



UNIVERSAL PARAGON CORPORATION

150 Executive Park Blvd., Suite 1180
San Francisco, CA 94134

January 24, 2014

Mr. John Swiecki, AICP
Community Development Director
City of Brisbane
50 Park Place, Brisbane, CA 94005

**Re: Comments of Universal Paragon Corporation on Draft Environmental Impact Report
(State Clearinghouse #2006022136), dated June 2013 (the "DEIR")**

Dear Mr. Swiecki:

This letter constitutes the written comments from UPC on the above-referenced DEIR. This letter is in addition to a separate letter submitted by UPC dated January 23, 2014 that addresses the Traffic and Circulation chapter (Chapter 4.N). This letter is organized by DEIR Chapter and topic.

1. Aesthetics and Visual Resources (Chapter 4A)

a. **Views of the Bay.** The first and last sentences of Mitigation Measure MM 4.A-1a appear to be inconsistent. We believe that it would not be possible to implement the proposed DSP and DSP-V scenarios to avoid all blockage of views of the Bay shoreline from View #1. However, it appears that the second and third sentences of this Mitigation Measure are designed to implement the proper mitigation. Therefore, we would suggest redrafting this Mitigation Measure as follows:

- **Mitigation Measure 4.A-1a:** Concurrently with the approval of the Specific Plan, or if appropriate, prior to the approval of any specific development plans, the City shall adopt design and development standards for buildings within the Project Site that will include provisions intended to minimize view blockage of the Bay shoreline, including a standard that any buildings within 350 feet of US Highway 101 not exceed 80 feet in height. Variances to this height requirement may be permitted so long as the City determines that the building as designed would minimize view blockage of the Bay shoreline.

b. **Visual Character Impact Analysis.** As written, Mitigation Measure MM.4.A-3 is unnecessarily restrictive with respect to the DSP and DSP-V. The design guidelines set forth in the Brisbane Baylands Specific Plan already include detailed design guidelines that have been crafted to ensure development of a cohesive urban aesthetic across the site and support a well-designed urban environment and positive visual character. In addition, the Brisbane Baylands Specific Plan sets forth a design review process that permits the City to review projects for consistency with the Specific Plan and applicable provisions of the City's Zoning Code. We believe these restrictive guidelines set forth in MM.4.A-3 are duplicative and unnecessary, and do not allow flexibility in the design review process that would allow the decision-makers to approve appropriate design that may vary from these strict standards.

We suggest that the proposed design guidelines described in this Mitigation Measure allow for a process to allow exceptions to these standards based on a finding that any exceptions promote and are otherwise consistent with the intent of the Specific Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons and properties in the neighborhood of such proposed use.

We also find that the second bullet in Mitigation Measure MM.4.A-3 provides no clear standards for implementation and is not warranted with respect to the DSP and DSP-V, due to its inclusion of comprehensive design standards and a design review process. Alternatively, this bullet should be revised to require City approval of further refinements to the design standards and guidelines that will set standards that set forth circumstances and standards by which development intensity, setbacks, stepbacks and building heights may be reviewed on a site-specific level.

The bullet entitled “building articulation” should either defer to the Brisbane Baylands Specific Plan that identifies differing building façade articulation dependent upon product type; or should provide that standards regarding building articulation will be adopted by the City in accordance with sound land use planning principles prior to approval of any site-specific project. The standard, as written, would not apply equally to all building types within the Project Site, and is overly restrictive.

c. **Glare.** As written, mitigation measure MM4.A-4b is overly broad in its prohibition; specific building design should be reviewed by the City on a case by case basis. We recommend modifying Mitigation MM 4.A-4b to read as follows:

- **Mitigation Measure 4A-4b:** Proposed new structures shall be designed to maximize the use of textured or other non-reflective materials for exterior building surfaces and shall maximize the use of non-reflective glass for windows. Mirrored glass will be prohibited. Building materials shall be reviewed by the City Planning prior to issuance of building permits for each project for consistency with the Specific Plan, including the design guidelines, and the mitigation measures.

2. Air Quality (Chapter 4.B)

a. **Showers and Changing Facilities.** Mitigation Measure 4.B-4 requires the implementation of a number of measures for site-specific development. As a practical matter, not all buildings or leases will be able to accommodate showers and changing facilities. We recommend revising the third bullet to read as follows:

- Provide and maintain showers and changing facilities for office, R&D and industrial uses having 25,000 square feet or more of leaseable space.

b. **Zero-emission vehicles:** Mitigation Measure 4.B-9 requires implementation of TDM measures, including a neighborhood electric vehicle program. To allow for future changes in technology, we recommend rephrasing this Mitigation Measure as follows:

- Adopt as part of a TDM program applicable to all new development policies designed to promote zero-emission vehicles, such as a neighborhood electric vehicle program to the extent feasible or other programs or policies designed to reduce the need to have a car or second car vehicles.

3. Historic Resources (Chapter 4.D)

a. **Roundhouse.** Mitigation Measure 4.D-1a includes a requirement to “submit a rehabilitation plan for the historic Roundhouse to the City, which must be implemented prior to the first occupancy permit for the area subject to the planning or development permit approved encompassing the area of the historic Roundhouse.” This Mitigation Measure is unclear as to what encompasses the “area subject to the planning or development permit encompassing the area of the historic Roundhouse.” Further, so long as the mitigation measure includes submittal and approval of a stabilization plan and compliance with Secretary Standards, we do not see the necessity that the rehabilitation plan be approved and implemented prior to development in the area.

The timing of the rehabilitation plan approval and implementation should be revised so that it is required prior to the issuance of any development permit (other than required simply for the stabilization of the existing structure) allowing for the rehabilitation and reuse of the Roundhouse. That revision will ensure that any adaptive reuse of the Roundhouse will be carried out in accordance with Secretary Standards, thereby mitigating any adverse impacts to a level below significance.

4. Geology, Soils and Seismicity (Chapter 4.E)

Mitigation Measure 4.E-4a provides that site-specific development projects shall not place new fill materials within 600 feet of Brisbane Lagoon. The Infrastructure Plan attached as Appendix D of the Specific Plan requires some measure of fill within this 600 foot radius for the purpose of roadway improvements, habitat enhancement, and other types of site improvements. Therefore, we recommend a revision to Mitigation Measure 4.E-4a to read as follows:

- **Mitigation Measure 4.E-4a:** No permit for site-specific development projects within the Project Site that involve new fill materials, including new fill within 600 feet of the Brisbane Lagoon, shall be issued unless the design of the proposed new fill has been reviewed and approved by the City Engineer to ensure that a slope stability factor of safety of at least 1.5 for static conditions and 1.2 under dynamic conditions will be achieved.

5. Hazards and Hazardous Materials (Chapter 4.G)

a. **MM 4G-2a (Remedial Action Plan).** It is unlikely that the Remedial Action Plan for the entire Project Site will have been completed at the time of approval of the Specific Plan. Please clarify Mitigation Measure 4.G-2a to track what appears to be intended, so that the term “specific plan” refers instead to any “development plan or permit for any site-specific development within the Project Site.”

b. **MM 4G-2c (Demolition Plan):** Please revise the first sentence of this mitigation measure so that it applies only to a particular property owner: “Prior to issuance of a demolition permit for any parcel within the Project Site, the applicable property owner shall submit a Master Deconstruction and Demolition Plan to the City Building Official.”

6. Surface Water Hydrology and Water Quality (Chapter 4.H)

a. **Funding for Ongoing Maintenance.** The second to last sentence of Mitigation Measure 4.H-1c should be revised as follows:

The SMP shall provide operations and maintenance guidelines for all of the BMP's identified in the SMP, provide operations and maintenance guidelines for all of the BMPs identified in the SMP, including LID measures and other BMPs designed to mitigate potential water quality degradation of runoff from all portions of the completed development, and shall clearly identify the entity responsible for the funding sources for the required ongoing maintenance.

b. **Timing of Systemwide Drainage Improvements.** Mitigation Measure 4.H-4a, b and c could be read to require implementation of systemwide improvements as a condition to issuance of any building permit within the Project Site. As a practical matter, the City would approve a master drainage plan for the Project prior to issuance site-specific development plans, but actual implementation and installation of drainage improvements will be determined in accordance with a project phasing plan to be adopted by the City in connection with the Specific Plan and Development Agreement approvals, as well as by applicable regulatory approvals from BCD, Army Corps and the California Department of Fish and Wildlife. These mitigation measures should be revised to reflect the phased implementation of the master drainage plan when and as needed to accommodate site-specific development over time. To the extent that required improvements would require the cooperation of PG&E and the owner of the Levinson Overflow Area, the EIR should identify this.

7. Noise and Vibration (Chapter 4.J).

a. **Truck Loading:** Mitigation Measure 4.J-3a requires formal truck delivery areas (e.g. loading bays) to be located at least 100 feet from residences to maintain noise levels of less than 5 dBA over existing monitored noise levels. DSP and DSP-V includes mixed-use development, with residential in close proximity or within the same structure as commercial use, and implementation of this mitigation measure may be infeasible in such instances. We would recommend revising this mitigation measure to require a noise study in cases where this mitigation measure cannot be implemented, to achieve project design as necessary to mitigate noise impacts from loading activities prior to issuance of a building permit.

8. Population and Housing (Chapter 4.K)

a. **ABAG Projections.** The DEIR finds significant and unavoidable impacts related to the exceedance of ABAG's population and employment projections. Since the publication of the DEIR, ABAG has adopted new population and employment projections in the 2013 Plan Bay Area. ABAG is also required to adopt new projections in the upcoming 2017 Plan Bay Area. Should the 2017 Plan Bay Area increase ABAG's population and employment projections, then this significant impact would be avoided. We suggest the following clarifications (additions shown in underline) to be added in the EIR:

DEIR Pages 4.K-28 and 4.K-30 and -31

Conclusion: *The growth in employment and households resulting from the DSP scenario would accommodate a substantial portion of the housing and employment needs projected by ABAG for Brisbane and surrounding cities but would greatly exceed ABAG projections for Brisbane. The impact of exceeding housing and employment projections is manifested in the DSP's significant unavoidable traffic and air quality impacts. Because the DSP scenario proposes a*

mix of housing and employment-generating uses within the Project Site, per capita vehicle miles traveled resulting from the mix of onsite housing and employment would be less than for the CPP and CPP-V scenarios, leading to significant but mitigable GHG impacts for the DSP scenario (compared to significant unavoidable GHG impacts for the CPP and CPP-V scenarios). Because no feasible mitigation measures to bring project buildout into line with the 2009 ABAG projections for Brisbane are available other than increasing existing or future ABAG projections, such as the next Plan Bay Area anticipated in 2017, for the San Francisco/San Mateo Bi-County PDA within Brisbane²⁰ or substantially reducing the buildout represented in project alternatives,²¹ the DSP scenario would induce substantial population growth in the area, which is considered to be significant unavoidable.

Conclusion: *The growth in employment and households resulting from the DSP-V scenario would accommodate a substantial portion of the housing and employment needs projected by ABAG for Brisbane and surrounding cities but would exceed ABAG projections for Brisbane. The impact of exceeding housing and employment projections is manifested in the DSP-V's significant unavoidable traffic and air quality impacts. Because the DSP-V scenario proposes a mix of housing and employment-generating uses within the Project Site, per capita vehicle miles traveled resulting from the mix of onsite housing and employment would be less than for the CPP and CPP-V scenarios, leading to significant but mitigable GHG impacts for the DSP-V scenario (compared to significant unavoidable GHG impacts for the CPP and CPP-V scenarios). Because no feasible mitigation measures to bring project buildout into line with the 2009 ABAG projections for Brisbane are available other than increasing existing or future ABAG projections, such as the next Plan Bay Area anticipated in 2017, for the San Francisco/San Mateo Bi-County PDA within Brisbane²², or substantially reducing the buildout represented in project alternatives,²³ the DSP-V scenario would induce substantial population growth in the area, which is considered to be significant unavoidable.*

b. The lack of housing would further exacerbate Brisbane's existing above-average jobs-housing imbalance, which is shown in Table 4.K-6. We suggest the following clarifications (shown in underline):

DEIR Page 4.K-32 and 4.K-34:

Conclusion: *The growth in employment resulting from the CPP scenario would accommodate a substantial portion of the employment needs projected by ABAG for Brisbane and surrounding cities but would greatly exceed ABAG projections for Brisbane. The impact of exceeding employment projections is manifested in the CPP's significant unavoidable traffic and air quality impacts. Because the CPP scenario proposes only employment-generating uses within the Project Site and further intensification of Brisbane's jobs/housing imbalance, resulting per capita vehicle miles traveled would be greater than for the DSP and DSP-V scenarios, leading to significant unavoidable GHG impacts under both the CPP and CPP-V scenarios. Because no feasible mitigation measures to bring project buildout into line with the 2009 ABAG projections for Brisbane are available other than increasing existing or future ABAG projections, such as the next Plan Bay Area anticipated in 2017, for the San Francisco/San Mateo Bi-County PDA within Brisbane²⁴ or substantially reducing the buildout represented in project alternatives,²⁵ employment generation under the CPP scenario would induce substantial population growth in the area, which is considered to be significant unavoidable.*

Conclusion: *The growth in employment resulting from the CPP-V scenario would accommodate a substantial portion of the employment needs projected by ABAG for Brisbane and surrounding cities but would greatly exceed ABAG projections for Brisbane. The impact of*

exceeding employment projections is manifested in the CPP-V's significant unavoidable traffic and air quality impacts. Because the CPP-V scenario proposes only employment-generating uses within the Project Site and further intensification of Brisbane's jobs/housing imbalance, resulting per capita vehicle miles traveled would be greater than for the DSP and DSP-V scenarios, leading to significant unavoidable GHG impacts under both the CPP and CPPV scenarios. Because no feasible mitigation measures are available to bring project buildout into line with the 2009 ABAG projections for Brisbane other than increasing existing or future ABAG projections, such as the next Plan Bay Area anticipated in 2017, for the San Francisco/San Mateo Bi-County PDA within Brisbane²⁶ or substantially reducing the buildout represented in project alternatives,²⁷ the employment generation of the CPP-V scenario would induce substantial population growth in the area, which is considered to be significant unavoidable.

9. Public Services (Chapter 4.L)

a. **Library Facilities.** The DEIR concludes that the Project will have a significant impact related to the provision of library services in the DSP and DSP-V scenario and require mitigation, proposed as a new library facility of sufficient size to serve the Project Site population. However, the impact analysis does not set forth any specific demand threshold that was crossed to require the new facility. The DEIR should specifically set forth the demand analysis that was used to conclude a significant impact exists, and the requirement for a new library should be tied to this demand threshold.

10. Traffic and Circulation (Chapter 4.N)

a. **Timing of Mitigation Measures.** A number of mitigation measures reference traffic and intersection improvements, such as new land, new signalization, signal timing/phasing modification, striping, TMP/TDM, shuttle service, trails and sidewalks, bike facilities, and payment of fees. As written, these Mitigation Measures are tied to the issuance of the first building occupancy permit for new development. As a practical matter, few if any of these measures will be needed to mitigate impacts upon the issuance of the first building occupancy permit for development within the Project Site, but will be triggered by phases of development as they occur in connection with the approved Specific Plan and Development Agreement. The Response to Comments should recognize that the timing of delivery for these Mitigation Measures will be determined in accordance with a project phasing plan to be adopted by the City in connection with the Specific Plan and Development Agreement approvals when and as needed to accommodate site-specific development over time. Relevant Mitigation Measures to which this comment applies include MM 4.N-1a through 4.N-1e; 4.N-3g, 4.N-7, 4.N-9, 4.N-10, 4.N-10, 4.N-11 and 4.N-13. 4.n-1c.

b. **SFMTA.** DEIR Page 4.N-140 states that the Project would cause a significant and unavoidable impact on SFMTA's transit operations, since Brisbane has no control over SFMTA's operations and cannot implement service changes in response to increased service demand. It should be noted that SFCTA and SFMTA strongly support locating new development near transit lines and have programs, including the SFMTA's Transit Effectiveness Project (TEP), to improve operations in response to changing service demand. For example, The TEP proposes to increase the AM frequencies of the nearby 56, 8BX and 9L bus routes.

Another example is SFCTA's newly adopted San Francisco Transportation Plan (SFTP), which calls for funding and implementation of the extension of the T-Third light rail to the Bayshore Station. This plan states the following on its Page 31:

San Francisco agencies have identified PDAs, generally in the eastern part of the city. The [SFTP's] Transportation Investment and Growth Strategy identifies the transportation needs to

support this growth. As area plans and major developments are contemplated, such as along the Eastern Waterfront, transportation needs in all categories—operations and maintenance, safety and enhancements, and efficiency and expansion— should be identified and prioritized.

11. Energy Resources (Chapter 4.P)

a. **Title 24.** Title 24 energy efficiency standards have become increasingly strict and protective of the environment. The paragraph that begins at the bottom of page 4.P-17 and continues at the top of page 4.p-18 does not relate to any mitigation measure set forth in the DEIR and should be stricken.

b. **LEED Standards.** Nothing in the DEIR suggests that compliance with the Brisbane Municipal Code regarding green building standards is not sufficient, when combined with the other mitigation measures set forth in 4.P-2a, b and c, to reduce the impacts to a level below significance. There appears to be no justification to require the Project to comply with green building standards in excess of that required by City Code (currently LEED Silver). We recommend that Mitigation Measure 4.P-2a be redrafted as follows:

- **Mitigation Measure 4.P-2a:** All new buildings within the Project Site shall comply with the provisions of Brisbane Municipal Code Section 15.80, as amended from time to time (LEED Silver), or shall meet the green building standards of an equivalent program approved by the City in connection with the Project. In addition, all appliances installed within the Project Site as part of the original building construction shall be ENERGY STAR rated or equivalent.

Thank you for your consideration of these comments.

Sincerely,



Jonathan Scharfman
General Manager/Land Development Director
Universal Paragon Corporation