

**FINDINGS OF FACT REGARDING THE ENVIRONMENTAL IMPACT REPORT
FOR THE TASMAN EAST SPECIFIC PLAN PROJECT**

City of Santa Clara Project No. CEQ2016-01026

State Clearinghouse No. 2016122027

City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

**FINDINGS OF FACT REGARDING THE ENVIRONMENTAL IMPACT REPORT
(STATE CLEARINGHOUSE NUMBER 2016122027) FOR THE TASMAN EAST
SPECIFIC PLAN PROJECT (CITY PROJECT NUMBER CEQ2016-01026)**

I. INTRODUCTION

The California Environmental Quality Act of 1970 (“CEQA”), Public Resources Code section 21081 *et seq.*, and the Guidelines for Implementation for the California Environmental Quality Act, Title 14 California Code of Regulations, section 15091 *et seq.* (“CEQA Guidelines”) require that a public agency consider the environmental impacts of a project before a project is approved and make specific findings. Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute provides that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to provide that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The CEQA Guidelines section 15091 specifically provides as follows:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can or should be adopted by such other agency.
 3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers,

make infeasible the mitigation measures or project alternatives identified in the final EIR.

- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to section 15093 does not substitute for the findings required by this section.

CEQA Guidelines section 15093 further provides as follows:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) Where the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/ or other information in the record. This statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to section 15091.

Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” CEQA Guidelines section 15364 adds another factor: “legal” considerations. See also *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565 (*Goleta II*). The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1509 (court upholds CEQA findings rejecting alternatives in reliance on applicant’s project objectives); see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 (*CNPS*) (“an alternative ‘may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record’”) (quoting Kostka & Zischke, *Practice Under the Cal. Environmental Quality Act* [Cont.Ed.Bar 2d ed. 2009] (*Kostka*), § 17.39, p. 825); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165, 1166 (*Bay-Delta*) (“[i]n the CALFED program, feasibility is strongly linked to achievement of each of the primary project objectives”; “a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal”). Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” *City of Del Mar, supra*, 133 Cal.App.3d at p. 417; see also *CNPS, supra*, 177 Cal.App.4th at p. 1001 (“an alternative that ‘is impractical or undesirable from a policy standpoint’ may be rejected as infeasible”) (quoting *Kostka, supra*, § 17.29, p. 824); *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 17.

For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. Although CEQA Guidelines section 15091 requires only that approving agencies specify that a particular significant effect is “avoid[ed] or substantially lessen[ed],” these findings, for purposes of clarity, in each case will specify whether the effect in question has been “avoided” (i.e., reduced to a less than significant level).

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. CEQA Guidelines § 15091(a), (b).

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” CEQA Guidelines §§ 15093, 15043(b); see also Pub. Resources Code § 21081(b). The California Supreme Court has stated, “[t]he wisdom of approving . . . any development project, a delicate task which requires a

balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” *Goleta II, supra*, 52 Cal.3d at p. 576. The EIR (as defined below) for the Project (as defined below) concluded the Project would create significant and unavoidable impacts; thus, a Statement of Overriding Considerations is required.

These Findings of Fact (sometimes referred to herein as “Findings”) constitute the City of Santa Clara’s (City’s) evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. To the extent that these Findings conclude that various mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded or withdrawn, the City hereby binds itself to ensuring that these measures are implemented by the appropriate party(ies). These Findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when the City adopts a resolution approving the Project.

In addition, a Mitigation Monitoring and Reporting Program (“MMRP”) has been prepared for the Project, and is being approved by the City Council by the same Resolution that has adopted these Findings. The City will use the MMRP to track compliance with Project mitigation measures. The Mitigation Monitoring and Reporting Program will remain available for public review during the compliance period. The Final Mitigation Monitoring and Reporting Program is attached to and incorporated into the environmental document approval resolution and is approved in conjunction with certification of the EIR and adoption of these Findings of Fact.

Having received, reviewed, and considered the Draft Environmental Impact Report (“Draft EIR”) and the Final Environmental Impact Report (“Final EIR” and, together with the Draft EIR, the “EIR”) for the Tasman East Specific Plan (the “Project”), State Clearinghouse (“SCH”) No. 2016122027, as well as other information in the record of proceedings on this matter, the City of Santa Clara City Council, in its capacity as the decision-making body of the CEQA Lead Agency hereby finds, determines, and declares the following Findings and Facts, in accordance with Section 21081 of the Public Resources Code.

These Findings set forth the environmental basis for the discretionary actions to be undertaken by the County for the development of the Project. These actions include the approval of the following for the Tasman East Specific Plan Project:

- Environmental Impact report (SCH No. 2016122027)
- Tasman East Specific Plan
- General Plan Amendment
- Zoning Amendment

A. Document Format

These Findings have been organized into the following sections:

- (1) Section I provides an introduction to these Findings.
- (2) Section II provides a summary of the Project, overview of the discretionary actions required for approval of the Project, and a statement of the Project's objectives.
- (3) Section III provides a summary of environmental review related to the Project and a summary of public participation in the environmental review for the Project
- (4) Section IV sets forth findings regarding the potential impact areas identified in the EIR. This section details findings for those impacts for which the County has determined that there is no impact or the impact is less than significant and thus no mitigation is required; findings regarding potentially significant environmental impacts identified in the EIR that the County has determined can be feasibly mitigated to a less than significant level through the imposition of mitigation measures; and findings regarding those significant or potentially significant environmental impacts identified in the EIR that will or may result from the Project and which the County has determined will remain significant and unavoidable, despite the identification and incorporation of all feasible mitigation measures.

In order to ensure compliance and implementation, all of the mitigation measures will be included in MMRP for the Project and adopted as conditions of the Project by the Lead Agency. Where potentially significant impacts can be reduced to a less than significant level through mitigation, these findings specify how those impacts would be reduced to an acceptable level.

- (5) Section V sets forth findings regarding alternatives to the Project
- (6) Section VI sets forth findings regarding the growth-inducing impacts of the Project.
- (7) Section VII sets forth findings regarding recirculation of the Draft EIR.
- (8) Section VIII sets forth findings regarding rejection of recommended mitigation measures.
- (9) Section IX contains the findings pursuant to Public Resources Code section 21082.1(c)(3).
- (10) Section X contains the Statement of Overriding Considerations for the Project pursuant to CEQA Guidelines section 15093.

B. Custodian and Location of Records

The Tasman East Specific Plan Environmental Impact Report consists of:

1. Draft Environmental Impact Report (Draft EIR) and Appendices A through I, dated July 30, 2018; and
2. Final Environmental Impact Report (Final EIR) dated October 12, 2018.

The following Findings of Fact are based in part on the information contained in EIR for the Project, as well as additional facts found in the complete record of proceedings. The EIR is hereby incorporated by reference and is available for review at Santa Clara City Hall, 1500 Warburton Avenue, Santa Clara, California, 95050 during normal business hours.

For the purposes of CEQA, and the findings herein set forth, the administrative record for the Project consists of those items listed in Public Resources Code Section 21167.6, subdivision (e). The record of proceedings for the City's decision on the Project consists of the following documents, at a minimum, which are incorporated by reference and made part of the record supporting these Findings:

- The NOP and all other public notices issued by the City in conjunction with the Project;
- The Draft EIR for the Project and all documents relied upon or incorporated by reference;
- All comments submitted by agencies or members of the public during the 45-day comment period on the Draft EIR;
- All comments and correspondence submitted to the City during the public comment period on the Draft EIR, in addition to all other timely comments on the Draft EIR;
- The Final EIR for the Project, including the Planning Commission staff report, minutes of the Planning Commission public hearing; City Council staff report; minutes of the City Council public hearing; comments received on the Draft EIR; the City's responses to those comments; technical appendices; and all documents relied upon or incorporated by reference;
- The MMRP for the Project;
- All findings and resolutions adopted by the City in connection with the Project, and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the Project;
- All documents submitted to the City by other public agencies or members of the public in connection with the Project, up through the close of the public hearing;
- Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the Project;

- Any documentary or other evidence submitted to the City at such information sessions, public meetings and public hearings;
- All resolutions adopted by the City regarding the Project, and all staff reports, analyses, and summaries related to the adoption of those resolutions;
- The City's General Plan and applicable Specific Plans and all updates and related environmental analyses;
- Matters of common knowledge to the City, including, but not limited to Federal, State, and local laws and regulations;
- The City Code;
- Any documents expressly cited in these Findings, in addition to those cited above; and
- Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The documents and other materials that constitute the administrative record for the City's actions related to the Project are at Santa Clara City Hall, 1500 Warburton Avenue, Santa Clara, California, 95050. The City is the custodian of the Administrative Record for the Project.

The City has relied on all of the documents listed above in reaching its decisions on the proposed Project, even if not every document was formally presented to the City Council or City Staff as part of the City files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the City Council was aware in approving the Project. See *City of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-391; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6. Other documents influenced the expert advice provided to City Staff or consultants, who then provided advice to the Planning Commission and the City Council as final decision makers. For that reason, such documents form part of the underlying factual basis for the City's decisions relating to approval of the Project. See Pub. Resources Code § 21167.6(e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155.

II. PROJECT SUMMARY

A. Project Location

The Project is proposed on 46.1 gross acres of land in an existing industrial neighborhood in northern Santa Clara. The Project site is bounded by the City's Santa Clara Golf & Tennis Club to the north (the site of the future City Place development), Tasman Drive to the south, the Guadalupe River to the east, and Lafayette Street to the west (the "Plan Area"). The Plan Area is adjacent to the Lick Mill Light Rail Transit station on Tasman Drive and the Great America Station on the west side of Lafayette Street, which is served by both the Altamont Commuter Express (ACE) and Capitol Corridor train (Amtrak). The Plan Area includes

approximately 36 parcels currently developed with light industrial and commercial uses, including one City-owned utility parcel, and has a total net land acreage of 41.4 acres with approximately 4.6 acres of public right-of-way. The TESP is in a Transit Priority Area under Plan Bay Area, the region's Sustainable Communities Strategy, pursuant to California Public Resources Code section 21099 (SB 743).

The Tasman East Area is identified as a Future Focus Area in Phase II of the City's General Plan (2015-2023), and the TESP provides an opportunity for the City to reach housing goals identified in the City's share of the state-required Regional Housing Needs Allocation ("RHNA") and for meeting demand for housing that has resulted from job and retail growth in the City and region. The Specific Plan is a prerequisite to development of the Tasman East Focus Area with residential uses. The Plan Area is currently classified Light Industrial in the Santa Clara General Plan and is designated in Phase II (2015-2023) of the General Plan for High Density Residential land use, which allows 37-50 du/ac. Parcels in the Plan Area are currently zoned Light Industrial (ML).

B. Project Description

The Specific Plan envisions the creation of a Transit-Oriented Development (TOD) mixed-use neighborhood in the Plan Area. The Project would change the General Plan classification to Transit Neighborhood, a new General Plan classification that would allow residential and supportive commercial and public/quasi-public uses and allow 80-350 dwelling units per acre ("du/ac"). This density range is higher than the proposed High Density Residential classification in Phase II of the General Plan and is intended to take advantage of the Plan Area's proximity to transit, offering an urban feel. The classification would allow mid- to high-rise building, retail, and other compatible commercial and light industrial uses that activate the street. The Plan Area will be zoned Transit Neighborhood, a corresponding zoning district created to implement the new General Plan classification.

The Project would allow up to 4,500 dwelling units (du) and up to 106,000 square feet of retail space, including a 25,000 square foot grocery store. Residential densities would range from a minimum of 60 du/ac on sites less than one acre in size to a minimum of 100 du/ac for sites of one acre or larger in size with no maximum density for individual parcels, all the while maintaining an overall Specific Plan unit cap of 4,500 units. Buildings in the Specific Plan area would be, at maximum, 220 feet in height. The Specific Plan would also allow an urban school for up to 600 students on two acres. The Specific Plan includes approximately 10 acres of dispersed, non-contiguous parks, urban open spaces, and paseos. Permitted uses in the Plan Area would include residential, commercial, neighborhood light industrial, parks and recreation facilities, education facilities, places of worship and other nonprofit facilities, and assisted living facilities.

Ground floor retail uses would be required along Calle Del Sol, which may be extended as part of the Project. This local street would serve as a general shopping center zone district, which is intended to encourage organized concentration of a wide variety of retail goods and services for the community. In addition, retail uses are allowed and encouraged along all ground floor frontages. The Project will also provide an opportunity for the location of

light industrial uses which have public-facing operations, such as breweries, wineries, catering companies, butcheries, garment manufacturers, and craftsperson or artists' studios to locate in the ground floor of buildings in urban neighborhoods. As noted above, the Project would also have dispersed, non-contiguous, publicly accessible parks (neighborhood parks, and mini parks) that are connected throughout the district by streets and public pedestrian corridors. The lawful use of buildings existing prior to the adoption of the TESP may continue as though the prior zoning of the parcel remained in place, until such time as the existing use (including any expansions) has been discontinued in its entirety, at which time the prior zoning shall become inapplicable and the proposed Specific Plan shall apply from that point forward. Allowed and conditional uses as well as the development standards of the ML Light Industrial district would continue to be applied to these parcels until such time as the existing use has been discontinued in its entirety.

The Specific Plan would maintain the existing roadway network and vehicular connections to Tasman Drive and Lafayette Street. Streets within the TESP would be "Complete Streets" which would ensure they are accessible for and balance the mobility of all users. Lick Mill Boulevard would be extended through the Plan Area to provide additional access and connect with the existing roadway network and City Place to the north. The Specific Plan allows for a four-lane roadway extension with a seven-foot-wide cycle track, 10-foot sidewalks, and no parking. Lick Mill Boulevard would operate as a two-lane roadway with full buildout of Tasman East and would require widening to a four-lane roadway with full buildout of City Place. The Specific Plan would widen the existing Calle Del Sol right-of-way by six feet on each side to accommodate two vehicular travel lanes northbound and at least one southbound, and would widen to include turn lanes at Tasman Drive. Calle Del Sol may be extended north of Calle De Luna to Calle del Mundo, which extension would be a local street and include one vehicular travel lane in each direction and could be extended from Calle De Luna to Calle Del Mundo. It would accommodate a seven-foot sidewalk, five-foot landscape strip, and street parking in both directions. Calle De Luna would be a collector street from Lafayette Street to Calle Del Sol at which point it would become a local street. The local street would accommodate one eastbound through lane and two westbound lanes, a seven-foot sidewalk, five-foot landscape strip, and street parking in both directions (only to midblock westbound). Calle Del Mundo would serve as a collector street and would accommodate two travel lanes and a center two-way left-turn lane, five-foot bicycle lanes, a four-foot landscape strip, and a six-foot sidewalk.

The Project would provide pedestrian and bicycle improvements within the Plan Area including sidewalks, crosswalks, greenways, bicycle-friendly streets, bicycle parking, and a connected bicycle network that links residential, businesses, recreation, and transit stations.

The Project includes multiple Green Development Measures intended to reduce energy use below Title 24 standards and adhere to the City's Climate Action Plan ("CAP"), which is a part of its General Plan. The Specific Plan development may require approximately 3,000 lineal feet of 12-inch water main to be upsized to 16-inch in Lafayette Street and would connect to existing reclaimed water lines in Tasman Drive. The extension of Calle Del Sol through the Plan Area would require relocation of the City's Primavera Pump Station and

existing cell towers on the same site. There is potential for the Primavera Pump Station to be undergrounded onsite. The Project could include additional groundwater pumping facilities or larger pumps at existing facilities as necessary.

C. Discretionary Actions

Implementation of the Project within the City will require several actions by the City, including:

- **Environmental Assessment:** To certify an FEIR that analyzes the environmental effects of the proposed Project.
- **General Plan Amendment:** To amend the Santa Clara General Plan, adopted by the City Council on November 16, 2010, to create the “Transit Neighborhood” land use designation and redesignate the Plan Area from Light Industrial to Transit Neighborhood, including the amendment of the Land Use Diagram and text amendment (as well as amendments to the City’s Climate Action Plan).
- **Specific Plan:** To adopt the TESP, in order to regulate development through its development standards and regulations in conjunction with Title 18 of the Santa Clara City Code.
- **Zoning Amendment:** To amend the Santa Clara City Code to create the “Transit Neighborhood” (TN) zoning designation and change the existing zoning from Light Industrial (ML) to Transit Neighborhood (TN), as well as to create new parking standards to apply to the TN zoning designation. Approval of these zoning amendments, together with adoption of the Specific Plan, would establish the land use regulations and development standards applicable to the Plan Area.

Prior to Project implementation, additional permits and/or approvals may be required from various governmental entities, including the following:

- **Department of Fish and Wildlife (CDFW)**
- **Santa Clara Valley Water District (SCVWD)**
- **San Francisco Bay Regional Water Quality Control Board (RWQCB)**
- **Santa Clara County Department of Environmental Health (Local Enforcement Agency or LEA)**

D. Statement of Project Objectives

The statement of objectives sought by the Project and set forth in the Final EIR is provided as follows:

Land Use

Establish a land use plan and policy framework that will guide future development and redevelopment activities within the area toward transit supportive uses and improvements, including:

- Housing density in the 100 units per acre range to help meet the City's state-mandated RHNA,
- New housing and supporting uses that are integrated with existing residential uses to the south and compatible with former landfill uses in the north, and
- Convenient access to commercial uses, nearby employment, retail, services, entertainment, and other community supportive facilities and services.

Transportation

Improve vehicular, pedestrian, bicycle and transit connectivity between stations and existing and future adjacent commercial and residential areas, to encourage the use of alternative modes of transportation and foster a healthy lifestyle, by:

- Providing direct linkages from Tasman East to the Santa Clara Valley Transportation Authority, Amtrak, and Altamont Corridor Express stations and transit stops to promote transit use for access to services and jobs.

Public Realm

Provide a vital neighborhood in this area of the City, by:

- Developing and implementing urban design standards for streets, streetscapes, buildings and open space, which promote walkable and livable environments within the project area,
- Promoting pedestrian-friendly design that includes features such as shade trees, streetscapes that contain lighting and landscaping, street furniture, pedestrian and bike paths, limited driveway curb cuts, traffic-calming features, and pedestrian street crossings, and
- Encouraging parking to be located in structures to minimize their visibility from streets and public spaces.

Parks

Create a vibrant, high density neighborhood with integrated on-site open space, recreational amenities, and neighborhood serving parks and recreational facilities, which includes:

- Provision of publicly accessible open space within the Tasman East Focus Area that is accessible to all residents, adequate to meet their activity needs, and consistent with the General Plan requirements and other City regulations, and
- New residential development that contains public open spaces, neighborhood parks and recreational amenities that are connected by trails and bikeways, and to other

open space facilities such as the Guadalupe River Trail, San Tomas Aquino Creek Trail, and Ulistac Natural Area.

Environmental

- Meet infrastructure needs and public service levels for the neighborhood in the context of the surrounding area, including allocating fair share cost burdens related to public facilities and benefits, and
- Require new development to comply with the local floodplain management ordinance to ensure the safety of residents.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The Final EIR, dated October 2018, includes the Draft EIR dated July 2018, written comments on the Draft EIR that were received during the public review period, written responses to these comments, clarifications/changes to the Draft EIR, and the MMRP. In conformance with CEQA, the City conducted an extensive environmental review of the Project, as described below:

- The City issued a Notice of Preparation of a Draft Environmental Impact Report (“NOP”) on December 9, 2016, to federal, state, regional, and local government agencies and interested parties to solicit comments and to inform agencies and the public of the Project during a 30-day public review period that extended from December 9, 2016 to January 8, 2017.
- The Project, as it was envisioned in 2016, was described in the NOP; potential environmental effects associated with Project approval and implementation were identified; and agencies and the public were invited to review and comment on the Initial Study, NOP, and NOP mailing list. A scoping meeting was conducted during this review period, on December 21, 2016, to solicit additional suggestions from the public on the content of the EIR. Attendees were provided an opportunity to identify verbally or in writing the issues they felt should be addressed.
- The City issued a Revised Notice of Preparation of a Draft Environmental Report (“Revised Notice”) on July 7, 2017, for an updated version of the Tasman East Specific Plan that also contemplated an urban school of up to two acres in size to accommodate up to 600 students, and on July 7, 2017, posted the Revised Notice at the Santa Clara County Clerk’s office, soliciting guidance on the scope and content of the environmental information to be included in the DEIR.
- Based on the Initial Study, Notice of Preparation, and Revised Notice, a determination was made that the EIR would contain a comprehensive analysis of the following environmental issues, identified in Appendix G of the CEQA Guidelines: aesthetics, air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and

water quality, land use and planning, noise and vibration, public services, recreation, transportation/traffic, and utilities and service systems.

- An Environmental Impact Report (EIR) was prepared for this project in accordance with the CEQA Guidelines. As required by CEQA, the EIR includes appropriate review, analysis, and mitigation measures for the environmental impacts of the proposed project. The Final EIR could be utilized by other permitting agencies in their capacity as Responsible and Trustee agencies under CEQA.
- A Draft EIR was prepared and circulated for a 45-day public review period, beginning on July 30, 2018, and ending on September 13, 2018. The Draft EIR was distributed to responsible and trustee agencies, other affected agencies, surrounding jurisdictions, interested parties, and other parties who requested a copy of the EIR in accordance with California Public Resources Code Section 20192.
- The Draft EIR was available for public review on the City's webpage and, during normal business hours, at City Hall located at 1500 Warburton Avenue, Santa Clara, CA, 95050. During this review period, the document was reviewed by various state, regional, and local agencies, as well as by interested organizations and individuals. Comment letters on the Draft EIR were received from 10 agencies, 3 organizations, and 1 individual. Comment letters and responses to comments are included in the FEIR, which was issued in October 2018.

IV. FINDINGS REGARDING PROJECT ENVIRONMENTAL EFFECTS

The following potentially significant impacts were analyzed in the EIR, and the effects of the Project were considered. For some impacts, the City has determined that the Project impacts have no impact on the environment or have a less than significant impact on the environment and thus no mitigation is required.

Other potentially significant impacts have been determined by the City to be reduced to a level of less than significant because of the environmental analysis of the Project and identification of project design features, compliance with existing laws, codes, and statutes, and the identification and incorporation of feasible mitigation measures. The City has thus found for these impacts – in accordance with CEQA section 21081(a)(1) and CEQA Guidelines section 15091(a)(1) – that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. Where the City has determined – pursuant to CEQA section 21081(a)(2) and CEQA Guidelines section 15091(a)(2) – that “Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency,” it has also designated the impact as less than significant with mitigation.

Where, as a result of the environmental analysis of the Project, the City has determined that either (1) even with the identification of project design features, compliance with existing laws, codes and statutes, and/or the identification of feasible mitigation measures,

potentially significant impacts cannot be reduced to a level of less than significant, or (2) no feasible mitigation measures or alternatives are available to mitigate the potentially significant impact, the City has found in accordance with CEQA section 21081(a)(3) and CEQA Guidelines section 15091(a)(3) that "Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report." These impacts have been designated significant and unavoidable.

There are also analyses in the Draft EIR that are referenced as being "planning considerations" as they are not required by CEQA. The information in the Draft EIR regarding these analyses has been taken into consideration by the City Council during its review of the Project.

A. Aesthetics

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not have a substantial adverse effect on a scenic vista or scenic resources as there are no designated scenic vistas or resources on the project site and no designated scenic vistas within the City. Buildout of the TES would not impact views of the hillsides from the Ulistac Natural Area or the residences to the south of the Plan Area nor would it substantially block views of the Guadalupe River. The Plan Area would be visible from the Ulistac Natural Area, but existing urban development and landscaping already partially blocks views of visual resources such as the Santa Cruz Mountains and the Diablo Range at these locations. There are no scenic highways in the vicinity of the Plan Area.

The Project would not substantially degrade the existing visual character or quality of the site and its surroundings. The Specific Plan provides guidelines and development standards for the massing, scale, and setbacks for future development in the Plan Area. The change in visual character resulting from higher-intensity development in the Plan Area was accounted for in the Santa Clara General Plan. The General Plan EIR found that this higher-intensity buildout would result in smaller building footprints and allow for more open space. Development projects under the Specific Plan would comply with design guidelines in the TESP and General Plan policies and would be subject to architectural review.

The Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. Though future development in the Plan Area could create additional light or glare in the City, proposed lighting would be reviewed by the Architectural Committee to ensure that new buildings would not introduce substantial light sources that would adversely affect nighttime views or spillover onto adjacent properties. The Specific Plan guidelines include the use of Dark Sky compliant lighting for exterior lights, which would ensure that artificial lighting is designed to protect nighttime views. Proposed windows in buildings would also be reviewed to confirm they would not be a substantial source of daytime glare.

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

Buildout of the Plan Area would not substantially block views of scenic vistas or resources beyond existing conditions. Due to the distance between cumulative projects, and the intervening development, vegetation, and flat topography of the area, there is not anticipated to be a cumulative impact to visual character. Projects in the City and adjoining jurisdictions are subject to architectural review, design guidelines and development standards, and municipal codes, including standards to prevent light and glare impacts. Thus, the Project would *not* cumulatively contribute to a significant visual impact.

B. Air Quality

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not conflict with or obstruct implementation of the applicable air quality plan. The Project would result in an estimated additional 12,285 residents at buildout (4,500 dwelling units). While the total increase in units under the Project was not all accounted for in the General Plan Land Use Component and Housing Element Updates EIR Addendum, the Project as a high-density development close to major transit infrastructure and proposing to incorporate green building measures would generally be consistent with Bay Area Air Quality Management District's (BAAQMD) 2017 Clean Air Plan and measures intended to reduce automobile and energy use. Thus, the Project would not disrupt or hinder the implementation of applicable control measures in the 2017 Clean Air Plan.

The Project would not conflict with or obstruct implementation of the Santa Clara General Plan as it is consistent with applicable General Plan policies regarding air quality by proposing high-density residential and mixed-use development near employment centers and existing alternative transportation (which reduces vehicles miles traveled or VMT), implementing Best Management Practices (BMPs) for construction dust abatement, evaluating and mitigating health risk impacts from the project to off-site sensitive receptors, identifying recommendations to reduce health risks to on-site receptors from existing sources, and implementing a Traffic Demand Management (TDM) program.

The Project will not violate an air quality standard or contribute substantially to an existing or projected air quality violation for carbon monoxide (CO) emissions. CO levels in the Bay Area are currently below state and federal standards and the area is in attainment for CO. The Project would add approximately 2,155 trips in the PM peak hour and would not affect

high-volume intersections that have the potential to result in exceedances of an ambient air quality standard for CO. Cumulative traffic volumes at all intersections affected by the Project would have less than the BAAQMD threshold of 44,000 vehicles per hour and thus the Project would have a less than significant effect with respect to CO.

The Project would not create objectionable odors affecting a substantial number of people. The Project would generate localized emissions of diesel exhaust during construction and from truck activity. While these emissions could be noticeable, they would be localized and not likely to adversely affect people off-site. In addition, the Project does not have any typical sources of odors that generate frequent odor complaints.

2. Project impacts determined to be less than significant with mitigation incorporated

- (a) Potential Impact:** Construction activities related to the Project could result in an exceedance of applicable thresholds for criteria pollutants for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors) due to dust generation and emissions of the criteria pollutants such as Reactive Organic Gases (ROG), nitrogen oxides (NO_x), and particulate matter (PM).

Finding: Mitigation measures would reduce impacts due to cumulatively considerable net increases of criteria pollutants for which the region is non-attainment to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Bay Area is non-attainment for ground level ozone and particulate matter of 2.5 microns or less (PM_{2.5}) under both the federal Clean Air Act and the California Clean Air Act. The area is also non-attainment for particulate matter of 10 microns or less (PM₁₀) under the California Clean Air Act. ROG and NO_x are precursor pollutants to ozone. Implementation of the Project would result in temporary emissions from construction activities associated with development, including demolition, site grading, asphalt paving, building construction, construction equipment, and architectural coating. These activities would create emissions of NO_x, ROG, and PM. Architectural coatings and application of asphalt pavement would release ROG. The combination of temporary dust from activities and diesel exhaust from construction equipment and related traffic may lead to an exceedance of BAAQMD's project-level thresholds for PM_{2.5} and/or PM₁₀. In addition, NO_x and ROG emissions may exceed the BAAQMD NO_x thresholds. Mitigation Measures AQ-1.1 and AQ-1.2 would reduce this impact to less than significant by requiring BMPs for during construction to reduce dust, emissions from idling, and construction emissions, and by requiring criteria pollutant quantification for individual development projects once details of those projects are available to ensure criteria pollutant emissions do not exceed

BAAQMD's thresholds. This impact would thus be less than significant with implementation of **MM AQ-1.1** and **MM AQ-1.2**.

Mitigation Measures

The following mitigation measures shall be implemented on a project-by-project basis to control dust and reduce construction TAC and criteria pollutant emissions during construction:

MM AQ-1.1: During any construction period ground disturbance, the applicant shall ensure that the project contractor implements the following BAAQMD Best Management Practices (BMPs):

- All exposed unpaved surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the construction firm regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g. generators).

MM AQ-1.2: Construction criteria pollutant and toxic air contaminant (TAC) quantification will be required on a project-level basis for individual development projects once those details are available through modeling to identify impacts and, if necessary, include measures to reduce emissions. The analysis must be submitted for City review and approval, once complete. Health risks from construction TACs shall be reduced below 10 in one million excess cancer cases, a hazard index of 1.0,

and PM_{2.5} emissions of 0.3 µg/m³. Criteria pollutant emissions shall not exceed BAAQMD construction criteria pollutant emission thresholds. Reduction in emissions can be accomplished through, though is not limited to, the following measures:

- Construction equipment selection for low emissions;
- Use of alternative fuels, engine retrofits, and added exhaust devices;
- Low-VOC paints;
- Modify construction schedule; and
- Implementation of BAAQMD Basic and/or Additional Construction Mitigation Measures for control of fugitive dust.

(b) Potential Impact: The Project could expose sensitive receptors to substantial pollutant concentrations due to emissions of TACs during construction.

Finding: Mitigation measures would reduce impacts to sensitive receptors from construction TAC emissions to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

Implementation of the Project would result in temporary emissions from construction activities associated with development, including demolition, site grading, asphalt paving, and building construction. These activities would generate PM. Construction equipment and associated heavy-duty truck traffic would generate diesel exhaust, which is a known TAC. Construction exhaust emissions may pose community risks for sensitive receptors such as nearby residents. The primary community risk is related to cancer risk and exposure to PM_{2.5}. Mitigation Measures AQ-1.1 and AQ-1.2 would reduce this impact to less than significant by requiring BMPs for construction period ground disturbance to reduce idling and construction emissions, and by requiring quantification of TACs on a project-level basis for individual development projects, once details of those projects are available, to ensure that health risk from construction is below 10 in one million excess cancer cases. This impact would thus be less than significant with implementation of **MM AQ-1.1** and **MM AQ-1.2**.

Mitigation Measures

Refer to **MM AQ-1.1** and **MM AQ-1.2** above.

3. Project impacts determined to be significant and unavoidable

(a) Potential Impact: The Project could result in a net increase of criteria pollutants for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors) due to operational emissions of ROG and NO_x.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Bay Area is non-attainment for ground level ozone and PM_{2.5} under both the federal Clean Air Act and the California Clean Air Act. The area is also non-attainment for PM₁₀ under the California Clean Air Act. ROG and NO_x are precursor pollutants to ozone. Implementation of the Project would result in emissions primarily from vehicles driven by future residents and employees. There would also be emissions from architectural coatings and maintenance products, and from energy use, solid waste generation, and water/wastewater use. Implementation of the TESP would contribute to a planned increase in regional growth and would require implementation of a TDM program consistent with the City's CAP, which would reduce vehicle trips. Operational emissions of PM₁₀ and PM_{2.5} would be below BAAQMD significance thresholds, but operational emissions of ROG and NO_x would exceed BAAQMD thresholds and thus the Project would contribute to regional ozone impacts. Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.3 would reduce this impact by requiring proposed residential development to implement TDM programs to reduce vehicles miles traveled; incorporate green building measures such as rooftop solar photovoltaic systems, rough-ins for electrical vehicle chargings, use of efficient lighting and irrigation, and recycled water, and requiring that all future interior spaces be repainted only with architectural coatings that meet "Low-VOC" or "Super-Compliant" requirements. Though these mitigation measures would be implemented to reduce emissions, even with all feasible and reasonable mitigation, the impacts would remain significant and unavoidable.

Mitigation Measures

MM AQ-2.1: Proposed residential development within the TESP shall implement TDM programs to reduce residential vehicle miles traveled as required by the City's Climate Action Plan. The TDM programs would be reviewed and approved by the Community Development Director prior to issuance of building permits. An annual TDM monitoring report shall be submitted to the Community Development Director to document each development is meeting the required TDM program reductions.

MM AQ-2.2: Proposed development within the TESP shall incorporate additional green building measures such as rooftop solar photovoltaic (PV) systems, rough-ins for electric vehicle charging, use of efficient lighting and irrigation, and recycled water, as feasible, to the satisfaction of the Community Development Director.

MM AQ-2.3: Developed parcels shall require within their CC&Rs and/or ground leases requirements for all future interior spaces to be repainted only with architectural coatings that meet the "Low-VOC" or "Super-Compliant" requirements. "Low-VOC" refers to paints that meet the more stringent regulatory limits in South

Coast AQMD Rule 1113; however, many manufacturers have reformulated to levels well below these limits. These are referred to as “Super-Compliant” Architectural Coatings.

4. Cumulative impacts

- (a) **No Impact or Less than Significant Impact:** The Project does not have any typical sources of odors that generate frequent odor complaints and thus the Project would not have a considerable contribution to a significant cumulative odor impact.
- (b) **Potential Impact:** The Project could contribute emissions from construction activities which would be cumulatively considerable, resulting in significant adverse air quality impacts to the region’s existing air quality conditions.

Finding: Mitigation measures would reduce cumulative impacts from construction emissions to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

As described above, Project implementation would create emissions of criteria pollutants and TACs during construction. However, this impact would be mitigated to a level of less than significant at the project level by implementation of **MM AQ-1.1** and **MM AQ-1.2**. The Project would therefore have a less than significant cumulative impact with implementation of **MM AQ-1.1** and **MM AQ-1.2** as its contribution to any impact would not be cumulatively considerable.

- (c) **Potential Impact:** The Project could contribute emissions from operational activities which would be cumulatively considerable, resulting in significant adverse air quality impacts to the region’s existing air quality conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

Project implementation would create emissions of criteria pollutants and TACs during operations and would exceed BAAQMD thresholds for ROG and NOx. **MM AQ-2.1** through **MM AQ-2.3** would be implemented to reduce emissions; however, the mitigation measures would not guarantee a reduction in emissions below the thresholds. Thus, the Project’s contribution to a cumulative criteria pollutant emissions impact would remain significant and unavoidable.

Mitigation Measures

Refer to **MM AQ-2.1** to **MM AQ-2.3** above.

C. Biological Resources

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS), namely San Francisco Common Yellowthroat. Construction activities within or near the freshwater wetland habitat within the Eastside Drainage Swale could impact eggs or young in nests, but the potential disturbance of nesting and loss of eggs or young is not expected to result in a substantial impact on regional population. These birds are not particularly rare in the region and suitable habitat for this species within the region is abundant. Additionally, the swale is currently subject to periodic maintenance by the City to maintain its drainage capacity, including removal of vegetation and thus the habitat value is minimal.

The Project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan (HCP/NCCP), or other approved local, regional, or state habitat conservation plan as the Plan Area is not located within the boundaries of a HCP or NCCP.

The Project would not have a substantial adverse effect on protected plant species. Plants observed in the Plan Area during the reconnaissance-level survey are not regulated under state or federal laws or considered rare in California. Construction activities may permanently impact up to 43.02 acres of developed/landscaped habitat and 2.70 acres of ruderal grasslands by altering or removing existing vegetation. However, the existing vegetation is abundant and widespread regionally and therefore not sensitive or valuable. Redevelopment of the upland habitat would also result in effects to common animal species such as direct loss of habitat and potentially death or injury, but this is not a significant impact under CEQA.

The Project would not significantly impact nonbreeding special-status birds and mammals. Several special-status bird and mammal species occur in the Plan Area as non-breeding migrants, transients, or foragers, but they are not known or expected to breed or occur in large numbers in the Plan Area. These species are the yellow warbler, Alameda song sparrow, tricolored blackbird, American peregrine falcon, white-tailed kite, and pallid bat. Redevelopment would potentially impact foraging habitats and/or individuals of these species. Construction activities may result in a temporary direct impact through the alteration of foraging patterns (e.g., avoidance of work sites because of increased noise and activity levels) but would not result in the loss of individuals. Further, the Plan Area does not provide important foraging habitat used regularly or by large numbers of individuals of any of these species. Impacts under the TESP, therefore, will have little impact on these species' foraging habitat and no substantive impact on regional populations.

The Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. The wetland and upland habitats along the Eastside Drainage Swale serve as a movement pathway for terrestrial wildlife species, providing vegetative cover and foraging opportunities. The potential culverting of the swale would create a gap of open, developed habitat along this corridor, which wildlife species would be required to cross to traverse the Plan Area. However, the terrestrial wildlife species that use this habitat are acclimated to high levels of disturbance and existing fragmented habitats. The Guadalupe River to the east of the Plan Area and the associated wetland/riparian corridor would not be impacted by the Project.

2. Project impacts determined to be less than significant with mitigation incorporated

- (a) Potential Impact:** The Project could have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS), namely the western pond turtle.

Finding: Mitigation measures would reduce impacts to western pond turtles to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The western pond turtle is a species-status species which may occur in aquatic habitat along the Guadalupe River and individual turtles may occasionally disperse across upland and wetland portions of the Plan Area. These turtles are unlikely to excavate nests in the Plan Area due to the dense, compacted nature of the soils on the Guadalupe River levee and the gravel present within much of the ruderal grassland habitat. The upland habitat that may exist in the Plan Area is of limited value. However, TESP development could potentially result in the injury or mortality of individual turtles due to worker foot traffic, equipment use, or vehicle traffic. Movement of pond turtles may be temporarily affected during construction activities because of disturbance, and dewatering activities (e.g., in the Eastside Drainage Swale) may expose individual turtles to a greater risk of predation and interfere with predator detection, causing a decrease in time spent foraging. Petrochemicals, hydraulic fluids, and solvents that are spilled or leaked from construction vehicles or equipment may also kill individuals. No local population of pond turtles is expected to regularly use the habitat in the Eastside Drainage Swale or within the larger Plan Area, thus any impacts, would be very limited. However, due to the rarity of this species, any impacts on individual turtles would be considered significant under CEQA. The mitigation measure would require a pre-construction survey by a qualified biologist to observe the Plan Area for pond turtles and their nests 48 hours before proposed construction activities begin and would

thus avoid impacts to turtles. This impact would thus be less than significant with implementation of **MM BIO-1.1**.

Mitigation Measures

MM BIO-1.1: Prior to any construction activity in natural habitat/substrate on the extreme eastern portion of the site (i.e., ruderal grassland, perennial freshwater wetland, or riparian habitat), a qualified biologist will examine the impact area for pond turtles and their nests 48 hours before proposed construction activities begin. If a western pond turtle is observed within the work area at any time before or during proposed construction activities, all activities will cease until such time that either (1) the pond turtle leaves the area or (2) the qualified biologist can capture and relocate the animal to suitable habitat away from construction activity.

- (b) **Potential Impact:** The Project could have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS), namely burrowing owls.

Finding: Mitigation measures would reduce impacts to burrowing owls to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

Suitable habitat for burrowing owls is present in the ruderal grassland habitat in the Plan Area. However, burrowing owls are not expected to nest in the Plan Area and are unlikely to roost or forage there due to high levels of disturbance and because this habitat has never been known to be occupied, despite a number of surveys in the region between 2006 and 2016. There is a small possibility that an owl from a nearby location where owls are known to occur may occasionally forage and roost in the Plan Area. The Project may affect burrowing owl habitat (foraging and roosting) and/or individuals. Because owls roost underground they may be killed or injured during development activities and construction activities in close proximity to active burrows may also disturb owls to the point of abandoning their burrows. Clearing and grading could also result in the direct loss of habitat or individuals through the disturbance of grassland areas that support ground squirrel burrows. Thus, development under the TESP may harm individual burrowing owls or result in the permanent loss of active burrows. Mitigation measures would require pre-construction surveys by a qualified biologist to observe the Plan Area for burrowing owls and habitat in accordance with CDFW's 2012 guidelines, a buffer maintained if owls are present, a qualified biologist on-site monitoring activities if construction occurs close to occupied burrows, and passive eviction during nonbreeding seasons if construction will directly impact occupied burrows. This impact would thus be less than significant with implementation of **MM BIO-2.1** through **MM BIO-2.4**.

Mitigation Measures

MM BIO-2.1: Preconstruction surveys for burrowing owls will be conducted prior to the initiation of all construction activities within suitable burrowing owl roosting habitat (i.e., ruderal grassland habitat with burrows of California ground squirrels) in the Specific Plan area, or within 250 feet of this habitat. Preconstruction surveys will be completed in conformance with the CDFW's 2012 guidelines. An initial habitat assessment will be conducted by a qualified biologist to determine if suitable burrowing owl habitat is present. During the initial site visit, which will be conducted no less than 14 days prior to the onset of ground disturbing activities, a qualified biologist will survey the entire activity area and (to the extent that access allows) the areas within 250 feet of the site for suitable burrows that could be used by burrowing owls for nesting or roosting. If no suitable burrowing owl habitat (i.e., ruderal grasslands with burrows of California ground squirrels) is present, no additional surveys will be required. If suitable burrows are determined to be present within 250 feet of work areas, a qualified biologist will conduct at least one additional survey to investigate each burrow within the survey area for signs of owl use and to determine whether owls are present in areas where they could be affected by proposed activities. The final survey will be conducted within the 24-hour period prior to the initiation of construction activities in any given area.

MM BIO-2.2: If burrowing owls are present during the nonbreeding season (generally September 1 to January 31), a 160-foot buffer zone will be maintained around the occupied burrow(s), if feasible. If maintaining such a buffer is not feasible, then the buffer must be great enough to avoid injury or mortality of individual owls. During the breeding season (generally February 1 to August 31), a 250-foot buffer, within which no newly initiated construction-related activities will be permissible, will be maintained between construction activities and occupied burrows. Owls present between February 1 and August 31 will be assumed to be nesting, and the 250-foot protected area will remain in effect until August 31. If monitoring evidence indicates that the owls are no longer nesting or the young owls are foraging independently, the buffer may be reduced or the owls may be relocated prior to August 31, in consultation with the CDFW.

MM BIO-2.3: Any owls occupying the Specific Plan area or immediately adjacent areas are likely habituated to frequent human disturbances. As a result, they may exhibit a tolerance of greater levels of human disturbance than owls in more natural settings, and work within the standard 250-foot buffer during the nesting season may be able to proceed without disturbing the owls. Therefore, if nesting owls are determined to be present within the Specific Plan area or within 250 feet of this area, and construction activities cannot feasibly avoid disturbance of the area within 250 feet of the occupied burrow during the nesting season (i.e., February 1 through August 31) due to other seasonal constraints, a qualified biologist will be present during all activities within 250 feet of the nest to monitor the owls' behavior. If, in the opinion of the qualified biologist, the owls are unduly disturbed (i.e., disturbed to the point of harm or reduced reproductive success), all work within 250 feet of

the occupied burrow will cease until the nest is determined to no longer be active by a qualified biologist.

MM BIO-2.4: In the unlikely event that construction will directly impact occupied burrows, a qualified biologist will passively evict owls from burrows during the nonbreeding season (September 1 to January 31). No burrowing owls will be evicted during the nesting season (February 1 through August 31) except with the CDFW's concurrence that evidence demonstrates that nesting is not actively occurring (e.g., because the owls have not yet begun nesting early in the season, or because young have already fledged late in the season). Eviction will occur through the use of one-way doors inserted into the occupied burrow and all burrows within impact areas that are within 250 feet of the occupied burrow (to prevent occupation of other burrows that will be impacted). One-way doors will be installed by a qualified biologist and left in place for at least 48 hours before they are removed. The burrows will then be back-filled to prevent re-occupation. Although relocation of owls may be necessary to avoid the direct injury or mortality of owls during construction, relocated owls may suffer predation, competition with other owls, or reduced health or reproductive success as a result of being relegated to more marginal habitat. However, the benefits of such relocation, in terms of avoiding direct injury or mortality, would outweigh any adverse effects.

- (c) **Potential Impact:** The Project could cause significant impacts to migratory birds due to increased lighting from development in the Plan Area.

Finding: Mitigation measures would reduce impacts to migratory birds to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project will result in construction of buildings and features that may increase the amount of lighting within and around the Plan Area. Depending on location, direction, and intensity of exterior lighting, it could potentially spill into adjacent natural areas, resulting in an increase in lighting compared to existing conditions. Many animals are sensitive to light cues, which influence their physiology and shape their behavior, particularly during the breeding season. The wetland habitat in the Eastside Drainage Swale, wetland habitat in the Guadalupe River, and native habitats at Ulistac Natural Area all provide suitable habitat for a variety of wildlife species and are close enough to the Plan Area to be affected by an increase in lighting. Mitigation would require the Project to take appropriate measures to reduce unnecessary lighting at night, particularly during bird migration season and to shield light from shining upward or into habitat via lighting plans to be reviewed and approved by the City. This impact would thus be less than significant with implementation of **MM BIO-4.1**.

Mitigation Measures

MM BIO-4.1: To the extent consistent with the normal and expected operations of commercial and/or residential uses under the Specific Plan, take appropriate measures to avoid use of unnecessary lighting at night, especially during the bird migration season (February through May and August through November). Such measures may include the installation of motion-sensor lighting, automatic light shut-off mechanisms, downward-facing exterior light fixtures, and others. Exterior lighting within the Specific Plan area will be shielded as needed to block illumination from shining upward, or outward into the Guadalupe River to the east or Ulistac Natural Area to the south. Lighting plans for each development site shall be reviewed and approved by the Community Development Director prior to the issuance of building permits.

- (d) **Potential Impact:** The Project could have a substantial adverse effect on nesting birds (including migratory birds and raptors).

Finding: Mitigation measures would reduce impacts to nesting birds to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Plan Area includes mature trees that could be used by nesting birds (including migratory birds and raptors). Nesting birds are protected under the MBTA, and are protected by the California Fish and Game Code 3503, 3503.5, and 2800. Construction disturbance during the breeding season (February 1 through August 31, for most species) could result in the incidental loss of eggs or nestlings, either directly through the destruction or disturbance of active nests or indirectly by causing the abandonment of nests. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. Construction activities such as tree removal and site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the construction zone would constitute a significant impact. Mitigation would require construction scheduled to avoid the nesting season to the extent possible, pre-construction surveys for nesting birds, a construction-free buffer zone around active nests, and nesting substrates removed prior to the nesting season for projects starting after the nesting season. This impact would thus be less than significant with implementation of **MM BIO-5.1** through **MM BIO-5.4**.

Mitigation Measures

MM BIO-5.1: To the extent feasible, construction activities should be scheduled to avoid the nesting season. If construction activities are scheduled to take place outside the nesting season, all impacts on nesting birds protected under the MBTA and California Fish and Game Code would be avoided. The nesting season for most birds in Santa Clara County extends from February 1 through August 31.

MM BIO-5.2: If it is not possible to schedule construction activities between September 1 and January 31 then pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests would be disturbed during Plan implementation. These surveys shall be conducted no more than seven days prior to the initiation of construction activities. During this survey, the ornithologist would inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests.

MM BIO-5.3: If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist would determine the extent of a construction-free buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species), to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation under the Specific Plan. A final report of nesting birds, including any protection measures, shall be submitted to the Director of Community Development prior to the start of grading or tree removal.

MM BIO-5.4: If construction activities will not be initiated until after the start of the nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by projects covered under the Specific Plan may be removed prior to the start of the nesting season (e.g., prior to February 1). This would preclude the initiation of nests in this vegetation and prevent the potential delay of a project due to the presence of active nests in these substrates. Any vegetation removal shall occur consistent with required tree removal and grading permits, as applicable.

- (e) **Potential Impact:** The Project could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal filling, hydrological interruption, or other means.

Finding: Mitigation measures would reduce impacts to wetlands to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project could result in the permanent loss of up to 0.39 acres and 810 linear feet of perennial freshwater wetlands within the Eastside Drainage Swale if the wetlands are filled or culverted. The swale is a man-made feature that has no hydrologic connection to the Guadalupe River or tidal water of the San Francisco Bay. However, the wetlands may serve to stabilize sediment, retain sediment/toxicants, remove or transform nutrients, and as habitat for terrestrial and aquatic wildlife species. This wetland habitat has some ecological value within the urban matrix of the Project area. Even though the acreage is small, wetlands are relatively scarce regionally and the habitat may provide refuge and foraging resources for wildlife

species that typically occur in the more extensive wetland habitat in the Guadalupe River during winter flooding events when wetland habitat in the river is inundated. Thus permanent impacts on these wetlands would be significant. Water quality in the swale could also be affected by construction activities within the Plan Area, such as by bank erosion and sedimentation. Construction activities outside of the swale may also result in indirect impacts on the plant and animal species that occur in aquatic habitats in the swale through erosion and sedimentation. With the mitigation measures, the wetland would be replaced at a 2:1 ratio by restoration, creation, or payment to a mitigation bank and the Project will comply with the SWRCB General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities. This impact would thus be less than significant with implementation of **MM BIO-6.1** through **MM BIO-6.2**.

Mitigation Measures

MM BIO-6.1: If avoidance of the wetlands is not proposed, to compensate for the permanent loss of wetlands, perennial marsh habitat shall be restored or created at a minimum ratio of 2:1 (compensation:impact) on an acreage basis, unless a higher ratio is required by a regulatory agency, in which case that higher ratio shall apply. This ratio is not higher due to the relatively low quality of the wetlands in the project area relative to more extensive, less fragmented wetlands elsewhere along the Guadalupe River, but is not lower due to the temporal loss of wetland functions and values that will result from the lag between impacts to the wetlands in the Plan area and maturation of the mitigation habitat.

Compensation will be provided by creating or restoring wetland habitat so as to achieve the 2:1 ratio (or higher ratio, if required by a regulatory agency) somewhere in the Santa Clara Valley. Among other criteria, the mitigation site(s) must not currently be wetlands. A qualified biologist shall develop a "Wetland Mitigation and Monitoring Plan" describing the mitigation, which will contain the following components (or as otherwise modified by regulatory agency permitting conditions):

- Summary of habitat impacts and proposed mitigation ratios
- Goal of the restoration to achieve no net loss of habitat functions and values
- Location of mitigation site(s) and description of existing site conditions (among other criteria, the site(s) must not currently be wetlands)
- Mitigation design:
 - Existing and proposed site hydrology
 - Grading plan if appropriate, including bank stabilization or other site stabilization features
 - Soil amendments and other site preparation elements as appropriate
 - Planting plan
 - Irrigation and maintenance plan
 - Remedial measures and adaptive management

- Monitoring plan (including final and performance criteria, monitoring methods, data analysis, reporting requirements, and monitoring schedule). Success criteria will include quantifiable measurements of wetland vegetation type (e.g., dominance by natives) and extent appropriate for the restoration location, and provision of ecological functions and values equal to or exceeding those in the wetland habitat affected. At a minimum, success criteria will include following:
 - At Year 5 post-mitigation, at least 75 percent of the mitigation site will be dominated by native hydrophytic vegetation.

The Wetland Mitigation and Monitoring Plan must be approved by the City of Santa Clara prior to the wetland impacts, and it must be implemented within one year following impacts.

Alternatively, mitigation may be provided by restoring or creating at a minimum ratio of 2:1 (compensation:impact) on an acreage basis by either: (a) purchasing credits at a suitably located mitigation bank in the Santa Clara Valley approved by the City of Santa Clara; or (b) donating funds to a project undertaking enhancement or restoration of wetland or riparian habitats in the Santa Clara Valley, approved by the City of Santa Clara.

MM BIO-6.2: In compliance with the NPDES, the Specific Plan will comply with the SWRCB General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, which requires preparation of a site-specific Stormwater Pollution Prevention Plan (SWPPP) that will include specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants. These controls will include methods to minimize indirect impacts as a result of construction activities that may compromise water quality in the Eastside Drainage Swale. Additional control measures identified in this SWPPP will mitigate the release of construction-related pollutants from the main site during the various construction phases. Unless otherwise authorized by the RWQCB and in compliance with the NPDES permit issued for the proposed activities, the following measures will be implemented during project implementation to avoid or minimize impacts on water quality:

- All permit conditions, legal requirements, and appropriate dredging and engineering practices shall be followed to avoid and minimize water quality impacts associated with project activities. Suitable erosion control, sediment control, source control, treatment control, material management, and stormwater management BMPs will be implemented consistent with the latest edition of the California Stormwater Quality Association "Stormwater Best Management Practices Handbook," available at www.capmphandbooks.com.
- Spill prevention kits shall always be in close proximity when using hazardous materials (e.g., crew trucks and other logical locations). Feasible measures shall be implemented to ensure that hazardous materials are properly handled and the quality of wetland and aquatic

resources is protected by all reasonable means when removing vegetation and sediments from the channels.

- No fueling shall be done in areas along the Eastside Drainage Swale. For stationary equipment that must be fueled within 50 feet of the swale, containment shall be provided in such a manner that any accidental spill of fuel shall not be able to enter the water or contaminate sediments that may come in contact with water.
- A hazardous materials management/fuel spill containment plan will be developed and implemented by the construction contractor and given to all contractors and biological monitors. One copy of the hazardous materials management/fuel spill containment plan located will be on the work site at all times, and will provide construction managers, environmental compliance monitors, and regulatory agencies with a detailed description of hazardous materials management, spill prevention, and spill response/cleanup measures associated with the construction of the Plan elements. Elements of the materials management/fuel spill containment plan will include, but are not limited to the following:
 - A discussion of hazardous materials management, including delineation of hazardous material and hazardous waste storage area, access and egress routes, waterways, emergency assembly areas, and temporary hazardous waste storage areas;
 - Materials Safety Data Sheets for all chemicals used and stored on site;
 - An inventory list of emergency equipment;
 - Spill control and countermeasures including employee spill prevention/response training;
 - Notification and documentation procedures; and
 - A monthly reporting plan.
- Vehicles will be checked daily for oil or fuel leaks and will be washed only at an approved area. No washing of vehicles will occur outside of designated staging areas in uplands.
- The work site, areas adjacent to the site, and access areas will be maintained in an orderly condition, free and clear from debris and discarded materials. Personnel will not sweep, grade, or flush surplus materials, rubbish, debris, or dust onto adjacent areas or wetlands or waterways. Upon completion of work, all building materials, debris, unused materials, concrete forms, and other construction-related materials will be removed from the Plan Area.
- Stockpiled materials will be covered by plastic sheeting, tarps, or similar material that can be secured during wind and rain. A sediment fence or berm will be installed around stockpiled material to prevent runoff from transporting sediment into the Eastside Drainage Swale.
- Silt fencing will be erected along the limits of disturbance between the Plan Area and the Eastside Drainage Swale.

- As to any portion of the drainage swale that is not culverted, for construction activities occurring within 50 feet of aquatic habitat in the drainage swale, protective measures shall be put in place to ensure that impacts on the swale are avoided and minimized. The following measures shall be implemented during construction:
 - Orange construction barrier fencing shall be installed around the boundaries of portions of the drainage swale that are to be avoided prior to the initiation of construction activities.
 - The fenced area will be designated as an Environmentally Sensitive Area and will be clearly identified in the construction specifications.
 - The fencing shall be maintained throughout the grading and construction period.
 - Grading, construction activities, traffic, equipment, or materials shall be prohibited in fenced wetland areas.

(f) Potential Impact: The Project could have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS.

Finding: Mitigation measures would reduce impacts to mixed riparian woodland to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project has the potential to impact 0.05 acres of mixed riparian woodland associated with the Eastside Drainage Swale. This woodland may be destroyed due to tree removal and replaced with structures such as the placement of the swale within a culvert. Grading or paving over the root zone of riparian trees will impair the health of riparian trees, possibly causing tree death. Although this vegetation is not high-quality habitat due to its narrow, sparse nature, it is dominated by native riparian species such as blue elderberry and Fremont cottonwood, and due to its proximity to the swale, the Guadalupe River, and the Ulistac Natural Area, it provides important resources that are used by migratory birds and other wildlife. Due to the importance of woody riparian habitat to birds in the South Bay, and the regional scarcity of riparian habitat due to historical losses of these woodlands, this impact would be considered significant. Mitigation would replace this riparian habitat at a 2:1 level. This impact would thus be less than significant with implementation of **MM BIO-7.1**.

Mitigation Measures

MM BIO-7.1: If avoidance is not proposed, to compensate for the permanent loss of mixed riparian woodland, riparian woodland habitat will be restored or created at a minimum ratio of 2:1 (compensation:impact) on an acreage basis, based on canopy

area. This ratio is not higher due to the relatively low quality of the riparian woodland in the Plan Area relative to more extensive, less fragmented riparian woodland elsewhere along the Guadalupe River, but is not lower due to the temporal loss of riparian functions and values that will result from the lag between impacts to the woodland in the Plan Area and maturation of the mitigation habitat.

Compensation will be provided by planting riparian habitat so as to achieve the 2:1 ratio somewhere in the Santa Clara Valley, preferably along the Guadalupe River but along another stream if appropriate. Among other criteria, the mitigation site(s) must not currently be riparian. Mitigation habitat may be hydrologically isolated from the stream in question as long as it is located within 300 feet of the stream, is not separated from the stream by development other than a trail or levee, and is dominated by native riparian trees. Although some portions of the Ulistac Natural Area are more than 300 feet from the Guadalupe River, mitigation anywhere within the Natural Area would satisfy this measure. A qualified biologist shall develop a "Riparian Habitat Mitigation and Monitoring Plan" describing the mitigation, which will contain the following components (or as otherwise modified by regulatory agency permitting conditions):

- Summary of habitat impacts and proposed mitigation ratios
- Goal of the restoration to achieve no net loss of habitat functions and values
- Location of mitigation site(s) and description of existing site conditions (among other criteria, the site(s) must not currently be riparian)
- Mitigation design:
 - Existing and proposed site hydrology
 - Grading plan if appropriate, including bank stabilization or other site stabilization features
 - Soil amendments and other site preparation elements as appropriate
 - Planting plan
 - Irrigation and maintenance plan
 - Remedial measures and adaptive management
- Monitoring plan (including final and performance criteria, monitoring methods, data analysis, reporting requirements, and monitoring schedule). Success criteria will include quantifiable measurements of riparian vegetation type (e.g., dominance by natives) and extent appropriate for the riparian restoration location, and provision of ecological functions and values equal to or exceeding those in the riparian habitat affected. At a minimum, success criteria will include following:
 - At Year 10 post-planting, canopy closure at the mitigation site will be at least 60 percent of the canopy closure at a nearby reference site (i.e., a site supporting the same habitat type as that being established at the mitigation site).
- The Riparian Habitat Mitigation and Monitoring Plan must be approved by the City of Santa Clara prior to the impact on mixed riparian woodland, and it must be implemented within one year following impacts.

Alternatively, mitigation may be provided by restoring or creating at a minimum ratio of 2:1 (compensation:impact) on an acreage basis by either: (a) purchasing credits at a suitably located mitigation bank in the Santa Clara Valley approved by the City of Santa Clara; or (b) donating funds to a project undertaking enhancement or restoration of wetland or riparian habitats in the Santa Clara Valley, approved by the City of Santa Clara.

- (g) Potential Impact:** The Project could have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS.

Finding: Mitigation measures would reduce impacts to the riparian buffer to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project and development under the TESP could encroach into the recommended 100-foot riparian buffer. Buffers between new development and a stream or its banks provide habitat for plants and animals associated with the stream, habitat connectivity, reduce indirect effects of adjacent development, allow for the possible future expansion of natural habitat, help maintain site hydrology, and allow runoff to be treated before it enters the stream. Impacts of encroachment into the 100-foot riparian buffer would be significant only if development (e.g., new buildings, parking areas, or other hardscape) or non-native landscaping were to be located within 100 feet of the baseline, or in areas where such development is already present, any closer to the baseline than existing conditions. Development features compatible with open space and/or maintenance of water quality functions within the Guadalupe River and nearby sensitive habitats such as vegetated retention basins and biotreatment swales that occur within the 100-foot setback are considered a beneficial use and would not be considered a significant impact. Mitigation would require encroachment to be no closer than current conditions unless compensatory mitigation is provided to offset impacts at a ratio of 1:1 along the Guadalupe River or 2:1 otherwise. This impact would thus be less than significant with implementation of **MM BIO-8.1** and **MM BIO-8.2**.

Mitigation Measures

MM BIO-8.1: If encroachment into the riparian buffer with incompatible uses (defined as hardscape or other impermeable surfaces, non-native landscape plantings, and paved permeable surfaces such as permeable pavers) is proposed, no buildings shall be constructed closer to the buffer baseline than are currently present (i.e., in one location, a corner of a building is within approximately 95 feet of the buffer baseline, and that limited area can include a building), unless mitigation is provided in accordance with MM BIO-8.2. In addition, no new buildings or

structures, impervious surface, or non-native landscaping shall occur closer to the buffer baseline than is currently present (i.e. 75 feet). Compatible uses within these areas are public trails, native landscaping, and unpaved permeable surfaces (e.g. open ground). Development and landscaping of the area along the levee should also consider opportunities such as site layout, fencing, landscaping, and education to discourage the public from creating pioneer trails up the levee slope to access the existing trail. A 15-foot zone free of tree plantings shall be provided from the levee toe to allow for emergency access.

MM BIO-8.2: If any encroachment into the riparian buffer is proposed, compensatory mitigation shall be provided to offset the impacts on the ecological functions and values of the riparian corridor. Such compensatory mitigation will be provided in one of two ways:

- At a minimum ratio of 1:1 (compensation:impact), on an acreage basis excluding wetlands and mixed riparian woodland, existing development (e.g., buildings or hardscape) along the Guadalupe River, either on-site or off-site (e.g., at Ulistac Natural Area), will be removed, and the developed area restored to native habitats and dedicated to natural habitat (rather than active human uses such as urban park). For example, if a portion of the Plan Area were subject to riparian buffer encroachment, but a commensurate acreage of existing developed areas adjoining the Guadalupe River levee in other parts of the Plan Area were restored to native habitat, that would compensate for the riparian buffer encroachment impact.
- At a minimum ratio of 2:1 (compensation:impact) on an acreage basis, riparian woodland habitat will be restored or created as described in Mitigation Measure BIO-6.1 above to provide ecological functions and values that offset those lost due to riparian buffer encroachment.

(h) Potential Impact: The Project could have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS or have an adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal filling, hydrological interruption, or other means by the spread of invasive weeds in sensitive habitats including the Eastside Drainage Swale and Guadalupe River.

Finding: Mitigation measures would reduce impacts to mixed riparian woodland to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

Several non-native invasive plant species, such as wild oats and black mustard, occur in the Plan Area. These moderately invasive plants can cause substantial

ecological impacts on physical processes, plant and animal communities, and vegetation structure. English ivy and fennel occur sparsely in the Plan Area, but are considered to be highly invasive and thus may also potentially cause significant ecological impacts. Newly disturbed areas are highly susceptible to colonization by non-native, invasive species that occur locally, or whose propagules are brought in by personnel, vehicles, and other equipment. While the Specific Plan is unlikely to introduce new weeds to the Plan Area, ground-disturbing activities within existing weed stands can result in the unintentional introduction of these species into adjacent sensitive habitats such as the wetlands within the Eastside Drainage Swale or Guadalupe River. The further expansion of weeds into sensitive habitats downstream can have detrimental effects on their vegetative composition and wildlife habitat value. Introduction or spread of invasive weeds into sensitive wetland or riparian habitats would be a significant impact. Mitigation to require weed free seeds and straw materials and gravel and fill materials, equipment washing, and using a standard erosion control seed mix would reduce this impact to less than significant. This impact would thus be less than significant with implementation of **MM BIO-9.1** through **MM BIO-9.3**.

Mitigation Measures

MM BIO-9.1: During construction under the proposed Specific Plan, all seeds and straw materials used on-site shall be weed-free rice straw (or similar material acceptable to the City), and all gravel and fill material will be certified weed free to the satisfaction of the City and any deviation from this shall be approved by the Public Works Director.

MM BIO-9.2: During construction of projects under the proposed Specific Plan, vehicles and all equipment shall be washed (including wheels, undercarriages, and bumpers) before and after entering the proposed project footprint. Vehicles will be cleaned at existing construction yards or legally operating car washes.

MM BIO-9.3: Following construction of projects under the proposed Specific Plan, a standard erosion control seed mix (acceptable to the Public Works Director) from a local source would be planted within the temporary impact zones on any disturbed ground that would not be under hardscape, landscaped, or maintained in order to minimize the potential for the germination of the majority of seeds from non-native, invasive plant species. The erosion control seed mix shall adhere to the guidance for temporary erosion control in SCVWD's Guidelines and Standards for Land Use Near Streams, Design Guide 5.

- (i) **Potential Impact:** The Project could conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Finding: Mitigation measures would reduce impacts to mature trees to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

Development under the Specific Plan would potentially remove numerous trees that occur throughout the Plan Area. Existing trees throughout the developed portions of the Plan Area are a mixture of mainly non-native or not naturally-occurring, planted, ornamental species and include eucalyptus, acacias, and London planes. Some of these trees are adjacent to City streets and thus may be considered street trees. A permit is required for any street tree removal, regardless of size or species. The City of Santa Clara General Plan also requires replacement of trees removed as part of a proposed development project. The removal of trees would not have a significant impact on wildlife because the trees are mostly landscaped and non-native species that are not regionally limited. Given the substantial number of trees that would be removed by development proposed under the Specific Plan, impacts to mature trees would be significant. Mitigation requiring projects to limit adverse effects on ordinance-protected trees that are to be retained and to comply with the City Code regarding tree removal, including replacement of street or heritage trees at a 2:1 ratio, would reduce this impact. This impact would thus be less than significant with implementation of **MM BIO-10.1** and **MM BIO-10.2**.

Mitigation Measures

MM BIO-10.1: Projects proposing or required to retain trees on-site shall implement precautionary measures during site construction to limit adverse environmental effects on ordinance-protected trees that are to be retained. A tree protection plan shall be prepared by a qualified arborist that, at a minimum, requires installation of an open material (e.g., chain link) fence six feet in height around the drip line and maintenance of the existing grade level around a tree and out to its drip line.

MM BIO-10.2: Project proponents under the Specific Plan will comply with the City Code and submit permit applications for removal of all trees covered by the City's tree ordinance. Any street trees or heritage trees to be removed would require replacement on-site or off-site at a minimum 2:1 ratio per General Plan Policy 5.3.1-P10. To the extent feasible, the replacement trees will be planted onsite and the project proponent will comply with all other tree removal requirements imposed by the City.

3. Project impacts determined to be significant and unavoidable

- (a) Potential Impact:** The Project could impact migratory birds by causing collisions with new buildings in the Plan Area.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The development of new buildings in the Plan Area could cause significant impacts to migratory birds due to avian collisions with new buildings. Numerous resident and migratory songbirds are known to occur at the adjacent Ulistac Natural Area south of Tasman Drive and a number of songbirds, waterbirds, and wetland-associated birds occur along the Guadalupe River. Many of these birds are expected to fly through the Plan Area. Depending on the design and location of the buildings in the Plan Area, some of the birds using habitats on the site or flying through the site along the Guadalupe River and to native habitats at Ulistac Natural Area are expected to strike the buildings, resulting in injury or death. Since relatively large numbers of birds, compared to the rest of the City, are expected to fly past the site over the long term, enough individuals of these common species could potentially strike the buildings to result in a significant impact. Glass windows and building facades can result in bird injury or death due to collision, primarily in the lower 40 to 60 feet of a building. In addition, birds may ascent toward or rise from high-quality habitats in the Guadalupe River and at the Ulistac Natural Area and fly through higher areas. Implementation of bird-safe building designs, including reducing glass on facades, reducing untreated glazing, avoiding free-standing clear glass walls, reducing glass at the tops of buildings, designing appropriate landscaping, and avoiding the funneling or flights paths between building or tress will reduce this impact. **MM BIO-3.1** would be implemented to reduce avian collisions; however, even with all feasible and reasonable mitigation, the impacts would remain significant and unavoidable.

Mitigation Measures

MM BIO-3.1: Due to the potential for buildings in the Plan Area to result in high numbers of bird collisions, particularly if extensive glass facades are used, all new construction and building additions within the Plan Area will implement the following bird-safe building design considerations:

- Reduce the extent of glass on the facades of new buildings and additions to the extent feasible.
- Prohibit visibility of interior landscaped areas behind glass.
- No more than 10 percent of the surface area of a building's total exterior façade shall have untreated glazing between the ground and 60 feet above ground, unless located within 300 feet of the top of bank of the Guadalupe River within such boundary this requirement would extend to the entirety of the structure. Bird-safe glazing treatments may include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of glazing or ultraviolet patterns visible to birds. Vertical elements of the window patterns should be at least 0.25 inches wide at a maximum spacing of four inches or have horizontal elements at least 0.125 inches wide at a maximum spacing of two inches. Any remaining untreated glazed areas will be broken up into

sections no greater than 24 square feet in size by mullions or bird-safe glazing treatments.

- Avoid free-standing clear glass walls, skywalks, transparent building corners, glass enclosures (e.g., greenhouses) on rooftops, and balconies with unbroken glazed segments 24 square feet and larger where feasible. If any such features are included in building designs, all glazing used in any such features will be 100 percent treated.
- Reduce glass at tops of buildings, especially when incorporating a green roof into the building design.
- If a green roof or green wall is incorporated into the building design, no more than 10 percent of the surface area of the building's combined facades within 12 vertical feet above and/or below the green roof or green wall shall have untreated glazing. Any remaining untreated glazed areas will be broken up into sections no greater than 24 square feet in size by mullions or bird-safe glazing treatments.
- Avoid the funneling of flight paths between buildings or trees towards a glazed building façade.
- Landscaping, including planted vegetation and water features, shall be designed to minimize the potential for collisions. For example, vegetation providing particularly valuable resources to birds (such as fruits) will be planted away from buildings with extensive glazing, and vegetation in general will be planted in such a way that it is not clearly reflected in windows. Water features would be located away from building exteriors to reduce the attraction of birds toward glazed facades.
- Minimize exterior lighting to the extent feasible, except as needed for safety. All exterior lights shall be directed toward facilities in the Plan Area (e.g., rather than directed upward or outward) and shielded to ensure that light is not directed outward toward the Guadalupe River or Ulistac Natural Area.
- Occupancy sensors or other switch control devices shall be installed on interior lights, with the exception of emergency lights or lights needed for safety purposes. Exterior shades shall also be considered to reduce light pollution. On commercial buildings, these lights shall be programmed to shut off during non-work hours and between 10:00 p.m. and sunrise.

The City may waive or reduce any of the above-listed bird-safe design requirements based on analysis by a qualified biologist indicating that proposed construction will not pose a collision hazard to birds. Such a waiver will generally not be appropriate for façades adjacent to well-vegetated areas, but a waiver may be appropriate, for example, for façades that face developed areas lacking vegetation, water features, or other features that would be particularly attractive to birds.

4. Cumulative impacts

The Project would not have a cumulatively considerable impact on common or special-status species, wetlands, or riparian habitat. The Project would mitigate its impacts on each

of these areas to a level of less than significant with the mitigation measures described above. The TESP would also implement numerous BMPs. Many of the cumulative projects that impact resources similar to those impacted by development under the proposed Specific Plan will be covered activities under the Santa Clara Valley Habitat Conservation Plan and will mitigate impacts on sensitive habitats and many special-status species through that program, which will require payment of fees for habitat restoration. These projects would also be subject to the same CEQA requirements, permits and approvals, compensatory mitigation, and proactive conservation measures as the Project. Some of the cumulative projects in the area could also include restoration projects that could benefit these species. Both the Project and City Place, for example, include mitigation measures to reduce impacts to most affected species to a less than significant level. Thus, no species-status plant or animal species or habitat type would be cumulatively impacted by the concurrent development of these sites. For these reasons, the Project's cumulative impact on biological resources, other than with respect to bird hazards, is *less than significant*.

- (a) **Potential Impact:** The Project could have a cumulatively considerable impact on migratory birds by causing collisions with new buildings in the Plan Area.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project, in combination with City Place, would construct large buildings in close proximity to Ulistac Natural Area and the Guadalupe River. Given the potential for birds to encounter substantially taller structures (60 feet and above), representing at least double the height of existing structures, the cumulative projects would result in increased bird strikes. Both projects would incorporate bird-safe design elements, including reducing glass on facades, reducing untreated glazing, avoiding free-standing clear glass walls, reducing glass at the tops of buildings, designing appropriate landscaping, and avoiding the funneling or flights paths between building or tress will reduce this impact, required by mitigation measure **MM BIO-3.1** for the Plan Area. However, both the Project and the City Place project would have significant and unavoidable impacts due to the bird strikes and thus, the cumulative impact on birds in the Plan Area and vicinity would be significant and unavoidable. **MM BIO-3.1** would be implemented to reduce avian collisions; however, even with all feasible and reasonable mitigation, the impacts would remain significant and unavoidable.

Mitigation Measures

Refer to **MM BIO-3.1** above.

D. Cultural Resources

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project will not cause a substantial adverse change in the significance of a historic resource, as defined in CEQA Guidelines section 15064.5, as the Plan Area and properties within the Plan Area are not listed on the National Register of Historic Places, the California Register of Historic Places, or the City's Historical Properties list. The structures within the Plan Area are less than 50 years of age and there are no historic buildings adjacent to the Plan Area.

The Project will not cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074. One ethnographic village site has been located within one-half mile of the Project site and the Plan Area has a moderate to high potential for archeological and paleontological resources, however there are no known tribal cultural resources in the Plan Area.

2. Project impacts determined to be less than significant with mitigation incorporated

- (a) Potential Impact:** The Project could cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines section 15064.5 due to construction activities.

Finding: Mitigation measures would reduce impacts due to a substantial adverse change in the significance of an archaeological resource to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

Redevelopment of the Plan Area could result in impacts to unknown, buried archeological resources due to construction activities. There is a moderate to high potential for buried cultural resources within the Plan Area given the previous discoveries adjacent to the Plan Area. Mitigation Measures CUL-1.1 and CUL-1.2 would reduce this impact to less than significant by requiring a qualified archeologist to monitor the demolition of building foundations and other below surface disturbances and conducting mechanical presence/absence exploration to a depth ranging from 6.5 to 10 feet below ground surface to identify any cultural resources. In the event that archeological deposits or materials are inadvertently exposed, construction activity within 50 feet must stop until a qualified archeologist can assess the find and provide recommendations. This impact would thus be less than significant with implementation of **MM CUL-1.1** and **MM CUL-1.2**.

Mitigation Measures

MM CUL-1.1: A qualified archeologist shall monitor the demolition of the building foundations and any other below surface disturbances, such as but not limited to, grading, excavation, roadway improvements, potholing for utilities, utility removal,

and addressing storm drain issues. After demolition activities and surface improvements are removed for projects involving excavation, and prior to other construction activities, conduct mechanical presence/absence exploration to a depth ranging from 6.5 to 10 feet below ground surface. Presence/absence efforts shall be conducted by a qualified local archaeologist. If any cultural resources are identified, all activity in the vicinity of such resources shall stop until a research design and treatment plan is prepared to address those types of resources encountered and such plan is approved by the City. Any cultural resources identified shall be evaluated to determine if these resources would qualify for the NRHP or CRHR. If no resources are found during presence/absence testing, the implementation of mitigation measures, MM CUL-1.2 and MM CUL-1.3, would ensure any resources discovered during construction are adequately protected.

MM CUL-1.2: In the event that buried, or previously unrecognized archaeological deposits or materials of any kind are inadvertently exposed during any construction activity, work within 50 feet of the find shall cease until a qualified archaeologist can assess the find and provide recommendations for further treatment, if warranted. Preservation in place is the preferred treatment of an archeological resource. When preservation in place of an archeological resource is not feasible, data recovery, in accord with a data recovery plan prepared and adopted by the City, is the appropriate mitigation. Construction and potential impacts to the area within a radius determined by the archaeologist shall not recommence until the assessment is complete.

- (b) Potential Impact:** The Project could cause a significant impact by disturbing human remains, including those interred outside of dedicated cemeteries.

Finding: Mitigation measures would reduce impacts due to a substantial adverse change in the significance of an archaeological resource to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

Redevelopment of the Plan Area could result in impacts to human remains due to construction activities. Mitigation Measures CUL-1.1 and CUL-1.3 would reduce this impact to less than significant by requiring a qualified archeologist to monitor the demolition of building foundations and other below surface disturbances and conducting mechanical presence/absence exploration to a depth ranging from 6.5 to 10 feet below ground surface to identify any remains. In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. This impact would thus be less than significant with implementation of **MM CUL-1.1** and **MM CUL-1.3**.

Mitigation Measures

Refer to **MM CUL-1.1** above.

MM CUL-1.3: In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

- (c) **Potential Impact:** The Project could cause a significant impact by directly or indirectly destroying a unique paleontological resource or site or unique geologic feature.

Finding: Mitigation measures would reduce impacts to paleontological resources or sites or unique geologic features to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

Ground disturbing activities 25 feet or more below ground surface within the Plan Area have the potential to impact undiscovered paleontological resources in older Pleistocene sediments. Mitigation Measure CUL-2.1 would reduce this impact to less than significant by requiring future development projects that include excavation to depths of 25 feet or more to have a qualified paleontologist monitor all grading and/or excavation. In the event that paleontological resources are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. This impact would thus be less than significant with implementation of **MM CUL-2.1**.

Mitigation Measures

The following mitigation measure would be implemented by development projects to reduce impacts to paleontological resources where deep excavations are proposed within the Plan Area:

MM CUL-2.1: Projects involving excavations 25 feet or greater below ground surface would require monitoring by a qualified paleontologist. In the event paleontological resources are discovered all work shall be halted within 50 feet of the find and a Paleontological Resource Mitigation Plan shall be prepared by a qualified paleontologist to address assessment and recovery of the resource. A final report documenting any found resources, their recovery, and disposition shall be prepared in consultation with the Community Development Director and filed with the City and local repository.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The development of cumulative projects in proximity to the Plan Area (*e.g.*, the approved City Place project immediately to the north of the Plan Area and east of Lafayette Street), in conjunction with the implementation of the TESP, could significantly impact unknown buried archaeological and paleontological resources. However, implementation of MM CUL-1.1 through MM CUL-1.3 and MM CUL-2.1 would ensure that Project impacts to cultural resources would be less than significant. As all cumulative projects are also subject to CEQA and are required to comply with the federal, state, and local regulations put in place to protect cultural resources, the Project would *not* have a cumulatively considerable significant impact to archaeological or paleontological resources.

E. Energy

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not result in a wasteful, inefficient, or unnecessary consumption of energy during construction. Development under the TESP would require energy for the manufacture and transportation of building materials, preparation of Project site, fuel use for worker travel and construction equipment, and actual construction of buildings and infrastructure. However, the implementation of MM AQ-1.1 and MM AQ-1.2, which would minimize idling, require properly maintained construction equipment, and/or mandate use of electrified or alternatively-fueled construction equipment and compliance with the City's Construction and Demolition Debris Recycling Program mean that future construction would not use fuel or energy in a wasteful manner.

The Project would not result in a wasteful, inefficient, or unnecessary consumption of energy during operations. Development under the Project would consume energy for purposes such as building heating and cooling, lighting, appliances, and electronics, and during vehicle trips generated by future residents, employees, and customers. It is estimated that the Project would use approximately 20 GWh of electricity, 40 billion Btu of natural gas, and 855,312 gallons of gasoline per year at buildout. However, buildings would be subject to current building codes, which require greater energy efficiency than when the existing development in the Plan Area was constructed; the Project is located on an infill site that provides connectivity to the Lick Mill station; proposes high density residential development near existing transit; improves sidewalks and bicycle pathways to ease traffic; promotes a waste reduction program to reduce solid waste disposal; plants trees and natural foliage to reduce the heat island effect; connects to reclaimed water for landscaping; and provides opportunities for electric vehicle charging points.

The Project would not result in a substantial increase in demand upon energy resources in relation to projected supplies. California uses approximately 2.4 quadrillion Btu of natural gas each year and the Project's small increase in demand of 38 billion Btu per year would not be significant considering the growth trends in natural gas supply and the existing available supply in California. In addition, the General Plan EIR concluded that buildout of the General Plan would not result in a significant energy demand impact and the development proposed in the TESP would result in only a minor increase in energy demand compared to what was assumed in the Plan Area in the General Plan EIR.

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not result in a cumulatively considerable impact related to wasteful use or energy or adequate energy supplies. The City has an adopted CAP which ensures individual projects incorporate measures to reduce their energy use to less than significant levels. The state has adequate supplies of energy and is implementing state policies intended to reduce energy use and greenhouse gas emissions across the state. Thus, there is no cumulative impact related to wasteful use of energy or adequate supply of energy and the project would *not* contribute towards any significant cumulative energy impact.

F. Geology and Soils

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides. The Plan Area is not located within a state-designated Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Hazard Zone and thus is not subject to fault rupture. Ground shaking would be expected during lifetime of the TESP development and could damage future residence and other structures on-site. The Plan Area is located within a State- and County-designated Liquefaction Hazard Zone and there is a potential for lateral spreading on-site. However, development under the Project will be required to submit design-level geotechnical engineering studies to the City for review and approval prior to the issuance of building and grading permits, consistent with existing City regulations. These projects will have to comply with specific design measures that will

ensure building integrity and thus future development would not exacerbate seismicity and seismic hazard conditions such that it would impact or worsen off-site conditions.

The Project is not located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. The Plan Area is relatively flat and would not be exposed to landslide hazards.

The Project would not result in substantial soil erosion or the loss of topsoil. While construction activities for buildings and public improvements could result in some soil erosion or loss of topsoil, future development would be required to implement a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollutant Discharge Elimination System (NLDES) General Construction Permit and conform with grading and excavation requirements in the City Code to control erosion and sedimentation. Thus, future development of the Plan Area would not result in significant soil erosion or loss of topsoil nor would it exacerbate soil erosion or loss on topsoil in a way that it would affect off-site conditions.

The Project is not located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), which could create substantial risks to life or property. Though the Plan Area contains moderate to highly expansive soils, which could potentially damage future buildings and improvements on-site, development in the Plan Area would be consistent with requirements in the City's codes and required to submit a design-level geotechnical engineering study to the City for review and approval before grading or building permits are issued. Development would be required to comply with design measures of the report to ensure building integrity. Thus, future development, consistent with existing regulations, would not exacerbate expansive soil conditions such that it would create risk to life or property on- of off-site.

The Project would not have septic tanks or alternative waste disposal systems and thus the Project would not have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems.

The Project would not create hazards to groundwater. Groundwater in the TESP area is at approximately five to seven feet bgs. Future development under the Specific Plan could include excavation or structures that would be below existing groundwater levels. Development would be completed in accordance with the City's existing regulations and required to submit a geotechnical report complying with design measures to address dewatering to ensure that there will be no impacts due to the high groundwater level.

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not have a considerable contribution to significant cumulative geology or soils impacts. As discussed above, the existing geology and soil conditions would not be exacerbated from the implementation of the Specific Plan such that it would impact (or worsen) off-site geology and soil conditions. Development in the TESP will have to submit a geotechnical report comply with specific design measures that will ensure building integrity. The Project would not have a significant impact, at a project-level, on geology or soil conditions and thus would *not* contribute to a cumulative impact.

G. Greenhouse Gas Emissions

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment. The Project's anticipated GHG emissions per service population would be approximately 1.68 MT CO₂e in 2030. This would not exceed the 2030 substantial progress threshold of 2.6 MT CO₂e per service population annually needed to meet California's GHG reduction goals under SB 32 based on the projected statewide population and employment levels in 2030. This is also below the 1.7 MT CO₂e efficiency metric for 2040 and thus the Project would meet 2040 emissions limits reflecting significant progress toward California's 2050 GHG reduction goal.

The Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. The TESP is consistent with the goals of the 2017 Clean Air Plan through, among other things, reducing motor vehicle miles traveled by developing a mixed-use project in proximity to existing/proposed/planned pedestrian, bicycle, and transit facilities; including a TDM program that encourages automobile-alternative transportation; tree planting programs to reduce the urban heat island effect; encouraging on-site electricity generation and requiring incorporation of solar-ready infrastructure in buildings; extensive use of recycled water for onsite irrigation and use of dual plumbing within each building; and complying with applicable regulations that would result in energy and water efficiency including Title 24 and California Green Building Standards Code. and thus would not hinder or disrupt implementation of control measures in the Clean Air Plan. The Project would also not conflict with Plan Bay Area 2040 as the Plan Area is identified as a Transit Priority Area in Plan Bay Area and the development of a compact, mixed-use neighborhood near transit is consistent with the City's CAP. The Project is also consistent with the City's General Plan, which has policies to reduce GHG emissions by developing high-density residential development near existing transit and bike facilities, requiring a TDM program, and incorporating green building measures. The Project would also not conflict with the California Air Resources Board's Scoping Plan or the City's CAP, and is consistent with CAP measures that would apply to the Project.

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

Past, present, and future development projects worldwide contribute to global climate change. No single project is sufficient in size to, by itself, change the global average temperature. Therefore, due to the nature of GHG impacts, a significant project impact is a significant cumulative impact. As discussed above, development under the Specific Plan would not generate significant levels of GHG emissions at a project level and thus the Project would *not* have a cumulative impact on GHG emissions.

H. Hazards and Hazardous Materials

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project could have on-site buildings that may have been constructed with materials containing asbestos (ACMs) and lead-based paint may also have been used on existing structures that may be demolished or modified as part of the Project. The Project will not expose workers to harmful levels of ACMs or lead by conforming to currently existing regulatory programs, such as a pre-demolition survey, removing ACMs in accordance with National Emissions Standards for Hazardous Air Pollutants, undertaking demolition in accordance with Cal/OSHA standards, retaining a registered asbestos abatement contractor, and removing materials containing more than one percent asbestos in accordance with BAAQMD requirements.

The Project is located within the Norman Y. Mineta San Jose International Airport Influence Area (AIA) as defined by the County Airport Land Use Commission, but would not result in a safety hazard for people residing or working in the project area. Building over 175 feet would be subject to FAR Part 77 airspace notification to the FAA. The City has submitted the TESP to the ALUC, as the Plan Area is located within the Airport Influence Area, and the ALUC has determined that the Project is consistent. Consistent with County Airport Land Use Commission and City General Plan policy, FAA issuance of “no hazard” determinations, with any conditions set forth in an FAA no-hazard determination also incorporated into the City’s development permit, would ensure that development under the proposed Specific Plan will not be a hazard to aircraft operation. No buildings would be constructed above the notification surface without this prior documentation.

The Project is not within the vicinity of a private airstrip, and thus would not result in a safety hazard for people residing or working in the Plan Area.

The Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. The only hazardous waste expected to be stored or used in the Plan Area due to Project implementation would be small quantities of common household hazardous wastes, which would not be considered significant to the elementary school 0.1 miles northwest of the Plan Area or to a potential school developed in the Plan Area.

The Project would not create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials as the residential and retail uses in the TESP would not use hazardous wastes other than small quantities of common household hazardous wastes.

The Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. The Plan Area is a developed area and would not change the local roadway circulation pattern and access, or otherwise physically interfere with the Santa Clara Emergency Operations Plan or other emergency response or evacuation plan. The lack of modifications to Plan Area access and general vehicular circulation through the Plan Area and considering no emergency facilities are present within the Plan Area ensures the proposed Specific Plan would not affect the City's emergency operations.

The Project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands as there are no wildlands near the Project and the Plan Area is in a developed area.

2. Project impacts determined to be less than significant with mitigation incorporated

- (a) Potential Impact:** The Project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, could create a significant hazard to the public or the environment.

Finding: Mitigation measures would reduce impacts due to hazard to the public or the environment to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would allow for the development of a high-density transit-oriented neighborhood with supportive retail services, including up to 4,500 residential units, 106,000 square-feet of retail space, including a 25,000 square-foot grocery

store, and a 600-student school. Given the industrial use of the site and prior agricultural uses and LUST case, residual hazardous materials contamination could be disturbed by proposed new buildings and infrastructure. Existing hazardous materials contamination in soils and groundwater on the site has the potential to impact construction workers and adjacent land uses if disturbed during demolition or construction of new buildings and structures on the site. Mitigation would require property specific Phase I ESAs to evaluate project sites; cleanup and remediation to meet current standards; vapor intrusion investigation and soil sampling in areas of concern; corrective action plans, air monitoring plans, and vapor intrusion mitigation plans; a site management plan and health and safety plan for handling and monitoring impacted soils, soil vapor, and groundwater; and observation during demolition, excavation, grading, and trenching activities. These mitigation measures would ensure that development under the Specific Plan would not exacerbate existing unknown hazardous materials contamination that may be present in the Plan Area. This impact would thus be less than significant with implementation of **MM HAZ-1.1** through **MM HAZ-1.6**.

Mitigation Measures

As conditions of approval to redevelop a site within the Plan Area, the project proponent shall implement the following mitigation measures to reduce impacts from hazardous materials to a less than significant level:

MM HAZ-1.1: Prior to the start of any demolition or construction activity, a property specific Phase I ESA shall be completed in accordance with ASTM Standard Designation E 1527-13 (or most recent version) to identify Recognized Environmental Conditions, evaluate the property history, identify active and abandoned wells, and establish if the property is likely to have been impacted by chemical releases. Soil, soil vapor and/or groundwater quality studies shall subsequently be conducted, if warranted based on the findings on the property-specific Phase I ESAs to evaluate if mitigation measures are needed to protect the health and safety of site occupants. All site mitigation measures identified in the property-specific Phase I and II ESAs shall be completed under the oversight of an appropriate regulatory agency, such as the DEH, DTSC, or RWQCB. Any required cleanup/remediation of the site during development activities shall meet all applicable federal, state and local laws, regulations, and requirements. The project applicant shall provide the appropriate oversight agency's written approval of the site mitigation measures to the City of Santa Clara prior to the issuance of a demolition and/or grading permit.

MM HAZ-1.2: At properties where VOCs are identified as contaminants of concern (COC), the potential for vapor intrusion shall be evaluated. A Vapor Intrusion Investigation Work Plan shall be submitted to the overseeing regulatory agency for review and approval. The plan shall include soil vapor sampling for VOCs in areas of concern. The soil vapor sampling shall be conducted in conformance with DTSC's July 2015 advisory titled *Active Soil Gas* Tasman East Specific Plan 138 Draft EIR City

of Santa Clara July 2018 *Investigations*. A minimum of two soil vapor sampling events (with soil vapor concentrations less than the most conservative residential or commercial screening levels – as appropriate) is required to document that mitigation measures are not required; additional sampling events may be required by the overseeing regulatory agency.

MM HAZ-1.3: The need for vapor intrusion mitigation measures will be dependent upon the planned building design and the results of the Vapor Intrusion Investigation. Prior to redevelopment of the site, a report assessing the potential for vapor intrusion shall be submitted to and approved by the overseeing regulatory agency. The assessment shall be conducted in general conformance with DTSC's *Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air (Vapor Intrusion Guidance)* dated October 2011.

MM HAZ-1.4: Prior to the start of any construction activity on properties with known contaminants of concern (COC) exceeding the lower of the then-current DTSC, the RWQCB or Environmental Protection Agency (EPA) residential screening levels, the project proponent shall submit the following plans to the overseeing regulatory agency for review and approval:

- *Corrective Action Plan.* An appropriate corrective action plan (e.g. remedial action plan, removal action workplace, etc.) shall be prepared that reflects the results of the above investigations. Site cleanup levels presented in the plan shall be based on a target cancer risk of 0.00001 or, for non-carcinogens, a target hazard quotient (THQ) of 1.0. The lower of the then-current DTSC, RWQCB, or EPA residential screening levels shall be used to interpret the TR and THQ levels or, alternatively, a site specific human health risk assessment shall be prepared and approved by the overseeing regulatory agency. Higher cleanup goals may be acceptable, if approved in writing by the oversight agency. The project applicant shall provide an oversight agency's written approval of the corrective action plan to the City of Santa Clara prior to issuance of a demolition and/or grading permit. Leaving contaminated soil (above residential screening levels and, for metals, above background concentrations) in-place or re-using contaminated soil shall require the oversight agency's written approval. At a minimum, if contaminated soil is left in-place, a deed restriction or land use covenant shall detail the location of the soil. This document shall include a surveyed map of the location of the impacted soil and shall restrict future excavation in the impacted area unless approved in writing by an oversight agency.
- *Air Monitoring Plan.* This plan shall assess the potential for exposure of construction workers and neighboring occupants adjoining the property to COCs during construction activities; this plan shall specify measures to be implemented if COC concentrations exceed threshold values.
- *Vapor Intrusion Mitigation Plan and Associated Documents.* If the Vapor Intrusion Investigation identifies the need for mitigation measures, a Vapor Intrusion Mitigation Plan shall be prepared that describes the measures to be a result of vapor intrusion. The Vapor Intrusion Mitigation Plan will require the

project applicant to design the proposed occupied spaces with appropriate structural and engineering features to reduce risk of vapor intrusion into buildings. At a minimum, this design shall include: 1) passive sub-slab ventilation with a spray applied vapor barrier (And with the ability to convert the system from passive to active ventilation), 2) monitoring to ensure the long-term effectiveness of the remedy, and 3) the implementation of institutional controls. Other designs would be acceptable is approved in writing by the overseeing regulatory agency. The Vapor Intrusion Mitigation Plan shall be submitted for agency review and approval. DTSC's October 2011 *Vapor Intrusion Mitigation Advisory* provides useful guidance in selecting, designing, and implementing appropriate response actions for sites where a potential vapor intrusion risk has been identified. A completed report shall be submitted to the overseeing regulatory agency upon completion of construction of the mitigation system. The report shall document installation of the vapor control measures identified in the Vapor Intrusion Mitigation Plan and present final as-built design drawings. A Long-Term Operations, Maintenance, and Monitoring Plan (OMMP) also shall be submitted for agency approval that presents the actions to be taken following construction to maintain and monitor the vapor intrusion mitigation system, and a contingency plan should the vapor mitigation system fail. A financial assurance mechanism shall additionally be established (i.e. proof that adequate funds are available for long-term maintenance and monitoring of the vapor intrusion mitigation system) and described in the OMMP.

MM HAZ-1.5: A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be developed to establish appropriate management practices for handling and monitoring of impacted soil, soil vapor, and groundwater that potentially may be encountered during construction activities. The SMP shall be prepared by an Environmental Professional and be submitted to the overseeing regulatory agency (e.g. RWQCB, DTSC and/or DEH) for review and approval prior to commencing construction activities. The SMP also shall be provided to the City of Santa Clara. Prior to the start of any construction activity that involves below ground work (i.e. mass grading, foundation construction, excavating or utility trenching), information regarding site risk management procedures, including copies of the HSP and SMP, shall be provided to the contractors for their review, and each contractor shall provide such information to its subcontractors. The SMP and HSP measures shall be incorporated into the project design documents:

- Site control procedures to control the flow of personnel, vehicles and materials in and out of the site;
- Measures to minimize dust generation, stormwater runoff and tracking of soil off-site;
- Protocols for conducting earthwork activities in areas where impacted soil, soil vapor and/or groundwater are present or suspected. Worker training requirements, health and safety measures and material handling procedures shall be described;

- Perimeter air monitoring for dust during any activity that significantly disturbs impacted site soil (i.e. mass grading, foundation construction, excavating or utility trenching) to document the effectiveness of dust control measures;
- Protocols to be implemented if buried structures, wells, debris, or unidentified areas of impacted soil are encountered during site development activities;
- Protocols to characterize/profile soil suspected of being contaminated so appropriate mitigation, disposal or reuse alternatives, if necessary, can be implemented. Soil in contact with impacted groundwater shall be assumed contaminated. All soil excavated and transported from this site shall be appropriately disposed of at a permitted facility;
- Stockpiling protocols for “clean” and “impacted” soil;
- Decontamination procedures to reduce the potential for construction equipment and vehicles to release contaminated soil onto public roadways or other off-site transfer;
- Procedures to evaluate and document the quality of any soil imported to the site. Soil containing chemicals exceeding residential (unrestricted use) screening levels or typical background concentrations of metals shall not be accepted. The DTSC’s Clean Fill Advisory (October 2001 or latest version) provides useful guidance on evaluating imported fill;
- Methods to monitor excavations and trenches for the potential presence of VOC impacted vapors. Mitigation protocols shall be developed and implemented in the event elevated VOC vapors are released during excavation activities that may pose a risk to construction worker health and/or risk to the health of occupants of neighboring properties;
- Protocols to evaluate if the residual contaminants will adversely impact the integrity of below ground utility lines and/or structures (i.e. the potential for corrosion due to subsurface contamination)
- Measures to reduce soil vapor and groundwater migration through trench backfill and utility conduits. Such measures shall include placement of low-permeability backfill “plugs” at specified intervals on-site and at all locations where the utility trenches (within impacted soil or groundwater) extend off-site. In addition, utility conduits that are placed below groundwater shall be installed with water-tight fittings to reduce the potential for groundwater to migrate into the conduits.
- Measures to help reduce the potential for the downward migration of contaminated groundwater if deep foundation systems are proposed.

These measures shall be identified in the geotechnical investigation report and implemented as part of the development plans.

MM HAZ-1.6: The project applicant’s environmental professional shall assist in the implementation of the SMP and shall, at a minimum, perform part-time observation services during demolition, excavation, grading and trenching activities. Upon completion of construction activities, the environmental professional shall prepare a report documenting compliance with the SMP; this report shall be submitted to the oversight regulatory agency and the City of Santa Clara.

- (b) Potential Impact:** The Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Finding: Mitigation measures would reduce impacts due to hazards to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

As explained above, the industrial use of the site and prior agricultural uses and LUST case mean that residual hazardous materials contamination could be disturbed by proposed new buildings and infrastructure and existing hazardous materials contamination in soils and groundwater could impact construction workers and adjacent land uses if disturbed during demolition or construction. Mitigation would require property specific Phase I ESAs to evaluate project sites; cleanup and remediation to meet current standards; vapor intrusion investigation and soil sampling in areas of concern; corrective action plans, air monitoring plans, and vapor intrusion mitigation plans; a site management plan and health and safety plan for handling and monitoring impacted soils, soil vapor, and groundwater; and observation during demolition, excavation, grading, and trenching activities. These mitigation measures would ensure that impacts to the public or environment from accident or upset conditions involving the release of hazardous materials would be less than significant. This impact would thus be less than significant with implementation of **MM HAZ-1.1** through **MM HAZ-1.6**.

Mitigation Measures

Refer to **MM HAZ-1.1** through **MM HAZ-1.6** above.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

Cumulative projects located in the vicinity of the Plan Area do not include manufacturing facilities or operations that would use significant quantities of hazardous materials. The cumulative projects, therefore, would not create a significant hazard to the environment through the routine use, transport, or reasonably foreseeable accidents related to hazardous materials use. Hazardous materials contamination impacts are specific to the individual sites within the Specific Plan area as impacts vary by site characteristics, site history, and proposed land use. Future development within the Plan Area shall mitigate its hazardous materials impact to a less than significant level with the implementation of MM

HAZ-1.1 to HAZ-1.6; therefore, redevelopment in the Plan Area would *not* make a considerable contribution to a significant cumulative hazardous materials impact.

I. Hydrology and Water Quality

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality during construction. The Project is subject to the Construction General Permit and would be required to develop and implement SWPPPs. These would contain BMPs and erosion and sediment controls designed to minimize stormwater pollution and reduce pollutant loads in runoff generated by materials, equipment, and other construction activities. An Notice of Intent would also be filed with the RWQCB in conformance with NPDES permit requirements.

The Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality during operation. The Plan Area is currently developed with industrial and commercial uses and parking lots that drain to the City's storm sewer facilities without treatment. The TESP would require various stormwater treatment measures to be included in future redevelopment. Developments with more than one building that include pedestrian corridors and open spaces should treat their stormwater management areas in adjacent private open spaces. Designed treatment systems such as bioswales, flow-through planters, permeable paving, and greenroofs should be utilized as part of a comprehensive approach to stormwater management. Smaller parcels, if developed concurrently with neighboring parcels, are encouraged to coordinate stormwater design in shared private open spaces. Single parcels without concurrent adjacent development will treat their stormwater on site as per state stormwater C.3 regulations.

The Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted). Groundwater in the Plan Area has been recorded at approximately five to seven feet bgs. Excavation for building foundations and subgrade parking would likely encounter groundwater and would require appropriate design to address high groundwater. The Plan Area is not used for groundwater recharge and, therefore, would not interfere with groundwater recharge or deplete supplies. The City may pump more groundwater during drought years to serve the Plan Area and other development, but, given the active management of groundwater in the area, the Specific Plan would not interfere with groundwater recharge or deplete supplies.

The Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site, or place within a 100-year

flood hazard area structures which would impede or redirect flood flows, or . Since the Plan Area, as well as the surrounding area that currently lies within regulatory floodplain area, is already developed, there is relatively little potential for altered drainage patterns or a substantial increase in runoff rate or volume. Within the Tasman East Specific Plan area itself, current development is mostly commercial and light industrial. The proposed high density residential development will likely consist of comparable impervious area as to the existing land uses. The TESP would also allow for the potential conversion of the Eastside Drainage Swale to a concrete box culvert. The new culvert would minimally increase flows from 110 cfs to 115 cfs and, therefore would not significantly alter flow in the remaining downstream portion of the open channel. The conversion of the open channel drainage, if implemented, would not increase stormwater flow rates such that erosion would result.

The Project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. With planned changes to the street system within the Plan Area (including an extension of Lick Mill Blvd, extension of Calle Del Sol, and the widening of Calle De Luna), the proposed Specific Plan would increase the existing peak runoff rate by approximately two percent (less than one cfs). This relatively minor change does not cause any significant increase in flooding on-site or downstream of the project boundary based on post-project modeling. The conversion of the open channel drainage in the Eastside Drainage Swale to a culvert, if implemented, would not increase flow depths significantly, nor would it impact operation of the Eastside Detention Basin and Pump Station.

The Project would not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam. While the Plan Area is subject to inundation if Anderson Dam or Guadalupe Dam fail catastrophically, the dams are inspected twice a year by the Santa Clara Valley Water District in conjunction with the California Division of Safety of Dams and the Federal Energy Regulatory Commission and both reservoirs are managed to prevent significant damage during a maximum credible earthquake. The Guadalupe River levees are designed to meet FEMA standards to provide protection from the 100-year flood. The probability of dam or levee failure is low given the regular inspection and maintenance and makes the risk of loss, injury, or death less than significant.

The Project would not be subject to inundation by seiche, tsunami, or mudflow as the Plan Area is not located within an identified landslide or mudflow hazard area, and is not close enough to the San Francisco Bay or any other body of water to be subject to seiche, tsunami, or sea level rise.

2. Project impacts determined to be less than significant with mitigation incorporated

- (a) Potential Impact:** The Project could substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding off-site.

Finding: Mitigation measures would reduce impacts due to existing drainage causing flooding off-site to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would include importing fill material to raise buildings above the 100 year floodplain and elevating the extension of Lick Mill Road to tie in with the City Place development to the north. These elevation changes within the Plan Area would block overland flows. The existing storm drain system is also insufficient to handle flows during storms under existing conditions. Due to the developed nature of the Plan Area and requirements for stormwater treatment and retention, redevelopment of the Plan Area would not contribute substantial additional runoff during storm events. While the proposed development itself does not create additional stormwater runoff that would exceed the capacity of the storm drain system at Lafayette Street, the placement of fill associated with the development would block overland flow and without that release, the runoff tributary to the Lafayette Street storm drain system would increase. The overland flow path at the northwest corner of the site would be blocked and, therefore, improvements to the storm drain system would be required to offset any significant off-site effects of the development. The installation of a catch basin at a suitable location would provide an alternate path for flow that would otherwise have entered the development area prior to placement of project fill. This impact would thus be less than significant with implementation of **MM HYD-1.1**.

Mitigation Measures

MM HYD-1.1: A catch basin shall be installed on Lafayette Street or at a suitable location approved by the City Engineer that connects to the existing storm drain system on Calle Del Mundo. This new catch basin would provide an alternate path for flow that would otherwise have entered the development area prior to placement of project fill. The design of the new catch basin and new storm drain shall be subject to approval of the City. The new catch basin and new storm drain shall be complete and connection to the existing storm drain system on Calle Del Mundo must be made concurrent with redevelopment of the site in the northwest corner of the Plan Area.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not have a cumulatively considerable impact on hydrology or water quality. All development projects (including future development under the Specific Plan)

are required to undertake steps to avoid, minimize, and/or mitigate flooding and water quality impacts. Projects north of the Plan Area, including City Place, shall be designed to have no impacts to upstream water surface elevations and therefore will cause no negative flooding impacts to the project site. In addition, the Project will have no impact on hydrology or water quality with implementation of the mitigation measures discussed above. Future upstream projects would not impact the Plan Area as they would not significantly alter the existing hydrologic (i.e. flow path) conditions of those areas and are subject to NPDES regulations for treatment and retention of stormwater runoff. Therefore, cumulative hydrological impacts would be considered *less than significant*.

J. Land Use and Planning

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not conflict with any applicable habitat conservation plan or natural community conservation plan as the Specific Plan area is not located within the boundaries of a habitat conservation plan or natural community conservation plan (HCP/NCCP).

The Project would not physically divide an established community. The Plan Area will be classified as Transit Neighborhood in the General Plan. Development under the TESP would transform an industrial/commercial area into a high-density residential neighborhood with proximity to transit. The existing businesses in the Plan Area are highly diverse and do not represent an established community of businesses that are dependent on one another such that redevelopment of some parcels in the Plan Area would reduce interactions amongst the businesses or isolate individual businesses. The TESP would also not create new physical barriers or divisions within the Plan Area such that existing development would be isolated from the larger community.

The Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. Implementation of the TESP and amendment of the zoning district to Transit Neighborhood would bring the Plan Area into conformance with the General Plan policy that this transit-oriented site become an opportunity to develop high-density housing with direct walking access to community amenities and a robust transit network. Though the TESP proposes more density than the current General Plan designation, this increased density is in keeping with the major strategies of the General Plan and policies to explore increased density in the Plan Area (Policies 5.4.6-P1 and 5.4.6-P20). Given the consistency with these major strategies, and the proposed amendment to the General Plan, the inconsistency of the TESP with the current General Plan assumptions would not result in a significant impact. The Project would not be consistent with the Plan Area's current Light Industrial zoning classification, but that zoning classification is inconsistent with the General Plan and the rezoning to Transit Neighborhood would make the Project consistent with applicable zoning requirements.

The Project would not conflict with the Airport Land Use plan or applicable County Airport Land Use Commission (ALUC) policies and would not result in significant impacts to aircraft operations. The Project would construct midrise (below 55 feet) and high-rise (under 85 feet) buildings 2.5 miles from the Norman Y. Mineta San Jose International Airport. Future development of high-rise structures exceeding 175 to 185 feet would have to comply with FAR Part 77 airspace notification requirements. Consistent with ALUC and City General Plan policy, FAA issuance of “no hazard” determinations, with any conditions set forth in an FAA no-hazard determination also incorporated into the City’s development permit, would ensure that project development would not be a hazard to aircraft operation. Future development in the Plan Area would also incorporate Dark Sky-compliant exterior lighting, which would ensure that proposed development is consistent with ALUC policies for exterior lighting and avoiding off-site glare. As a condition of approval, proposed development projects would also be required to dedicate aviation easements to the City of San Jose per ALUC policies for properties located within the Airport Influence Area.

The Project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping & Monitoring Program of the California Resources Agency, to non-agricultural use; conflict with existing zoning for agricultural use, or a Williamson Act contract; conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)); result in the loss of forest land or conversion of forest land to non-forest use; or involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use. The Project site is located within an urbanized commercial, industrial, residential area and is already developed. The site is designed as urban and built up land by the California Resources Agency and is not under a Williamson Act contract.

The Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state or result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. There are no significant mineral resources present in the City of Santa Clara nor are there any exploitable oil or gas resources within the City.

The Project would not induce substantial population growth in an area, either directly or indirectly; displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. The Plan Area is currently development with industrial and commercial uses and thus buildout of the TESP would not displace existing housing or people. The City had an estimated jobs to housing ratio of 2.5 in 2010. The Project would add approximately 315 jobs and 4,500 units (12,285 residents). Though, the Project would result in population and employment growth in the City, it would further the City’s efforts to provide more balanced development by providing

housing near employment centers and reducing the jobs/housing imbalance and would have a less than significant impact.

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not result in any impact to mineral resources, agriculture, and forestry resources, therefore, the Specific Plan would not result in cumulative impacts to these resources. The Project would not contribute to cumulative projects that would divide an established community given the uses surrounding the cumulative projects and the nature of the proposed developments. Although several of the cumulative projects would be inconsistent with the General Plan because they propose growth that is unaccounted for in their respective City's General Plans, the TESP would not make a cumulatively considerable contribution to such an impact. The TESP, although proposing additional growth beyond that considered in the General Plan, would assist the City in meeting its regional housing needs and addressing the jobs/housing imbalance in Santa Clara. Several projects in the cumulative analysis, including City Place Santa Clara and Phase II of the General Plan which includes residential development near the Lawrence Expressway Caltrain Station and TESP, identified land use impacts related to the regional jobs-housing imbalance. Over the past few decades, regional job growth has greatly exceeded housing capacity, leading to traffic congestion and air pollution from vehicles as workers commute long distances from outlying areas with more affordable housing. Both City Place Santa Clara and Phase II of the General Plan contain substantial employment-based land uses, which would exacerbate indirect impacts related to traffic and air pollution. Though some job-creating land uses are proposed under TESP, development under TESP would improve the regional jobs/housing imbalance by creating 4,500 dwelling units. Therefore, this cumulative impact would be *less than significant*.

K. Noise and Vibration

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Plan Area is not within the vicinity of a private airstrip, and thus the Project would not expose people residing or working in the Plan Area to excessive noise levels.

The Project would not generate noise levels in excess of standards established in the local general plan or noise ordinance, or local general plan or noise ordinance, or applicable

standards of other agencies or a create a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project due to stationary equipment. Buildings developed in the Plan Area would include mechanical equipment, such as heating and air conditioning systems. Typical air conditioning units and heat pumps for multi-family uses residences would be approximately 60 dBA Leq at a distance of 50 feet. Due to the distances of the off-site sensitive receptors at approximately 121 feet, the mechanical equipment would not impact off-site receptors.

The Project would not expose people to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or local general plan or noise ordinance, or applicable standards of other agencies or create a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project due to traffic. A significant impact would occur if the permanent noise level increase due to Project-generated traffic at existing noise-sensitive receptors was three dBA CNEL or greater for existing ambient noise levels exceeding 55 dBA CNEL or five dBA CNEL or greater for existing ambient noise levels at or below 55 dBA CNEL. While the intersection of Tasman Drive and Lick Mill Boulevard would have an increase in traffic noise of one dBA near sensitive residential receptors to the south, all other traffic segments would have noise increases lower than one dBA. Therefore, the future increase in traffic volumes would not cause a permanent noise increases of three dBA or greater at the nearest noise-sensitive receptors.

The Project is located within an airport land use plan, but would not expose people residing or working in the Plan Area to excessive noise levels. The Plan Area lies outside the 2027 65 dBA CNEL noise contour shown in the Norman Y. Mineta San José International Airport Master Plan Update Project. The Project lies inside the 60 dBA CNEL noise contour. An interpolation of the contours indicates that future aircraft noise levels would reach 62 dBA CNEL in the Plan area. Such noise levels would be compatible with the proposed land uses with respect to the guidelines set forth in the Airport Master Plan.

2. Project impacts determined to be less than significant with mitigation incorporated

- (a) Potential Impact:** The Project could expose people to or generate excessive groundborne vibration or groundborne noise levels due to construction activities.

Finding: Mitigation measures would reduce impacts due to construction-related vibration impacts to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would generate perceptible vibration during construction when heavy equipment or impacts tools are used. Construction activities would include site preparation work, foundation work, paving, and new building framing and finishing. The Project may also require pile driving, which can cause excessive vibration.

Vibration levels at the nearest off-site buildings (approximately 121 feet north of the Plan Area) would not exceed the California Department of Transportation recommended vibration limit of 0.5 in/sec PPV without pile driving. However, new construction has the potential to occur up to 18 feet away from existing commercial buildings in the Plan Area and vibration from these activities has the potential to exceed the 0.3 in/sec PPV threshold. Accounting for pile driving, new construction up to 86 feet away from existing commercial buildings has the potential to exceed the threshold. Mitigation measures would limit construction hours to limit hours of exposure and require development to minimize or avoid using vibratory rollers or tampers near sensitive areas, such as shared property lines with residential land uses. If vibration sensitive structures are within 18 feet of a project development site or within 86 feet of a project proposing pile-driving, a vibration study and monitoring must occur. Construction management plans for projects with the potential to exceed the 0.3 in/sec PPV threshold must have predefined vibration reduction measures and notification requirements. Finally, leases to future tenants within the Plan Area must include a disclosure that provides information about ongoing construction activities. This impact would thus be less than significant with implementation of **MM NV-1.1** through **MM NV-1.5**.

Mitigation Measures

The future development under the TESP would be required to implement the following mitigation measures which would avoid impacts related to excessive groundborne construction vibration and to reduce perceptibility at noise-sensitive sites:

MM NV-1.1: Comply with construction hours ordinance to limit hours of exposure. The City Code limits construction activities within 300 feet of residentially zoned property to the hours of 7:00 a.m. to 6:00 p.m. on weekdays and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays.

MM NV-1.2: Minimize or avoid using vibratory rollers and tampers near sensitive areas, such as shared property lines with residential land uses. Whenever possible, use cast-in-drilled-holes piles for projects requiring deep foundations to reduce construction vibration.

MM NV-1.3: When vibration-sensitive structures are within 18 feet of a project development site or within 86 feet of a project proposing pile-driving, survey condition of existing structures and, when necessary due to the structure type and resulting vibration due to the construction activities proposed, perform site-specific vibration studies to direct construction activities. Contractors shall continue to monitor effects of construction activities on surveyed sensitive structures, notify the Community Development Director of any damage caused by vibration, and offer to repair or compensate for any such damage caused by vibration within a time period established by the Community Development Director upon receiving notice

pursuant to this measure. The results of the vibration monitoring shall be summarized and submitted in a report to the Community Development Director prior to issuance of an occupancy permit.

MM NV-1.4: Construction management plans for construction projects that have the potential to exceed the 0.3 in/sec. PPV threshold, particularly those involving pile driving, shall include predefined vibration reduction measures, notification requirements for properties within 200 feet of scheduled construction activities, and contact information for on-site coordination and complaints. The construction management plan shall be submitted to the City for approval prior to issuance of a demolition or grading permit.

MM NV- 1.5: Include a disclosure in the lease of future tenants within the Tasman East Specific Plan properties that provides information regarding the on-going construction activities within the area.

- (b) Potential Impact:** The Project could expose people to a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project or expose people to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or local general plan or noise ordinance, or applicable standards of other agencies due to construction activities.

Finding: Mitigation measures would reduce impacts due to construction-related vibration impacts to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would generate noise from construction activities. Construction noise impacts primarily result when activities occur during noise-sensitive times of day such as early morning, evening, nor nighttime hours. The City exempts noise due to construction activities from the noise level performance standards for fixed sources of noise, when construction falls within allowable hours. Construction activities for individual projects are carried out in stages with a different mix of equipment and varying noise levels by stage. Most demolition and construction noise falls within the range of 80 to 90 dBA at a distance of 50 feet. The highest noise levels would be generated during grading, excavation, and foundation construction. Noise generated during the construction of structures is generally lower as less heavy equipment is required. Once construction moves indoors, minimal noise would be generated. The nearest existing noise-sensitive receptors, which are multi-family residences, are located approximately 280 feet south of the center of potential construction activity. At this distance, hourly average noise levels would range from 63 to 74 dBA Leq. To the east, multi-family residences are located 690 feet from the Plan Area. At this distance, hourly average noise levels would range from 55 to 66 dBA Leq. These would exceed 60 dBA Leq, and the current ambient noise level by five dBA Leq. It is

expected that full buildout of the TESP will occur over 20 years. Developments bordering the site are expected to be under construction for over a year. Residential development within the Plan Area, as well as the school once it begins operation, would also experience elevated construction noise levels during buildout. The implementation of mitigation measures, including a construction noise control plan submitted to the City for review and approval prior to issuance of a demolition and/or grading permit and BMPs for pile driving, which would limit construction noise, and considering the temporary impact from construction noise, this impact would be reduced to a level of less than significant. This impact would thus be less than significant with implementation of **MM NV-2.1** and **MM NV-2.2**.

Mitigation Measures

In addition to adhering to the City Code for construction hours, the future development projects would be required to implement the following standard construction noise control measures to reduce construction noise levels at nearby land uses:

MM NV-2.1: Develop and adhere to a construction noise control plan to be submitted to the City for review and approval prior to issuance of a demolition and/or grading permit, including, but not limited to, the following available controls:

- Ensure that construction activities (including the loading and unloading of materials and truck movements) within 300 feet of residentially zoned property are limited to the hours of 7:00 a.m. to 6:00 p.m. on weekdays and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays.
- Ensure that excavating, grading and filling activities (including warming of equipment motors) within 300 feet of residentially zoned property are limited to the hours of 7:00 a.m. to 6:00 p.m. on weekdays and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays.
- Contractors equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Contractors utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
- Locate loading, staging areas, stationary noise-generating equipment, etc. as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction project area. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers can reduce construction noise levels by five dBA.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project area.
- Comply with Air Resource Board idling prohibitions of uneasy idling of internal combustion engines.

- Construct solid plywood fences around construction sites adjacent to operational business, residences or noise-sensitive land uses.
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were unresolvable by proper scheduling.
- Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.
- Businesses, residences or noise-sensitive land uses adjacent to construction sites should be notified of the construction schedule in writing. Designate a “construction liaison” that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.
- Include a disclosure in the lease of future tenants within the Tasman East Specific Plan properties that provides information regarding the on-going construction activities within the area.

MM NV-2.2: If pile driving occurs, the following best management practices shall be included in the construction noise control plan:

- Schedule pile driving during a period when school is not in session.
- During pile driving, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- During pile driving activities, install “acoustical blankets” to provide shielding for receptors located within 100 feet of the site, or use a noise attenuating shroud on the pile driving hammer.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not have a cumulatively considerable significant impact due to construction noise. The Project may contribute to cumulative construction noise levels from pending projects, and projects that are approved, but have not started construction. In light of the proximity and scale of surrounding development, construction of City Place would have the greatest potential for substantial temporary noise on receptors near the Plan Area. The nearest sensitive common noise receptor for the TESP and City Place would be the residences south of Tasman Drive. Construction noise from City Place would cause noise levels of 66 dBA Leq while construction noise from the TESP would be up to 74 dBA Leq. At these levels, cumulative construction noise levels would increase by at most one dBA. A worst case cumulative construction noise increase of one dBA from the Project in combination with City Place would not make a noticeable increase to overall construction noise. The TESP proposes to implement the construction BMPs in MM NV-2.1 and MM NV-2.2 to reduce construction noise levels. Since cumulative construction noise levels would

not be noticeably higher than construction noise levels expected from individual projects, and the Project would have a less than significant construction noise impact, cumulative construction noise impacts would be less than significant.

The Project would not have a cumulatively considerable significant impact due to vibration. The Project could contribute to cumulative construction vibration levels resulting from the development of pending projects, and projects that are approved, but have not started construction. The Project would not have significant project level impacts on vibration after mitigation. Construction of City Place would have the greatest potential for substantial temporary vibration impacts on receptors near the project site. The nearest sensitive common vibration receptor for both the TESP and City Place would be the residences south of Tasman Drive. Groundborne vibration levels exceeding 0.3 in/sec PPV limit at existing residential buildings south of Tasman Drive that were constructed prior to 1990 would be considered significant. The closest residential structure that would be subject to potential groundborne vibration from the cumulative projects would be at least 300 feet from any construction activity which based on Table 3.11-4 would not be subject to groundborne vibration exceeding 0.3 in/sec PPV.

The Project would not have a cumulatively considerable significant impact due to traffic noise. Cumulative traffic noise level increases were calculated by comparing cumulative traffic volumes and cumulative plus project volumes to existing traffic volumes. A traffic noise increase of three dBA CNEL was calculated under both cumulative scenarios (cumulative and cumulative plus project) along multiple roadway segments in Santa Clara in which existing noise levels exceed 55 dBA CNEL. However, there were no segments with a noise level increase of three dBA CNEL for which the project contribution exceeded one dBA CNEL and therefore project traffic would *not* represent a cumulatively considerable contribution to the overall traffic noise increase.

L. Public Services

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not require the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. While the Project would intensify the use of the site, the TESP was reviewed by the fire department and it is not anticipated that the Project would require the construction or expansion of fire station facilities as the Plan Area is within close proximity to existing stations. In addition, the General Plan EIR concluded that existing fire station facilities have the capacity to absorb additional fire personnel if needed to serve buildout of the General Plan, which includes development of the Plan Area with residential uses.

The Project would not require the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction

of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. The General Plan EIR concluded that additional officers, if needed to serve the buildout of the General Plan, which includes a portion of the development proposed by the Project, would be housed in existing facilities. The police department has reviewed the TESP and may require additional personnel, however, there would be no need for the construction of new or expanded facilities based on the potential increase in planned units from the General Plan.

The Project would not require the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools. The TESP includes 4,500 residential units, which would generate approximately 350 school-aged students. The General Plan EIR states that the Santa Clara Unified School District can accommodate students from General Plan buildout, which includes a portion of the development proposed by the Project, with existing school facilities by modifying school catchment areas and/or adding modular classrooms on existing campuses. Existing elementary, middle, and high schools that would serve the Project Area have capacity for more than the 350 students generated by the Project. In addition, the Project may include development of a new school with a capacity for up to 600 students and the project proponents for future development projects will pay school impact fees under Government Code section 65996.

The Project would not require the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks. The Project would develop 10 acres of dispersed, non-contiguous parks/open space on-site, with three neighborhood parks and an urban plaza available to future residents and employees in the Plan Area. Though the dedicated parkland within the Plan Area is below the required 2.53 acre per 1,000 new residents and would result in greater density of use on the planned parks and open space, the Project would provide in-lieu fees to the City to develop parkland outside of the Plan Area. The General Plan EIR found that development would not be significant with implementation of existing state and City regulations and policies relating to open space and parks, which the Project will comply with. Thus, the Project would result in less than significant impacts to park facilities.

The Project would not require the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities: libraries. The Project would incrementally increase the demand on library facilities due to future residents (approximately 12,285) and employees. The Plan Area is served by the Northside Branch Library. The City does not have service ratios or other performance objectives for library services, but the residents generated by the Project would only

slightly reduce the library-space-per-resident ration and library-items-per-resident ration by 9.4 percent from 0.85 to 0.77 square feet of library space per resident and from 3.69 to 3.36 items per resident. This would not require the construction of new library facilities.

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not have a considerable contribution to a significant cumulative public services impact. The General Plan EIR discussed the cumulative impact on public services from the buildout of the General Plan (which includes a portion of the development and growth proposed by the TESP) and concluded that future development, consistent with existing regulations, would not result in significant impacts to public facilities. The adjacent City Place project would provide for public services on its site or pay in-lieu fees. City Place may move the existing Fire Station 10 to a site fronting the east side of Great America Parkway within or adjacent to the City Place project boundary. The potential relocation would not result in any cumulative impact to response times in the project vicinity. The in-lieu fees paid by projects developed under the Specific Plan would reduce cumulative impacts to school and park facilities and there would be no impacts to fire, police, or library services. For these reasons, implementation of the Project would *not* have a considerable contribution to a significant cumulative public services impact.

M. Recreation

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated. The Project would develop 10 acres of park/open space on-site. The Specific Plan area would have three neighborhood parks, a mini-park, and an urban plaza. The General Plan EIR, which included redevelopment in the Plan Area, concluded that buildout of the General Plan would not be significant for recreation impacts with implementation of existing state and City regulations and policies that the Project must comply with, such as the Quimby Act and the City's Mitigation Fee Act, which require project applicants to dedicate parks and recreational facilities and/or pay a fee in-lieu of parkland dedication. Given the availability of parkland and private open spaces within the Plan Area and the dedication and/or payment of fees, future residents and employees of the Plan Area would not cause deterioration of existing parkland and open space.

The Project would not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. The creation of open space and parkland in the Plan Area is considered in the various impact chapters of the EIR. Creation of parkland and open space on-site would not have an adverse physical effect on the environment.

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not have significant impacts on recreation facilities. The General Plan EIR discussed the cumulative impact on recreation facilities from the buildout of the General Plan (including the Plan Area) and concluded that future development, consistent with existing regulations, would not result in significant impacts to recreational facilities. The previously approved City Place project includes an approximately 31-acre park to provide for recreational facilities north of US 101 and the Project will provide on-site park and recreational space and payment of parkland dedication fees such that there is no project-level impact on recreational facilities. Therefore, the Project would *not* result in significant cumulative recreation impacts.

N. Transportation/Traffic

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would have a less than significant construction related traffic impact. Development in the Plan Area would include construction activities, including clearing, excavation, and grading operations, import/export of fill material, and construction vehicle travel. Traffic from these activities would be ongoing throughout the demolition, grading, and construction process for the individual development sites. Therefore, there is potential for temporary traffic related impacts from construction activities. However, the individual development projects occurring in the TESP shall prepare a Construction Management Plan consistent with noise and vibration mitigation measure MM NV-1.4, which would include truck haul routes and signage for construction traffic access or flow limitations. The effect of construction traffic would only be temporary, and with the Construction Management Plan, the project would not result in a significant construction related traffic impact.

The Project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance of safety of such facilities in relation to bicycle safety. The Project would generate bicycle travel but

would provide an on-street bicycle network with connections to the Guadalupe River Trail, and other existing and planned bicycle facilities. The Project would be consistent with General Plan requirements for new development to connect to existing and planned bicycle facilities. The Specific Plan also includes bicycle racks and bicycle parking spaces for proposed development types as well as bicycle safety features consistent with City policies.

The Project would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. The Plan Area is within the Airport Influence Area, but FAA issuances of a “Determination of No Hazard” would ensure that any project involving towers above 175 to 185 feet above existing grade would not be a potential aviation hazard and development could not penetrate the FAR Part 77 surfaces without such a determination.

The Project would not substantially increase hazards due to a design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) as the Project does not include sharp curves or dangerous intersections, nor does the Project propose incompatible uses.

The Project would not result in inadequate emergency access as the TESP would have an interconnection street network and all streets would be designed to accommodate emergency vehicles.

The Project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance of safety of such facilities in relation to transit facilities: buses. Project analyses show that the routes that currently serve the Plan Area (57 and 60) would experience additional delays of under 30 seconds for Route 57 under all scenarios and under 30 seconds for Route 60 under all scenarios except cumulative plus project in the PM peak hour where the delay would be 37.3 seconds, which constitutes four percent of the total travel time on the route and is not considered a significant impact.

2. Project impacts determined to be less than significant with mitigation incorporated

- (a) Potential Impact:** The Project could conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit or conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways based on Level of Service (LOS) standards at study intersections under existing plus project conditions.

Finding: Mitigation measures would reduce impacts due to intersection LOS under existing plus project conditions to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the AM and/or PM peak hours under existing plus project conditions at the following intersections:

- 9. Tasman Drive and Centennial Drive (City of Santa Clara) – PM Peak Hour
- 10. Lafayette Street and Great American Way (City of Santa Clara) – PM Peak Hour
- 11. Lafayette Street and Calle Del Mundo (City of Santa Clara) – AM Peak Hour

Intersection 9 would result in significant impacts as measures against applicable municipal level of services standards, while intersections 10 and 11 would operate at LOS F and meet the peak hour signal warrant, which is considered a significant impact. The implementation of mitigation to improvement conditions at these intersections and reduce delay would reduce this impact to a level of less than significant. This impact would thus be less than significant with implementation of **MM TRANS-1.1** through **MM TRANS-1.3**.

Mitigation Measures

MM TRANS-1.1: 9. Tasman Drive and Centennial Drive (City of Santa Clara) – Add a third eastbound through lane

MM TRANS-1.2: 10. Lafayette Street and Great America Way (City of Santa Clara) – Signalize this intersection prior to occupancy of planned development comprising 30 percent of the project trip generation.

MM TRANS-1.3: 11. Lafayette Street and Calle Del Mundo (City of Santa Clara) – Signalize this intersection prior to occupancy of planned development comprising 70 percent of the project trip generation.

- (b) Potential Impact:** The Project could conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit or conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways based on LOS standards at study intersections under background plus project conditions.

Finding: Mitigation measures would reduce impacts due to intersection LOS under background plus project conditions to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the AM and/or PM peak hours under background plus project conditions at the following intersections:

10. Lafayette Street and Great American Way (City of Santa Clara) – PM Peak Hour
11. Lafayette Street and Calle Del Mundo (City of Santa Clara) – AM Peak Hour

Intersections 10 and 11 would operate at LOS F and meet the peak hour signal warrant, which is considered a significant impact. The implementation of mitigation to improvement conditions at these intersections and reduce delay would reduce this impact to a level of less than significant. This impact would thus be less than significant with implementation of **MM TRANS-3.3**.

Mitigation Measures

MM TRANS-3.3: 10. Lafayette Street/ Great America Parkway and 11. Lafayette Street/Calle Del Mundo –Signalize intersections prior to occupancy of development comprising 30 percent and 70 percent, respectively, of the project trip generation.

- (c) **Potential Impact:** The Project could conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance of safety of such facilities in relation to pedestrian safety.

Finding: Mitigation measures would reduce impacts due to pedestrian safety to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would generate substantial numbers of pedestrians traveling to transit stops along routes where sidewalks gaps exist, potentially creating a hazardous condition for pedestrians. The policies of the General Plan require that the TESP provide direct linkages to transit stations and stops (Policy 5.4.6-P2) and require new development to provide improvements such as sidewalks to promote pedestrian use and access to transit services (Policies 5.8.4-P8 and 5.8.4-P9). As one of the Specific Plan’s goals is to provide safe and convenient connections to transit, the Specific Plan would be required to include installation of any missing sidewalk on the north side of Tasman Drive between Calle Del Sol and the Lafayette Street overcrossing to facilitate pedestrian access to the train station. The need for the installation of this missing sidewalk segment to complete a pedestrian connection to

the train station is also required mitigation for Phase 1 of the City Place project. The implementation of mitigation to improvement conditions at these intersections and reduce delay would reduce this impact to a level of less than significant. This impact would thus be less than significant with implementation of **MM TRANS-4.1**.

Mitigation Measures

MM TRANS-4.1: Sidewalk improvements to Tasman Drive between Calle Del Sol and the Lafayette Street overcrossing would reduce the safety hazard impacts to pedestrians to a less than significant level. Construction of a sidewalk on this segment of Tasman Drive is a required mitigation for Phase 1 of the City Place project. In the event the new residential buildings within the Plan Area fronting Tasman Drive are constructed prior to City Place Phase 1, such development shall construct the necessary improvements prior to occupancy of the building and would be reimbursed by City Place. Sidewalk improvements to Tasman Drive between Calle Del Sol and the Lafayette Street overcrossing, as needed to address pedestrian safety hazards, shall be in place prior to occupancy of any new residential buildings within the Plan Area fronting Tasman Drive.

3. Project impacts determined to be significant and unavoidable

- (a) Potential Impact:** The Project could conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit or conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways based on LOS standards at study intersections under existing plus project conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the PM peak hour under existing plus project conditions at the following intersection:

37. Montague Expressway and Mission College Boulevard (Santa Clara County)

Intersection 37 would result in significant impacts as measured against applicable municipal level of services standards. With implementation of **MM TRANS-1.4**, the

intersection would operate at an acceptable LOS E during the PM peak hour and the average delay would be better than existing conditions. This intersection is located in the City of Santa Clara, however, it is within the jurisdiction of Santa Clara County and an interchange is identified at this intersection as a Tier 2 priority per the Comprehensive County Expressway Planning Study. Thus, the Project will implement **MM TRANS-1.4**, but the impact would remain significant and unavoidable because the improvement at the intersection is not under the jurisdiction of the City and the City thus cannot guarantee the implementation of the improvement concurrent with the Project.

Mitigation Measures

MM TRANS-1.4: 37. Montague Expressway and Mission College Boulevard (County of Santa Clara) – This intersection is located in the City of Santa Clara and under the jurisdiction of Santa Clara County. The VTP 2040 project would add a third southbound left-turn lane to the intersection. The project shall make a fair share contribution towards the additional turn lane.

- (b) Potential Impact:** The Project could conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit or conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways based on LOS standards on freeway segments under existing plus project conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts on mixed-flow lanes of 16 directional freeway segments and HOV lanes on 8 directional freeway segments during at least one peak hour under existing plus project conditions, as follows:

Mixed-Flow Lane Segment Impacts

US 101 Northbound:

- Bowers Avenue/Great America Parkway to Lawrence Expressway (AM peak hour)
- Lawrence Expressway to North Fair Oaks Avenue (AM peak hour)
- North Fair Oaks Avenue to North Mathilda Avenue (AM peak hour)

US 101 Southbound:

- North Mathilda Avenue to North Fair Oaks Avenue (PM peak hour)
- North Fair Oaks Avenue to Lawrence Expressway (PM peak hour)
- Lawrence Expressway to Bowers Avenue/Great America Parkway (PM peak hour)

SR 237 Eastbound:

- US 101 to Mathilda Avenue (PM peak hour)
- Mathilda Avenue to North Fair Oaks Avenue (PM peak hour)
- North Fair Oaks Avenue to Lawrence Expressway (PM peak hour)
- Lawrence Expressway to Great America Parkway (PM peak hour)
- North First Street to Zanker Road (PM peak hour)

SR 237 Westbound:

- Great America Parkway to Lawrence Expressway (AM peak hour)
- Lawrence Expressway to North Fair Oaks Avenue (AM and PM peak hours)
- North Fair Oaks Avenue to Mathilda Avenue (AM and PM peak hours)
- Mathilda Avenue to US 101 (PM peak hour)

I-880 Southbound:

- SR 237 to Dixon Landing Road (AM peak hour)

HOV Lane Segment Impacts

US 101 Northbound:

- Bowers Avenue/Great America Parkway to Lawrence Expressway (AM peak hour)
- Lawrence Expressway to North Fair Oaks Avenue (AM peak hour)

US 101 Southbound:

- North Fair Oaks Avenue to Lawrence Expressway (PM peak hour)
- Lawrence Expressway to Bowers Avenue/Great America Parkway (PM peak hour)

SR 237 Eastbound:

- Mathilda Avenue to North Fair Oaks Avenue (PM peak hour)
- North Fair Oaks Avenue to Lawrence Expressway (PM peak hour)
- Lawrence Expressway to Great America Parkway (PM peak hour)

SR 237 Westbound:

- Great America Parkway to Lawrence Expressway (AM peak hour)

Full mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. Since it is not feasible for an individual development project to bear responsibility for implementing such extensive transportation system improvements due to constraints in acquisition and cost of right-of-way, and no comprehensive project to add through lanes has been developed by Caltrans or VTA for individual projects to contribute to, the significant impact on the directional freeway segments identified above is considered significant and unavoidable.

Mitigation Measures

None.

- (c) **Potential Impact:** The Project could conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit or conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways based on LOS standards at study intersections under background plus project conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the AM and/or PM peak hours under background plus project conditions at the following intersections:

1. Great American Parkway and Westbound 237 Ramps (City of San Jose) – AM Peak Hour
9. Tasman Drive and Centennial Drive (City of Santa Clara) – AM and PM Peak Hour
37. Montague Expressway and Mission College Boulevard (County of Santa Clara) – PM Peak Hour

Intersection 1 is located in the City of San Jose and thus the City cannot guarantee that the improvement in MM TRANS-3.1 would be implemented in a timely manner such that the Project's impact is reduced to a level of less than significant. Intersection 9 is located in the City of Santa Clara and with implementation of the improvement in MM TRANS-3.2, the intersection would operate at an acceptable LOS D. However, due to light rail lines along Tasman Drive, coordination with VTA would be needed to secure right-of-way for this improvement. Since the mitigation relies on the approval of VTA, the City cannot know with certainty that this mitigation measures would be implemented such that the Project's impact would be reduced to less than significant. Intersection 37 is located in the City of Santa Clara and under the jurisdiction of Santa Clara County. In order to fully mitigate Project impact, a second northbound left turn lane would be needed but right-of-way constraints make this infeasible. Additionally, an interchange is identified at this intersection as a Tier 2 priority per the Comprehensive County Expressway

Planning Study. The project shall implement MM TRANS-1.4 and make a fair share contribution to such interchange, but the impact is significant and unavoidable because the improvement is not under the jurisdiction of the City of Santa Clara and the City cannot guarantee the implementation of the improvement concurrent with the proposed project. Thus, the Project will implement **MM TRANS-3.1**, **MM TRANS-3.2**, and **MM TRANS-3.4**, but the impact would remain significant and unavoidable.

Mitigation Measures

MM TRANS-3.1: 1. Great America Parkway and Westbound 237 Ramps (City of San José/CMP) – Restripe the southbound approach to one through/right-lane and one right-lane, which would not require right-of-way and/or narrowing of the median and would improve intersection operations to an acceptable LOS.

MM TRANS- 3.2: 9. Tasman Drive and Centennial Drive (City of Santa Clara) – Add a third eastbound and a third westbound through lane.

MM TRANS-3.4: 37. Montague Expressway and Mission College Boulevard (County of Santa Clara) – The VTP 2040 project would add a third southbound left-turn lane to the intersection. The project shall make a fair-share contribution towards the additional turn lane.

- (d) Potential Impact:** The Project could conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit or conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways based on LOS standards at study intersections under background plus project conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the PM peak hour under background plus project conditions at the following intersection:

35. Tasman Drive and Lawrence Expressway (County of Santa Clara)

The improvements that would be needed to fully mitigate the impact at Intersection 35 include widening the eastbound approach to accommodate an additional through lane. Intersection 35 is constrained due to the presence of transportation facilities such as light rail transit, infrastructure, or existing buildings that would make the improvement infeasible because there is no right-of-way available to accommodate the improvement. Therefore, the intersection has no feasible vehicle capacity improvements due to right-of-way constraints and the impact is considered significant and unavoidable.

Mitigation Measures

None.

- (e) **Potential Impact:** The Project could conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance or safety of such facilities in relation to transit facilities: light rail.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project is currently served by light rail which would incur delay greater than 60 seconds in the eastbound direction during the PM peak hour for most scenarios and the westbound direction during the AM peak hour for background plus project and cumulative plus project conditions. The longest delay of 180.8 second constitutes less than one percent of the total travel time on that route. Neither the City nor VTA has established policies or quantitative significance criteria related to transit delay, however development under the TESP would contribute to approximately two to three minute delays during the peak commute period which would be significant. Transit signal priority is the only feasible mitigation to reduce this impact and the City already has a system along Tasman Drive corridor to give light rail vehicles signal priority. The Project would not change this operating protocol. Since there are no other feasible mitigation measures, the impacts of the Project on transit: light rail, would therefore be significant and unavoidable.

Mitigation Measures

None.

4. Cumulative impacts

The Project would not have a cumulatively considerable contribution to significant cumulative impacts based on stadium traffic at Levi's Stadium. A peak traffic scenario

would occur when an NFL game is scheduled for a Thursday or Monday evening where stadium traffic overlaps with PM peak hour traffic. However, the City manages game traffic with a Traffic Management and Operations Plan (TMOP) that provides for efficient ingress and egress of vehicles, pedestrians, and transit services to and from the stadium and identified parking facilities. As the Plan Area develops, the City would refine the TMOP as necessary to accommodate users of the Plan Area and to ensure cumulative traffic in the vicinity of the Plan Area and the stadium is adequately accommodated. Cumulative game day traffic volumes would include an estimated 12,000 vehicle trips resulting from stadium visitors, approximately 12,310 vehicle trips resulting from City Place, up to 1,500 vehicle trips from Great America Theme Park, 1,585 vehicle trips from the Plan Area and vehicle trips from employees at existing and planned commercial development in the area. Although the analysis of a weekday NFL game represents a peak cumulative traffic scenario, it is expected to occur, at most, once or twice per year. Cumulative traffic volumes for such an event would result in significant cumulative impacts to the roadway network and intersections in the vicinity of Great America, Levi's Stadium, City Place, and Tasman East. However, the project's contribution to cumulative traffic volumes would be less than six percent during such events and, therefore, would not be cumulatively considerable

- (a) **Potential Impact:** The Project could have a cumulatively considerable contribution to significant cumulative impacts based on LOS standards at study intersections under cumulative plus project conditions.

Finding: Mitigation measures would reduce impacts due to LOS at study intersections under cumulative plus project conditions to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the AM and/or PM peak hours under cumulative plus project conditions at the following intersections:

- 12. Lafayette Street and Calle De Luna (City of Santa Clara) – AM Peak Hour
- 13. Lafayette Street and Calle De Primavera (City of Santa Clara) – PM Peak Hour
- 21. Tasman Drive and Calle Del Sol (City of Santa Clara) – AM and PM Peak Hour

Impacts to these intersections would be mitigated with the reconfiguring of the intersections as described in the mitigation measures. This impact would thus be less than significant with implementation of **MM C-TRANS-3.1** through **MM C-TRANS-3.3**.

Mitigation Measures

MM C-TRANS-3.1: 12. Lafayette Street and Calle De Luna – Reconfiguring the westbound approach to one left-turn lane and one right-turn lane would fully

mitigate the impact to an acceptable LOS D and would not require additional right-of-way.

MM C-TRANS-3.2: 13. Lafayette Street and Calle De Primavera - Reconfigure the westbound approach to two left-turn lanes and one right-turn lane.

MM C-TRANS-3.3: 21. Tasman Drive and Calle Del Sol - Reconfigure the southbound approach to two left-turn lanes and one right-turn lane would fully mitigate the impact.

- (b) Potential Impact:** The Project could have a cumulatively considerable contribution to significant cumulative impacts based on LOS standards at study intersections under cumulative plus project conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the AM and/or PM peak hours under cumulative plus project conditions at the following intersections:

- 4. Great America Parkway and Old Mountain View/Alviso Road (City of Santa Clara) – PM Peak Hour
- 5. Great America Parkway and Tasman Drive (City of Santa Clara) – AM and PM Peak Hour
- 9. Tasman Drive and Centennial Drive (City of Santa Clara) – AM and PM Peak Hours
- 24. Tasman Drive and Lick Mill Boulevard (City of Santa Clara) – AM and PM Peak Hours
- 26. Lick Mill Boulevard and Montague Expressway (Santa Clara County) – PM Peak Hour
- 29. Westbound 237 and First Street (City of San José) – PM Peak Hour
- 32. Tasman Drive and North First Street (City of San José) – PM Peak Hour
- 34. Tasman Drive and Rio Robles (City of San José) – PM Peak Hour
- 35. Tasman Drive and Lawrence Expressway (Santa Clara County) – AM and PM Peak Hours

These intersections are primarily constrained due to the presence of transportation facilities such as light rail transit, infrastructure, or existing building that would make roadway improvement infeasible. Therefore, there are no feasible mitigation measures due to right-of-way constraints and thus this impact would remain significant and unavoidable.

Mitigation Measures

None.

- (c) **Potential Impact:** The Project could have a cumulatively considerable contribution to significant cumulative impacts based on LOS standards at study intersections under cumulative plus project conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the AM peak hour under cumulative plus project conditions at the following intersection:

11. Lafayette Street and Calle Del Mundo (City of Santa Clara) – AM Peak Hour

This intersection is assumed to be signalized under cumulative conditions with the implementation of **MM TRANS-1.3**, but even with signalization, the intersection would operate at LOS F with the Project and there is no additional right-of-way available to accommodate additional intersection improvements to reduce the impact to a less than significant level. Thus, the impact would remain significant and unavoidable.

Mitigation Measures

Refer to **MM TRANS-1.3** above.

- (d) **Potential Impact:** The Project could have a cumulatively considerable contribution to significant cumulative impacts based on LOS standards at study intersections under cumulative plus project conditions.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

The Project would generate traffic at full buildout that would create LOS impacts during the PM peak hour under cumulative plus project conditions at the following intersections:

36. Montague Expressway and North First Street (Santa Clara County) – PM Peak Hour

37. Mission College Boulevard and Montague Expressway (Santa Clara County) – PM Peak Hour

Intersection 37 is identified as a location for future grade separation for LRT as part of the Comprehensive County Expressway Planning Study 2008 Update. The City of Santa Clara cannot guarantee that intersection improvements will be implemented in a timely manner such that the Project's impact is avoided or mitigated. Adding a dedicated eastbound right turn lane with an overlap phase would also fully mitigate the project impact, but right-of-way restrictions make this infeasible. Intersection 38 would gain a third southbound left-turn lane under the VTP 2040 project, however, this would not reduce impacts to this intersection to a less than significant level. This intersection is also identified as a Tier 2 priority location for a future grade-separated interchange as part of the Comprehensive County Expressway Planning Study 2008 Update. The City of Santa Clara cannot guarantee that intersection improvements will be implemented in a timely manner such that the project's impact is avoided or mitigated. Adding a second northbound left turn lane would fully mitigate the project impact, but right-of-way constraints make this infeasible. Thus, due to the lack of jurisdictional control over these intersection and the infeasibility of mitigation that would reduce this impact to a less than significant level, this impact is considered significant and unavoidable.

Mitigation Measures

None.

0. Utilities and Service Systems

1. Project impacts determined to have no impact on the environment, or have a less than significant impact on the environment

The Project would have sufficient water supplies available to serve the project from existing entitlements and resources, and would not require new or expanded entitlements. The TESP would result in an increased water use of approximately 627.3 acre feet per year. The City plans to meet future demand by pumping additional groundwater, relying on more recycled water, and increased conservation. Given the potential for decreased SFPUC deliveries due to the City's interruptible contract, increased groundwater pumping may be necessary during multiple dry years. This may require additional pumping facilities or larger pumps at existing facilities.

The Project would not require or result in the construction of new waste or wastewater treatment facilities or an expansion of existing facilities, the construction of which could cause significant environmental effects. The two pump stations serving the Plan Area will be operating within their estimated capacity during future conditions. The Primavera Lift Station, located within the Plan Area, has a capacity of 5.7 mgd and the Sanitary Sewer Master Plan estimated flows at the Primavera Lift Station of 2.0 mgd in 2035 at full buildout. According to the Sanitary Sewer Capacity Evaluation, redevelopment in the Plan Area is estimated to increase wastewater flows by approximately 0.45 mgd which is more than double the flows estimated in the Sanitary Sewer Master Plan. Given the estimated

excess capacity at the Primavera Pump Station, adequate capacity exists to convey the increased wastewater flows from the Plan Area. The Sewer Master Plan does not indicate any other elements of the conveyance system between the project site and the Regional Wastewater Facility (RWF) that are anticipated to need upgrades before 2035. The Primavera Pump Station that is currently located in the planned alignment of the Calle Del Sol extension would require either undergrounding or relocation within the Plan Area. Modifications and/or relocation of the Primavera Pump Station would result in similar impacts and mitigation measures as identified in the EIR. In the event the Primavera Pump Station is relocated outside of the Plan Area, subsequent environmental review would be required.

The Project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments or exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board. Current and planned development would not exceed the City's allocation at the RWF of 25 mgd today or in 2035. The City's peak sewage flows to the RWF in 2017 were 16.15 mgd. With the addition of approximately 0.45 mgd of sewage from future development under the Specific Plan, the City would not exceed its allocation of 25 mgd.

The Project would not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. The Plan Area and surrounding area is developed, thus there is little potential for a substantial increase in runoff rate or volume. Planned changes to the street system (including an extension of Lick Mill Blvd and the widening of Calle De Luna) would increase the existing peak runoff rate by approximately two percent (less than one cfs). This minor change would not cause any significant increase in flooding downstream of the Plan Area based on post-project modeling. The TESP would include importing fill material to raise buildings above the 100-year floodplain. These elevation changes would block overland flows. Furthermore, the existing storm drain system is insufficient to handle flows during storms under existing conditions. The Project requires the placement of a catch basin at the northwest corner of the site to address potential increased flooding due to the blockage of overland stormwater flows. This would result in similar impacts as other ground-disturbing activities and required mitigation described in the EIR.

The Project would not be served by a landfill without sufficient permitted capacity to accommodate the Project's solid waste disposal needs. The Project would result in construction waste as well as an ongoing net increase in solid waste and recyclable materials of approximately 1,413 tons per year. Development within the Plan Area would be required to provide recycling facilities within buildings; recycling and composting stations in public locations; and public campaigns for the Plan Area which would further increase diversions from landfills. The Newby Island Landfill (NISL), located in San José, has an agreement with the City to provide disposal capacity through 2024. According to the Integrated Waste Management Plan, the County has adequate disposal capacity beyond 2026 and as of January 2017, NISL has approximately 18 million cubic yards of remaining capacity. Thus, there is existing capacity to accommodate project waste post 2024.

The Project would not be inconsistent with federal, state, and local statutes and regulations related to solid waste. The Project would comply with the City's construction debris diversion ordinance which requires all projects over 5,000 square feet to divert a minimum 50 percent of construction and demolition debris from landfills, and would comply with the requirements of the Santa Clara Business/Commercial Recycling Program to assist the City in meeting its waste diversion goal of 50 percent (City Code (Ord. 1947 § 3, 1-12-16)).

2. Project impacts determined to be less than significant with mitigation incorporated

None.

3. Project impacts determined to be significant and unavoidable

None.

4. Cumulative impacts

The Project would not have cumulatively considerable impacts on water supply. The Water Supply Assessment determined the City would have adequate water supply for the Specific Plan under most scenarios with the exception of multiple dry years with supply discontinued from SFPUC. As discussed in the Urban Water Management Plan, the City has plans to construct two new groundwater wells which would provide approximately 4,000 acre-feet of water per year which would provide adequate water supply to the City in multiple dry years. It is anticipated that such facilities could be located to avoid or reduce impacts to a less than significant level. The Project would have less than significant impacts at a project level and thus does not contribute to cumulative impacts.

The Project would not have cumulatively considerable impacts on wastewater treatment/sanitary sewer systems. Buildout of the General Plan would result in an increase in sewage generated within the City. As discussed in the certified General Plan EIR, the average dry weather flows projected from the full buildout of the General Plan were projected to be within the City's allocated treatment capacity at the RWF, which at the time of the certification of the General Plan EIR was 20.1 mgd and below the City's 2017 flow allocation of approximately 25.0 mgd. The Specific Plan and other large projects proposed within the City are not anticipated collectively to exceed the City's existing allocation at the RWF. The RWF has excess flow capacity of approximately 59.7 mgd and the City has a process to obtain additional capacity rights at the RWF should the need arise.

The Project would not have cumulatively considerable impacts on the storm drainage system. Development projects (including future development under the proposed Specific Plan) are required by City ordinances to undertake steps to avoid, minimize, and/or mitigate flooding and water quality impacts. Projects north of the Plan Area must be designed to have no impacts to upstream water surface elevations and therefore would cause no negative storm drainage impacts to the Plan Area. Redevelopment projects

upstream of the Plan Area would also be required to minimize and treat stormwater runoff from their sites which would avoid stormwater flow rate increases in the drainage system. The Project would not have significant impacts on the storm drainage system at a project-level and therefore, cumulative storm sewer impacts would be considered less than significant.

- (a) **Potential Impact:** The Project could contribute considerably to identified exceedances of the existing pump station capacity at Rabello and Northside Pump Stations.

Finding: Mitigation measures would reduce cumulative impacts from construction emissions to less than significant levels. The City hereby determines this impact to be *less than significant*.

Facts in Support of Finding

The Sewer Master Plan does not indicate any elements of the conveyance system between the project site and the RWF that are anticipated to need upgrades before 2035. The Rabello and Northside Pump Stations; however, are anticipated to exceed their pump capacity of 41 mgd by 2035 with recent development approvals not previously considered in the General Plan. In the event that more development occurs than was anticipated by the General Plan, the capacity of the Rabello and Northside Pump Stations would need to be upgraded to meet the demand. The upgrades would include additional wet well and pumping capacity as well as, potentially, force main improvements. As part of the mitigation for City Place, a detailed engineering study and analysis to determine the precise size and timing needed for the required pump station capacity upgrades to address projected cumulative development is required. Such improvements are required to occur concurrent with City Place Phase 2 which is anticipated to complete construction by 2023, far in advance of the Specific Plan buildout. The City shall implement the required capacity upgrades and the proposed project shall fund its fair share of such upgrades. Thus, this impact would be mitigated to a level of less than significant by implementation of **MM C-UTIL-1.1**.

Mitigation Measures

MM C-UTIL-1.1: The proposed Specific Plan shall require that individual projects implemented within the Specific Plan area make a fair share contribution to the sanitary sewer pump station improvements required by cumulative development in Santa Clara. The fair share contributions for future projects developed under the Specific Plan shall be determined based on a detailed engineering study prepared by the City. The City shall determine the fair-share cost contribution for the individual projects based on their percent of wastewater flow cumulative capacity needs above the current pump capacity.

(b) Potential Impact: The Project could result in a cumulatively considerable impact to solid waste generation and disposal.

Finding: There are no feasible and reasonable mitigation measures which would reduce this impact to a less than significant level. The City hereby determines that this impact would be *significant and unavoidable*.

Facts in Support of Finding

Buildout of the City and the proposed project would generate solid waste that would need to be disposed of appropriately. Consistent with the conclusion in the certified General Plan Final EIR and City Place Santa Clara Project Final EIR, without a specific plan for disposing of solid waste beyond 2024, the solid waste generated by development in the City post-2024 (including waste from the Project and other cumulative projects such as City Place) would result in a significant unavoidable impact. There are no feasible and reasonable mitigation measures to reduce this impact and thus, the impacts would remain significant and unavoidable.

Mitigation Measures

None.

V. FINDINGS REGARDING ALTERNATIVES

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. The concept of “feasibility” encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*); *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1509 [court upholds CEQA findings rejecting alternatives in reliance on applicant’s project objectives]; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 (*CNPS*) [“an alternative ‘may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record’”] (quoting Kostka & Zischke, *Practice Under the Cal. Environmental Quality Act* [Cont.Ed.Bar 2d ed. 2009] (*Kostka*), § 17.39, p. 825); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165, 1166 (*Bay-Delta*) [“[i]n the CALFED program, feasibility is strongly linked to achievement of each of the primary project objectives”; “a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal”].) Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*City of Del Mar, supra*, 133 Cal.App.3d at p. 417; see also *CNPS, supra*, 177 Cal.App.4th at p. 1001 [“an alternative that ‘is impractical or undesirable from a policy standpoint’ may be rejected as

infeasible”] [quoting *Kostka, supra*, § 17.29, p. 824]; *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 17.)

CEQA requires evaluations of alternatives that can reduce the significance of identified Project impacts that will not be avoided or substantially lessened by mitigation measures and can "feasibly attain most of the basic objectives of the proposed Project." Thus, overall Project objectives were considered by the City in evaluating the alternatives.

The consideration of alternatives is an integral component of the CEQA process. The selection and evaluation of a reasonable range of alternatives provides the public and decision-makers with information on ways to avoid or lessen environmental impacts created by a proposed project. When selecting alternatives for evaluation, CEQA requires alternatives that meet most of the basic objectives of the Project, while avoiding or substantially lessening the Project's significant effects.

Three alternatives to the Project were defined and analyzed, as described in Section 7.0 of the EIR:

No Project/No Redevelopment Alternative

As required by CEQA Guideline section 15126.6, a “no project” alternative for the purpose of comparing the impacts of approving the Project with the impacts of not approving the Project was analyzed. The No Project/No Redevelopment Alternative, assumes that the Project's proposed specific plan and other actions will not be approved. The No Project/No Redevelopment Alternative further assumes that existing industrial uses (approximately 708,000 square feet of light industrial/office space) would remain, and that no new development would occur in the Plan Area.

Analysis: The EIR, including Section 7.0 of the Draft EIR, and the balance of the administrative record contains facts and analysis supporting the Finding, some of which are set forth here. Because the No Project/No Redevelopment Alternative would not involve new development on the Project site, this alternative would avoid all of the TESP's environmental impacts, but could have increased impacts in the realm of hazards and hazardous wastes due to the current industrial uses on the Project site. However, it would not meet any of the City's objectives for the Tasman East Focus Area, including developing high-density residential development near transit to meet RHNA goals, providing direct transportation linkages from Tasman East to transit providers, providing a vital neighborhood in the area of Santa Clara by using urban design standards and pedestrian and bicycle friendly design, and developing a vibrant neighborhood with integrated open space and parks.

Finding: While the No Project/No Redevelopment Alternative would have fewer adverse environmental effects than the proposed Project and would reduce or avoid all of the Project's significant and unavoidable environmental impacts, it would not achieve most of the Project objectives, including the basic objective to develop a high-density, transit-oriented housing development in an in-fill location and is therefore rejected by the City as infeasible.

No Project/Office and R&D Redevelopment Alternative

The No Project/Office and R&D Redevelopment Alternative assumes that the Plan Area would be redeveloped with the maximum allowed development under the ML: Light Industrial zoning designation, which allows 75% lot coverage and buildings up to 70 feet in height. This would allow the Plan Area to be developed with approximately 4 million square feet of office space, more than quadrupling the current development in the Plan Area of 708,000 square feet.

Analysis: The EIR, including Section 7.0 of the Draft EIR, and the balance of the administrative record contains facts and analysis supporting the Finding, some of which are set forth here. The No Project/Office and R&D Redevelopment Alternative may increase impervious surfaces on the site as no residential population would be located in the Plan Area and requirements for parks and pedestrian connectivity would be more limited. Given the increase in impervious areas, flooding conditions could worsen on and offsite. Vehicle trips would also substantially increase over the proposed Specific Plan (approximately 39,540 trips vs. 22,380 project trips) and would likely result in additional traffic impacts by foregoing opportunities to place residences near current and planned jobs. Although the intersection impacts might be slightly different due to the directionality of the vehicle trips, given the substantially increased volume of trips it is anticipated that greater traffic impacts would result. The No Project/Office and R&D Redevelopment Alternative would also exacerbate the City's existing jobs/housing imbalance and likely increase commute times and distances which would be a significant unavoidable impact due to inconsistency with General Plan policies that were adopted to mitigate environmental impacts. The No Project/Office and R&D Redevelopment Alternative would also likely result in greater significant criteria pollutant impacts and potentially significant GHG emissions impacts due to the increased number of trips and VMT from workers traveling to the Plan Area. The No Project/Office and R&D Redevelopment Alternative would thus not avoid any of the significant and unavoidable impacts due to the Project, including air quality impacts, bird hazards, traffic impacts, and transit impacts. In addition, the No Project/Office and R&D Redevelopment Alternative would not meet the City's primary project objective of developing new housing in a high-density neighborhood that would assist the City in reaching state-mandated RHNA goals and provide convenient access to commercial services and jobs.

Finding: While the No Project/Office and R&D Redevelopment Alternative would have some fewer adverse environmental effects than the proposed Project, it would not reduce or avoid any of the Project's significant and unavoidable environmental impacts, and would likely lead to increased impacts to traffic and runoff beyond those impacts identified for the Project. It would also not achieve most of the Project objectives, including the basic objective to develop a high-density, transit-oriented housing development in an in-fill location and providing substantial open space to serve the needs of area residents and is therefore rejected by the City as infeasible on the basis of environmental and other considerations described above.

Reduced Development Alternative

The Reduced Development Alternative assumes the proposed unit count and supporting commercial space would be reduced to approximately 1,350 units and 31,000 square feet of commercial space.

Analysis: The EIR, including Section 7.0 of the Draft EIR, and the balance of the administrative record contains facts and analysis supporting the Finding, some of which are set forth here. The Reduced Development Alternative would avoid some, but not all, traffic impacts and would not eliminate the significant and unavoidable traffic impacts. The Reduced Development Alternative would eliminate the regional air quality impacts of the project by reducing organic gas emissions to a less than significant level. This alternative would also reduce impacts to the sanitary sewer system and groundwater pumping facilities. While the Reduced Development Alternative would still assist the City in meeting its RHNA goals, it would provide less than one-third of the units proposed by the Specific Plan, thus not meeting this objective or the City's primary project objectives to the same extent.

Finding: While the Reduced Development Alternative would avoid some traffic impacts and regional air quality impacts and reduce impacts to the sanitary sewer system and groundwater pumping facilities, it would not avoid all significant and unavoidable impacts of the Project and would not assist the City in meeting its RHNA goals to the same extent nor reduce the existing jobs/housing imbalance in Santa Clara to the same extent as the project. It is therefore rejected by the City as infeasible on the basis of environmental and other considerations described above.

Environmentally Superior Alternative

CEQA requires that an EIR identify the environmentally superior alternative. CEQA Guidelines section 15126.6 identifies the following factors that may be used to eliminate alternatives from detailed consideration in an EIR: (1) failure to meet most of the basic Project objectives, (2) infeasibility, or (3) inability to avoid significant environmental impacts. These factors are considered in the selection of the environmentally superior alternative.

Analysis: The EIR, including Section 7.0 of the Draft EIR, and the balance of the administrative record contains facts and analysis supporting the Finding, some of which are set forth here. The analysis of the potential impacts associated with the proposed Project and the alternatives addressed in this EIR indicate that the No Project/No Redevelopment Alternative, has the least environmental impact since no new development is proposed on site. However, the No Project/No Redevelopment Alternative would not meet any of the Project objectives. CEQA Guidelines section 15126.6 states "If the environmentally superior alternative is the 'no project' alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives".

The No Project/Office and R&D Redevelopment Alternative would also not meet any of the Project Objectives and would result in greater traffic and air quality impacts. It would also

exacerbate the City's existing housing/jobs imbalance, thereby directly contradicting the Project's primary objective and the City's goals.

The Reduced Development Alternative would meet most of the Project Objectives, but to a lesser extent than the Project and would result in only 1,350 units and 31,000 square feet of commercial space. This Alternative would avoid some traffic impacts and regional air quality impacts and reduce impacts to the sanitary sewer system and groundwater pumping facilities. However, there are several impacts that the Reduced Development Alternative would not avoid, including significant and unavoidable impacts to traffic and potentially bird hazards, and this Alternative would not assist the City in meeting its RHNA goals or its primary objective to the same extent as the Project.

Based on the analysis for each Alternative above, although no alternative would entirely avoid all of the significant and unavoidable impacts of the proposed Project, the Reduced Development Alternative is considered the environmentally superior alternative in relation to some impact topics. This Alternative would result in the avoidance of some traffic and air quality impacts as well as reduced impacts to sanitary sewer systems and groundwater pumping facilities. However, it would still have significant and unavoidable impacts related to traffic and potentially bird hazards. It would meet the Project's primary objectives, but not as comprehensively as the proposed Project because it would not add as much housing or open space and thus would not address the City's goals under the RHNA to the same extent as the Project.

Finding: Based on the analysis for each Alternative above, although no alternative would entirely avoid all of the significant and unavoidable impacts of the proposed Project, the Reduced Development Alternative is considered the environmentally superior alternative to the Project in relation to some impact topics. The Reduced Development Alternative would result in avoidance of some traffic and air quality impacts and the reduction of impacts to sanitary sewer systems and groundwater pumping facilities and would meet the City's primary Project Objectives.

However, as discussed above, the Reduced Development Alternative would not avoid all of the Project's significant and unavoidable environmental effects. Moreover, as compared to the Project, this Alternative would assist the City substantially less in meeting its RHNA goals and its objectives of providing housing close to commercial development and current and planned jobs and reducing the jobs to housing ratio in the City. Since the Reduced Development Alternative would not avoid all of the Project's significant and unavoidable impacts and would not meet the Project's primary objective of developing a high-density in-fill development near transit to address the City's RHNA goals as much as is possible, the City rejects as infeasible the Reduced Development Alternative E on the basis of such considerations.

VI. FINDINGS REGARDING GROWTH-INDUCING IMPACTS OF THE PROJECT

CEQA Guidelines section 15126.2(d) provides the following guidance on growth-inducing impacts: a project is identified as growth inducing if it "could foster economic or population

growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.

The Project is an “infill” project, meaning that the Plan Area is within the City’s existing boundaries, already served by existing infrastructure, and planned for urban uses. Redevelopment of the Tasman East Focus Area was envisioned as part of the Santa Clara 2010-2035 General Plan. The proposed Specific Plan has increased the allowed density in the Plan Area from what was assumed in the General Plan. The resulting dwelling unit assumptions for the Plan Area have increased from 1,676 residential units as described in the 2014 Housing Element update to 4,500 dwelling units assumed in the Specific Plan. The proposed commercial square footage and school facilities are consistent with the mixed-use neighborhood envisioned for the Plan Area. The impacts to infrastructure and services resulting from the proposed Specific Plan are described and analyzed throughout this EIR. Because the proposed Specific Plan is a previously envisioned growth area in the General Plan and is not anticipated to result in increased growth outside the City where urban development is not already planned, the proposed Specific Plan would not result in growth-inducing impacts beyond what is envisioned in the City’s General Plan.

VII. FINDINGS REGARDING RECIRCULATION OF THE DRAFT EIR

The City Council adopts the following findings with respect to whether to recirculate the Draft EIR. Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR for public review but prior to certification of the Final EIR. The term “information” can include changes in the project or environmental setting, as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. “Significant new information” requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.
- (4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (CEQA Guidelines, § 15088.5.)

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The above standard is “not intend[ed] to promote endless rounds of revision and recirculation of EIRs.” (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal. 4th 1112, 1132.) “Recirculation was intended to be an exception, rather than the general rule.” (*Ibid.*)

The City Council recognizes that the Final EIR contains additions, clarifications, modifications, and other changes to the Draft EIR. Some comments on the Draft EIR either expressly or impliedly sought changes to proposed mitigation measures identified in the Draft EIR as well as additional mitigation measures. As explained in the Final EIR (Text Revisions), some of the suggestions were found to be appropriate and feasible and were adopted in the Final EIR. Where changes have been made to mitigation measures, these changes do not change the significance of any conclusions presented in the Draft EIR.

CEQA case law emphasizes that “[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11.) “CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process. In short, a project must be open for public discussion and subject to agency modification during the CEQA process.” (*Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936 (internal citations omitted).) Here, the changes made to the Draft EIR in the Final EIR are exactly the kind of revisions that the case law recognizes as legitimate and proper.

The City Council finds that none of the revisions to the Draft EIR made by, or discussion included in, the Final EIR involves “significant new information” triggering recirculation because the changes do not result in any new significant environmental effects, substantial increase in the severity of previously identified significant effects, or feasible project alternatives that would clearly lessen the environmental effects of the project. Similarly, no documentation produced by, or submitted to, the City and relied on by the City after publication of the Final EIR, including but not limited to public comments, identifies any new significant effect, substantial increase in the severity of any environmental effect, or feasible project alternatives that would clearly lessen the environmental effects of the project. All project modifications were either environmentally benign or environmentally neutral and all additional documentation relied on by the City merely clarifies or amplifies conclusions in the EIR, and thus represent the kinds of common changes that occur and supplemental information that is received during the environmental review process as it works towards its conclusion. Under such circumstances, the City Council hereby finds that recirculation of the EIR is not required.

VIII. FINDINGS REGARDING REJECTION OF RECOMMENDED MITIGATION MEASURES

As part of the Draft EIR public review process, certain commenters recommended various revisions and additions to the mitigation measures identified in the following EIR sections: Biological Resources; Hazards and Hazardous Materials; Hydrology and Water Quality; and Transportation/Traffic. The City has evaluated each such recommended new or revised mitigation measure and has incorporated many into the EIR and the MMRP prepared for the Project, as described herein and in Final EIR Sections 4.0 (Responses to Draft EIR Comments) and 5.0 (Draft EIR Text Revisions). All new or revised mitigation measures that have not been incorporated into the EIR and MMRP are hereby rejected on the basis that each such measure is either functionally equivalent to one or more mitigation measures identified in the EIR and included in the MMRP prepared for the Project, is the responsibility of another agency, or is infeasible because of specific economic, legal, social, technological, or other considerations.

IX. SECTION 21082.1(c)(3) FINDINGS

Pursuant to Public Resources Code Section 21082.1(c)(3), the City Council hereby finds that the Final EIR reflects that independent judgment of the lead agency.

X. STATEMENT OF OVERRIDING CONSIDERATIONS

Where a proposed project may result in significant impacts on the environment, and it is infeasible to reduce impacts to less than significant levels through project alternatives or mitigation measures, CEQA allows a public agency to approve the project only if the benefits of the project outweigh the unavoidable adverse environmental effects.

Section 15093 of the CEQA Guidelines provides the following:

CEQA requires the decision making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

As discussed in more detail in the EIR and as summarized in Section IV above, the Project will result in significant unavoidable impacts related to traffic, air quality, birds, and solid waste. Specifically, the Project will have significant and unavoidable impacts on the following:

- Criteria-pollutant air emissions;
- Cumulatively considerable contributions to regional air pollutant levels;
- Plan-level and cumulative impacts related to bird hazards;

- Plan-level and cumulative traffic impacts on multiple intersections and freeway segments;
- Transit impacts to Light Rail Transit; and
- Solid waste disposal.

The City identified a potentially feasible alternative (the Reduced Development Alternative) that would result in avoidance of some of the Project's significant and unavoidable impacts such as traffic and air quality impacts, but it has not identified any potentially feasible alternatives that would avoid any of the other significant and unavoidable impacts. Moreover, as compared to the Project, this Alternative would be of substantially less assistance to the City in meeting its RHNA goals and its objectives of providing housing close to commercial development and current and planned jobs and reducing the jobs to housing ratio in the City.

Furthermore, although the Reduced Development Alternative was initially determined to be *potentially* feasible (subject to further review as the CEQA process proceeded), the City has now determined that the Reduced Intensity is not feasible, for the specific economic, social, environmental, technological, legal or other considerations set forth in section V above. Under CEQA, "the decision makers may reject as infeasible alternatives that were identified in the EIR as potentially feasible." *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.

The City certifies that it has considered the information on alternatives provided in the EIR and in the record, and finds that, as described in the EIR and for the reasons identified in Section V above, there are no feasible alternatives that would avoid all of the above-listed significant and unavoidable impacts.

Overriding Considerations

The City finds that notwithstanding the disclosure of the above significant unavoidable impacts, there are specific overriding economic, social, technological, and other reasons for approving the proposed Project. Those reasons are as follows:

- The City finds that each of the specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh the significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of the benefits of the Project.
- The Project will revitalize a currently underutilized area near Levi's Stadium, the Convention Center, and the future City Place project by providing housing in an amenity-rich, urban environment that is close to transit and employment opportunities.
- The Project will allow the development of an ambitious Park Space and Greenways plan to provide 10 acres of open space area, distributed over five smaller districts

identified within the Specific Plan, with the open space areas in each district anchored by a publicly dedicated park.

- The Project will include the establishment of bicycle paths that will provide connections for the residents within the Specific Plan area to nearby employment and entertainment destinations, such as those planned in the City Place project.
- The Project will produce a significant number of new construction jobs during the years of construction.
- The Project plans for the construction of up to 4,500 dwelling units that could accommodate up to 7,000 employed City residents, which would substantially improve the City's jobs-housing balance.
- The Project will promote environmental sustainability, transportation efficiency, greenhouse gas reduction, and stormwater management using green technology.
- The Project will provide new development in an already urbanized area where public services are available, including utilities, a well-developed network of roadways and where public transit is immediately adjacent to the site. New practices and standards of sustainability, relying on both current and future technologies, are applied to the project and will enable the most efficient use of resources.

On balance, the City finds that there are specific considerations associated with the Project that serve to override and outweigh the Project's significant unavoidable environmental impacts. Therefore, the significant unavoidable environmental impacts associated with the Project are considered acceptable. As the CEQA Lead Agency for the proposed action, the City has reviewed the Project description and the EIR and fully understands the Project. Based on the entire record before the City, and having considered the unavoidable adverse impacts of the Project, the City hereby determines that all feasible mitigation has been adopted to reduce the potentially significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce significant impacts. The City finds that economic, social, technological, and other considerations of the Project outweigh the unavoidable adverse impacts described above. Further, the City finds that each of the separate benefits of the Project is hereby determined to be, in itself and independent of the other Project benefits, a basis for overriding all unavoidable environmental impacts identified in the EIR and in these Findings. In making this finding, the City has balanced the benefits of the Project against its unavoidable environmental impacts and has indicated its willingness to accept those risks.