mace Boulevard, south of Alhambra Drive, to service local and regional bus and shuttle service to and from the project site. The project will also fund and build new and improved bus stops with lighting, passenger shelters, and real time transit information signage on both sides of Mace Boulevard. Regarding bicycle facilities, the project would build the connection of the existing bike trail on Mace Boulevard to East Covell Boulevard, along the inside of the "Covell Curve" connecting the two roadways, thereby improving bicycle safety to schools and the project site.

With regard to Item 2, the proposed project would create construction jobs. Considering the nature and size of the proposed project, a significant amount of construction workers would be needed in construction of the proposed project. Annual average direct construction-related employment during development of the proposed project is estimated to be approximately 195 jobs. Similar to the economic benefits discussed above, the annual average total direct, indirect, and induced employment due to construction of the project is estimated at more than 250 jobs. Total one-time earnings from direct, indirect, and induced effects of construction employment as a result of DiSC 2022 is approximately \$200 million at full buildout. Additionally, if building materials are purchased in the area, additional stimulation of the local economy and businesses would occur.

Regarding Item 3, the demand for housing in Davis is well documented. Buildout of the residences would be tied to completion of the commercial space, assumed to be 2,000 sf of commercial space per residential unit. The proposed residences would have a strong impact on the overall feasibility of the proposed project. The proposed project would contribute an additional 460 residential units to increase the supply and variety of housing options available for students, employees, and university-related personnel.

With respect to Item 4, the overall development of the project would increase the economic potential of the University of California. A technical memorandum that analyzed the economic benefits of the proposed project was prepared by Economic & Planning Solutions, Inc.¹ The DiSC 2022 Economic Analysis measured the overall effect that an initial activity, such as spending in one industry, has on a region as the

¹ Economic & Planning Solutions, Inc. *Subject: Davis Innovation and Sustainability Campus (DiSC) Economic Analysis – Pro Forma (Feasibility), Fiscal Impacts, and Economic Impacts; EPS #212099.* December 6, 2021.

spending recirculates through other sectors of the local economy through additional business and household spending. Economic impacts can be measured in terms of overall output, employment, or the earning from employment. According to the DiSC 2022 Economic Analysis, the proposed project would generate nearly 2,400 jobs, with employee compensation of over \$200 million. The City would experience some economic spinoff of that direct employment, but a much greater spinoff and associated economic benefits would occur in other parts of Yolo County. Total County employment, including on-site employment and indirect and induced employment, would be approximately 4,000 jobs annually at buildout, with compensation of approximately \$300 million.

With respect to Items 5 and 6, the City began studying and looking for an opportunity to create a research and innovation park beginning as early as 2001, with the adoption of the current General Plan. In 2008, the City prepared the Business Park Land Strategy to determine whether the long-term supply of business park land was sufficient. Upon finding it was not, in 2010 the City Council established the Innovation Park Task Force to explore, with the help of UC Davis's Studio 30, how, where, and whether to pursue construction of a future business/innovation park within or peripheral to City boundaries, for the purpose of retaining growing businesses and attracting emerging entrepreneurs to the City. The City Council unanimously accepted the Studio 30 Final Report and adopted its recommendations in November 2012. In 2014, the Council Innovation Center subcommittee developed a set of eight "Guiding Principles" to evaluate and guide refinement of proposed innovation centers, which were subsequently adopted by the City Council.

As illustrated by the above actions, an innovation park has long been envisioned by the City as a way to build off a unique and valuable community asset, the University of California at Davis, to facilitate a diversified local economy and enable collaboration between the university and private industry. The proposed project would be consistent with these established City policies, including the Guiding Principles for Davis Innovation Centers. The project would provide readily available, zoned lands that would allow for businesses to move quickly and with certainty, thereby enabling for retention and growth of existing local businesses and attracting new businesses.

With regard to Item 7, the COVID-19 pandemic has had a significant financial impact on the City of Davis, the extent of which is still unclear. The City has experienced a loss of projected revenue and an increase in public health-related costs, which in turn necessitated budget reductions for Fiscal Year 2020-21. As noted for Items 1, 2, and 4 above, the DiSC 2022 project would generate revenue for the City and County through the collection of impact fees and taxes. It is also estimated to create nearly 2,400 jobs at build out, which in turn would help generate business, employee, and household spending elsewhere in the City and County. The revenue and jobs generated by project construction and at build out will assist in the City's economic recovery from COVID-19.

Regarding Items 8 and 9, the City Council adopted eight Council Goals in 2018, including to "Ensure Fiscal Resilience." As described in the technical memorandum prepared by Economic & Planning Solutions, Inc., the proposed DiSC 2022 project would be expected to produce \$3.88 million in net positive fiscal benefits to the City of Davis on annual basis at buildout. These revenues would be available to help support community services and amenities for existing and future residents. In addition to the projected \$3.88

million in net positive fiscal benefits, a land-secured assessment on market rate, ownership housing would provide a minimum of \$150,000 annually at buildout of the market rate residential to fund services that are directly supportive of transit services, roadway repair and maintenance, roadway, bicycle and pedestrian safety and other community amenities. Additionally, the project would construct turnkey parks and maintaining all onsite parks and open space areas, relieving the City of a considerable maintenance burden.

Finally, with regard to item 10, the proposed project would be required to provide 69 affordable units under the City's affordable housing ordinance. The developer has committed to exceeding the requirements by providing 85 affordable housing units, which equates to 18.5% of the overall housing units in the project. Both rental and for sale units will be provided, and 74 of the 85 affordable units will be constructed on-site.

The proposed project would also be one of the most sustainable projects in the City of Davis. The sustainability features include energy procurement and energy efficiency measures; housing near commercial development to minimize transportation emissions; transit, transportation, and circulation improvements to promote nonvehicular means of transportation; and habitat and agricultural conservation measures. More specifically, with respect to the project's energy footprint, electricity demand would be met by 100% clean energy that is generated onsite or purchased from a 100% renewable program. All project buildings would meet and exceed Title 24, Cal Green Tier 1 and utilize the City's Residential Energy REACH Code standards, and all commercial buildings would be all-electric for the building envelope. Utilizing these measures and more, the project will achieve carbon neutrality. These project features would set a precedent in the greater Sacramento region for sustainability.

Substantial evidence supporting the benefits described in this Statement of Overriding Considerations can be found above and in the documents found in the record of proceedings. Any one of the reasons provided above is sufficient to demonstrate that the benefits of the project outweigh its unavoidable adverse environmental impacts, thereby each separately and individually justifying approval of the project. Based on the above, in consideration of the above-noted project benefits, despite the significant environmental effects, the City Council, in accordance with Public Resources Code Sections 21001, 21002.1(c), 21081(b) and CEQA Guidelines Section 15093, chooses to approve the project because, in its judgment, the economic, social, and other benefits that the project will produce will render the significant effects acceptable.

XI. CONCLUSION

After balancing the specific economic, legal, social, technological, and other benefits of the proposed project, the Council finds that the unavoidable adverse environmental impacts identified may be considered "acceptable" due to the specific considerations listed above, which outweigh the unavoidable, adverse impacts of the proposed project.

The Davis City Council has considered information contained in the Addendum prepared for the proposed DiSC 2022 Project, as well as the public testimony and record of proceedings in which the project was considered. Recognizing that significant and unavoidable impacts may result from implementation of the proposed project, the Council finds that the benefits of the project and overriding considerations

outweigh the adverse effects of the project. Having included all feasible mitigation measures in the Mitigation Monitoring and Reporting Program, and recognized all unavoidable significant impacts, the Council hereby finds that each of the separate benefits of the proposed DiSC 2022 Project, as stated herein, is determined to be unto itself an overriding consideration, independent of other benefits, that warrants adoption of the proposed project and outweighs and overrides its unavoidable significant effects, and thereby justifies the adoption of the proposed DiSC 2022 Project.

Based on the foregoing findings and the information contained in the record, the Council hereby determines that:

1. All significant effects on the environment due to implementation of the proposed DiSC 2022 Project have been eliminated or substantially lessened where feasible;
2. There are no feasible alternatives to the proposed DiSC 2022 Project which would mitigate or substantially lessen the impacts; and
3. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations above.