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A Commitment to Service

**Hillary Gitelman**  
Director

## MEMORANDUM

To: Napa County Board of Supervisors Nancy Watt, County CEO Steve Lederer, Public Works Director	From: Hillary Gitelman Kirsty Shelton
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Date: April 9, 2013	Re: HHS CEQA Compliance
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On February 5, 2013, the Napa County Board of Supervisors certified that the Final Environmental Impact Report (EIR) for the Health and Human Services Agency (HHS) Campus Project was prepared in compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. The Board also adopted a motion of intent to select the “Off Site Alternative” for implementation and to execute a purchase and sale agreement for property owned by Mylan Specialty, LP (APN 046-610-021, 2751 Napa Valley Corporate Drive in Napa, California), directing County Counsel to prepare the necessary documents for the Board’s consideration on February 26, 2013. The Board’s consideration of these materials was later continued to April 16, 2013.

On April 16, 2013, the Board will consider a resolution authorizing the Chair to sign the purchase and sale agreement for the Mylan property, with the intention of relocating HHS functions to the site following “due diligence” site investigations. If the Board takes this action, it would effectively select the off-site alternative analyzed in the HHS Campus Project Final EIR, and as part of its action will need to consider and adopt findings in compliance with CEQA Guidelines Sections 15091(a)(2) (mitigation in the jurisdiction of another agency), 15091(a)(3) (infeasibility of mitigation measures and alternatives), and 15093 (overriding considerations).

This memorandum functions as an Addendum to the Final EIR (CEQA Guidelines Section 15164) by explaining how the HHS Campus Project EIR can be used to support selection of the off-site alternative, which will eventually lead to sale of the HHS’s Old Sonoma Road campus.<sup>1</sup> This memorandum also functions to support use of a Categorical Exemption for the acquisition and reuse of the Mylan site.

<sup>1</sup> By explaining why the existing, certified EIR is adequate for the Board’s decision, this addendum complies with the requirement contained in CEQA Guidelines Section 15164(e) for a brief explanation – based on substantial evidence -- as to why preparation of a subsequent EIR is not required.

## HHSA & the Final EIR

The HHSA is currently housed in multiple one-story buildings (a total of 85,000 gross square feet) on an 8.5 acre campus on Old Sonoma Road in the City of Napa (323 employees), and in supplemental office space in downtown Napa (70 employees). The campus serves an estimated 570 clients per day and contains portable buildings that are in need of repair or replacement. As a result, the County initiated planning for new buildings to accommodate the HHSA functions in 2008, and identified project objectives as follows (Draft EIR p. 41):

- Renovate the HHSA campus to meet the agency's current and future needs while being respectful of the campus' neighborhood setting;
- Replace or rehabilitate deficient buildings to better serve HHSA clients and staff, starting with the modular buildings and temporary facilities;
- Accommodate all HHSA divisions on a single campus that can provide comprehensive services to the community;
- Create a welcome, open and accessible campus that serves the public and achieves a balance between security and public access to the campus;
- Provide approximately 95,000 gross square feet, 36,000 existing and 59,000 new, of functional space onsite by the year 2018 and up to 184,000 gross square feet of functional space by the year 2028;
- Provide aesthetically appealing buildings and pleasing landscapes that are conducive to healing and the supportive services offered by the agency;
- Incorporate open and collaborative workspaces and amenities to promote employees' health and well-being;
- Minimize disruption to the community and existing campus operations during construction, while also minimizing the need for temporary "swing space" off-site;
- Ensure that the renovated campus is compatible with the adjacent neighborhood to the extent feasible and minimize overflow parking, spillover light and noise, and other neighborhood impacts;
- Ensure that the campus renovation is cost effective and utilizes as little of the tax payers money as possible;
- Ensure the renovated campus is served by public transit, pedestrian, and bicyclists, and easily accessible to the clients served by the agency;
- Incorporate sustainable design and opportunities for public art.

The HHSA Draft EIR (SHC# 2011112008) was published in August of 2012 and analyzed redevelopment of the current HHSA campus by examining two options. The Existing Site Option would remove all of the existing buildings on the site and replace them with four new buildings (184,000 square feet), a two level parking structure, surface parking and landscaping. The Expanded Site Option would retain three of the existing buildings on the site, acquire a 3.25 acre sports field immediately adjacent to the site, and construct four new buildings (170,000 square feet), surface parking and landscaping on the expanded site.

In addition to these options, the Draft EIR examined a No Project Alternative, an Existing Site Preservation Alternative, and an Off Site Alternative (Draft EIR Chapter V). The No Project Alternative was deemed to have the least impacts, and the Expanded Site Option was found to be the “environmentally superior” alternative pursuant to CEQA Guidelines Section 15126.6(e)(2) (Draft EIR p. 258).

The HHSA Final EIR consists of the Draft EIR from August 2012, the public comments received on the Draft, responses to those comments, and resulting changes to the text of the Draft EIR, all of which have been made available to the public, County decision makers, and responsible agencies in compliance with CEQA. The comments, responses, and text changes are presented in a Response to Comments document dated December 2012 and disseminated January 24, 2013.

### The Purchase of the Mylan Campus & the Offsite Alternative

During preparation of the Final EIR, County staff became aware that Mylan Specialty, LP was proposing to vacate its existing campus (commonly referred to as “Dey Labs”) on Napa Valley Corporate Drive in the City of Napa. The Mylan facility consists of a 25 acre landscaped campus with four multi-storey buildings and 537 surface parking spaces. The buildings combine to provide approximately 92,000 gross square feet of existing office space (Building 2 and a portion of Building 1), and 227,000 gross square feet of existing warehouse/ manufacturing space. The current owner of the campus is proposing to remove manufacturing equipment from the site, complete required remediation of hazardous materials, and sell the property to the County.

The County is now proposing to acquire the Mylan site and relocate existing HHSA functions to Building 2 (75,000 gross square feet of office space) and a portion of Building 1 (17,000 gross square feet of office space). In addition, the County would lease Building 4 (45,000 gross square feet of warehouse/manufacturing space) and Building 3 (45,000 square feet of warehouse space) to Mylan Specialty, LP and/or another (as yet undetermined) private business. At some future time, the current HHSA campus on Old Sonoma Road could be sold as surplus property and the balance of Building 1 on the Mylan campus (137,000 square feet of warehouse/manufacturing space) could be renovated to provide additional office space. The Mylan campus is not large enough to accommodate relocation of the County jail and the County has not determined if, when, or what other County functions might ultimately be relocated to the site.

If the County proceeds with the purchase of the Mylan campus and relocation of HHSA functions to the site, the current HHSA campus could be sold as surplus property, and the County would effectively be implementing the Off Site Alternative analyzed in the HHSA Campus Project Final EIR, with several modifications.

Specifically, the Off Site Alternative analyzed in the Final EIR assumed that the County would purchase and develop an unspecified industrially-zoned site within the City of Napa, and that the HHSA site would be sold as surplus property for development of residential uses similar in scale to the

surrounding neighborhood (Draft EIR p. 250). The hypothetical new site was described in the EIR as vacant and “approximately 15 acres,” and the alternative assumed that the County would construct new buildings totaling about 184,000 gross square feet of office space (105,610 of it in phase one) and 560 parking spaces on the new site.

The current proposal to purchase the Mylan campus differs from this alternative in that the County would purchase a site that is already developed, and would be able to reuse approximately 92,000 gross square feet of existing office space as an immediate phase one. Also there are 537 rather than 560 parking spaces, although there is room to reconfigure or expand the parking on site if desired. Future phases could reach 184,000 gross square feet with renovation of additional space in Building 1. The current HHSA site could be sold as surplus property sooner than anticipated in the Off Site Alternative, and could be rezoned and redeveloped to accommodate an estimated 77 dwelling units as analyzed in the Draft EIR, assuming the adjacent ball field is also sold to accommodate new development. This is a reasonable assumption because the school that owns the ball field has indicated its desire to sell the property to finance rehabilitation of school facilities.

As noted on Draft EIR p. 253, the Off Site Alternative would achieve most of the County’s objectives for the project, except that it would not “renovate the HHSA campus to meet the agency’s current and future needs.” The Draft EIR identified two other objectives that might not be addressed by the Off Site Alternative, however these could both be achieved at the Mylan site, since it could provide “a welcoming, open and accessible campus” and the County would “ensure the renovated campus is served by public transit... and easily accessible to the clients served by the agency.”

#### The Final EIR Addresses Impacts of the Off-Site Alternative

In considering whether an Addendum can be prepared to a certified Final EIR as described in CEQA Guidelines Section 15164, agencies must consider whether there have been substantial changes to the project which would require “major revisions of the EIR... due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects” (15162(a)(1)). Agencies must also consider whether there have been substantial changes in circumstances (15162(a)(2)) or whether there is new information of substantial importance (15162(a)(3)) regarding new significant impacts, impacts substantially more severe, or newly feasible mitigation and alternatives.

Importantly, changes to a project, changes in circumstances, or new information do not, in and of themselves, require that an EIR be revised – it is the potential for new and undisclosed significant impacts (or the increased severity of significant impacts previously identified) that triggers the need to revise and re-circulate an EIR for additional public comment.

In the current instance, the Final EIR for the HHSA Project describes impacts associated with adoption of an off-site alternative by examining the likely effects of redeveloping the HHSA site for residential use, and comparing these effects to those expected with the Existing Site Option and the Expanded Site Option. The analysis also attempts to characterize impacts at the new, undisclosed location, although as acknowledged in the Final EIR (Responses to Comments p. 22), the discussion is

general in nature because a more detailed analysis would require identification of a specific alternative site. As discussed further below, no new significant impacts would result either at the existing HHSA site or at the off-site (Mylan campus) location, beyond those previously identified in the Final EIR, and impacts at the Mylan site would be less than anticipated because of uses and buildings on site. (The uses and buildings are the baseline against which project uses must be evaluated – rather than the vacant site assumed in the EIR’s analysis of the off-site alternative.)

#### Potential Impacts at the Old Sonoma Road Campus & Vicinity

In terms of impacts at the HHSA site and vicinity, the Draft EIR describes a number of potential impacts, including visual changes and potential demolition of historic resources (p. 254). The latter impact would be significant and unavoidable since, as described in the Final EIR (Responses to Comments p. 22), the County’s decision to surplus the property could put the historic resources in jeopardy. A future purchaser of the site could preserve and reuse the buildings (or could be required to do so by the City), potentially avoiding the significant and unavoidable impact, and mitigation measures CULT-3 and CULT-4 would be applicable. These measures, if adopted, would ensure the three historic buildings and crescent drive that constitute the Napa County Infirmary Historic District are documented and that potential impacts associated with disturbance of previously unrecorded subsurface archaeological resources are addressed. If the County sells the HHSA site as surplus property, these measures would be within the jurisdiction of the City of Napa to impose on future development.

The Draft EIR describes potential traffic impacts of the off-site alternative on the existing neighborhood surrounding the HHSA Old Sonoma Road Campus by comparing the transportation trips associated with likely residential development of the HHSA site to those associated with the existing HHSA campus (Draft EIR p. 255). As shown in Table V-2 in the Draft EIR, the residential development assumed under the offsite alternative would generate 52 AM Peak Hour trips and 69 PM Peak Hour trips, or substantially less than the current HHSA uses (which generate 311 AM and 242 PM trips respectively) and substantially less than either of the options considered for the HHSA site, which would generate 278 additional AM trips and 216 additional PM trips (also see Draft EIR p. 140).

Because transportation impacts around the existing HHSA campus would be so much less with the off-site alternative, Mitigation Measures TRANS-1 through TRANS-3 would not be required (Draft EIR, p. 255), although Mitigation TRAN-4 and TRAN-5 regarding construction-related impacts would remain applicable. If the County sells the HHSA site as surplus property, these measures would be within the jurisdiction of the City of Napa to impose on future development.

The Draft EIR concludes that the Off-Site Alternative would result in greater construction-period air pollutant emissions than the Existing Site Option or the Expanded Site Option because the Draft EIR assumes that new construction at the existing HHSA campus would overlap with new construction at the new, off-site location (Draft EIR, p. 256), although implementation of best management practices as required by Mitigation Measure AIR-1 would avoid any significant impacts. These best practices are standard operating procedure for demolition and construction projects, and the Mitigation Measure would be within the jurisdiction of the City of Napa to impose on future development on the Old

Sonoma Road site. Also, with the purchase of the Mylan site, the County would minimize the amount of new construction needed at the off-site location, resulting in fewer construction period emissions than described in the Draft EIR.

In terms of air pollutant emissions arising from project operations, the Draft EIR suggests that the Off-Site alternative could result in greater long-term regional air quality impacts than the Existing Site Option or the Expanded Site Option because of increased traffic at the new (unspecified) site (Draft EIR p. 256). As discussed below, this conclusion overstates impacts at the new Mylan site because HHSA-related vehicle trips would replace trips associated with uses and buildings on the site.

The Draft EIR assesses Green House Gas emissions associated with the Off-Site Alternative, concluding that emissions generated at the existing HHSA site would be less than with the proposed project because of the reduced vehicle trips (Draft EIR p. 256). The analysis also concludes that GHG emissions at the new (unspecified) site would be greater than the proposed project, suggesting that a cumulative considerable impact could occur, conflicting with policies related to the reduction of green house gases and requiring mitigation. As discussed below, this conclusion overstates impacts at the new Mylan site because HHSA-related vehicle trips would replace trips associated with uses and buildings on the site.

Operational noise associated with traffic at the existing HHSA site would decrease with selection of the Off-Site Alternative, since traffic in the area would be reduced (Draft EIR, pp. 256-7). Construction noise impacts could be addressed via implementation of mitigation measures NOISE-1 through -3 (e.g. limits on the hours of construction and other techniques to limit construction noise and vibration). If the County sells the HHSA site as surplus property, these measures would be within the jurisdiction of the City of Napa to impose on future development.

Other topics addressed in the Initial Study (Draft EIR Appendix B) included mitigation to address potentially significant impacts, including measures related to biological resources, geology and soil stability, hazards and hazardous materials, hydrology and water quality, utilities and service systems. All of these measures would still apply to the existing HHSA site and would be within the City of Napa's jurisdiction to impose on future development proposals following the County's sale of the property.

As described above, no new significant impacts – beyond those identified in the Final EIR -- would occur at the Old Sonoma campus and vicinity with selection of the Off Site Alternative, and all of the significant impacts, with the possible exception of the potential loss of the Old Sonoma Road site's historic resources, could be reduced to less than significant with proposed mitigation. The significant impact related to historic resources could also be avoided if the purchaser of the site voluntarily rehabilitates and reuses Buildings A, B, C and the crescent driveway (or if the City of Napa requires them to do so).

## Potential Impacts at the Mylan Campus & Vicinity

As explained earlier above, the HHSA EIR overstates potential impacts at the off-site location under the Off Site Alternative because it assumed that the County would acquire and develop vacant land. Instead, the County is proposing to acquire a fully developed site containing approximately 92,000 gross square feet of office space (Building 2 and a portion of Building 1), and 227,000 gross square feet of warehouse/manufacturing space. With acquisition of the site, the County could rehabilitate the 92,000 square feet of existing office space to accommodate HHSA's existing staff of 355 employees and approximately 570 existing clients/day and would lease 90,000 square feet of warehouse/manufacturing space to private entities on an "as is" basis. The balance of the building space (137,000 gross square feet in Building 1/1A) would remain vacant or would be used as storage until the County makes a decision about its future use and obtains funding to implement its decision.

Mylan Specialty, LP has used the site for office, manufacturing, and warehouse uses for many years. According to current employees, the peak level of employment on site was around 2005, when there were about 900 people working on site in shifts (i.e. not all people were on site at one time and operations continued outside regular "9 to 5" business hours). Since 2005, the number of employees and the level of activity on site has been declining gradually, and in early 2013, there were an estimated 235 people working on site. The City of Napa permitted construction and use of the Mylan site in the context of the surrounding business park, and no additional discretionary permits would be required for Mylan Specialty, LP or a similar private business entity to fully utilize the office, manufacturing, and warehouse spaces on site.

The current proposal would have fewer potentially significant impacts than those attributed to the Off Site Alternative in the HHSA Campus Project EIR because constructing new buildings would not be required on the Mylan site and because the level of activity when HHSA uses are relocated to the site would not exceed levels permitted under existing entitlements and levels experienced in the recent past. Specifically, relocated HHSA functions could be expected to accommodate around 400 employees in the near term, and about 570 clients per day during regular business hours. In the long term, this level of activity could increase to include 673 employees and about 1,081 clients per day, which equates to 458-589 AM and PM peak hour trips (DEIR Table IV.C-5, p. 140). County planning staff does not view this near term and future level of activity as a significant departure from the level of activity associated with Mylan Specialty, LP, which reportedly had about 900 people working multiple shifts, with deliveries coming and going around the clock until quite recently, and easily contributed similar volumes of traffic to surrounding intersections in the peak hours prior to the economic recession that began in 2007.

Because new construction would not be required if the Mylan site is reused by the HHSA, the potential visual impact associated with new sources of light and glare that was attributed to the Off Site Alternative in the HHSA Campus Project EIR would not be an issue at the site, and Mitigation Measure VIS-1 would not be required. Similarly, because the site has already been disturbed, implementation of Mitigation Measure CULT-4 about unrecorded subsurface archaeological resources would not be required there and mitigation measures TRANS-4 and TRANS-5 would also not be needed to address construction traffic in the vicinity. Without new construction, Mitigation Measure AIR-1 about

construction related air pollutant emissions would not be required at the Mylan site, and nor would Measures NOISE-1, NOISE-2, and NOISE-3, which were intended to address short term noise increases due to construction.

Acquisition of the Mylan site by the County would only occur after decommissioning of the site by the company to address any potential hazardous materials (including dust) on site, which would address potential impacts related to hazards.

The Mylan site is not located within 200 feet of any existing or proposed residential uses, and Mitigation Measure AIR-2 regarding health risks associated with the on-site emergency generators needed by HHSA would not be necessary because any emergency generators used on a temporary, intermittent basis would represent a reduction in pollutants when compared to recent operations on the Mylan site, which included three stationary sources of air pollutants requiring permitting from the Bay Area Air Quality Management District, as well as truck traffic with resulting diesel particulates. Also, reuse of the Mylan site would not result in net new GHG emissions, eliminating the need for mitigation as suggested in the discussion of the Off Site Alternative in the HHSA Campus Project EIR (Draft EIR p. 256).

### Conclusions

For all of the reasons explained above, selection of the Off Site Alternative and acquisition of the Mylan site for use by the HHSA would not raise the potential for new significant environmental impacts not previously disclosed in the HHSA Campus Project EIR. Selection of the Off Site Alternative, with the modifications currently proposed would reduce rather than increase the severity of impacts described in the EIR, and neither potential impacts at Old Sonoma Road Campus & Vicinity nor the Mylan Campus & Vicinity would trigger the need to revise and re-circulate the EIR for additional public comment.

At the Old Sonoma Road Campus & Vicinity, one significant and unavoidable impact would remain: the potential loss of historic buildings/features due to private development after the County surpluses the property. However this impact and others identified in the HHSA Campus EIR could be avoided if the City imposes requirements on the new site owner. Once the County sells the property, it would fall within the City's land use jurisdiction, and relevant mitigation measures identified in the EIR would be reasonable and feasible for the City to impose as conditions of future development.

The State CEQA Guidelines contain a categorical exemption that applies to the sale of surplus property (Class 12, Section 15312) and the County can rely on this exemption to support the proposed selection of the Off Site Alternative as well as using the Final EIR prepared for the HHSA project.

The Class 12 exemption is applicable to the sale of surplus property as long as that property is not in an area of Statewide, Regional, or Areawide Significance (CEQA Guidelines Section 15206). If the HHSA Old Sonoma Road campus were redeveloped as originally proposed and analyzed in the Final EIR, the project would exceed the thresholds in Section 15206 because it would generate significant amounts of traffic at intersections analyzed in the Final EIR. However, as indicated above, the Off Site

Alternative analyzed in the Final EIR makes a reasonable assumption about the residential redevelopment of the site if HHSA functions are relocated, and demonstrates that the traffic impacts associated with that development would be less than the traffic generated by the existing HHSA campus (i.e. the residential redevelopment would have a beneficial effect on neighborhood traffic). For this reason, and because the number of residential units that could reasonably be developed based on the neighborhood context would be far below the threshold of 500 units included in Section 15206, sale of the existing HHSA campus as surplus property would qualify for a Class 12 categorical exemption.

At the Mylan campus & vicinity, the acquisition and use of the property by the HHSA would effectively substitute one set of users for another on a fully developed mixed-use campus, resulting in little noticeable change from baseline conditions.<sup>2</sup>

The State CEQA Guidelines contain a categorical exemption that applies to the rehabilitation/reuse of existing structures (Class 1, Section 15301). The County can rely on this exemption to support the proposed acquisition of property as well as using the Final EIR prepared for the HHSA project.

The Class One exemption applies to “the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities... involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination” (Section 15301). Though the State Guidelines reference “leasing” rather than “purchasing,” the County believes this exemption applies to acquisition of the Mylan site for use by the HHSA. As described in the Final EIR, the HHSA is expected to accommodate 1,081 clients and 673 employees per day at build-out (Draft EIR p. 140). This projection is based on the number of clients/employees currently accommodated on the Old Sonoma Road campus and at HHSA’s offices in downtown Napa, plus reasonable growth expected to the year 2028. The resulting level of activity would be generally similar to levels experienced at the Mylan site immediately prior to the recent recession, and levels permitted under existing entitlements if the site were purchased by a private entity. For this reason, and because rehabilitation and reuse of existing buildings is a common and accepted practice within business parks like the Napa Valley Commons, acquisition and reuse of the Mylan site by the HHSA would qualify for a Class One categorical exemption.

cc. Minh Tran/Laura Anderson  
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<sup>2</sup> As discussed above, baseline conditions in this case encompasses site operations prior to the recent economic recession and as permitted by right under current entitlements.