FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION REGARDING THE ENVIRONMENTAL IMPACT REPORT FOR THE MISSION POINT PROJECT, OPTION A

City of Santa Clara Project Nos. PLN2017-12924, PLN2018-13400, PLN21-15386, and PLN21-15387

State Clearinghouse No. 2018072068

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

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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* (State CEQA Guidelines), require a public agency to consider the environmental impacts of a project before the project is approved and make specific findings. Furthermore, 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, and 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." However, "in the event 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." PRC Section 21002.

The mandate and principles in Public Resources Code Section 21002 are implemented, in part, through a requirement for agencies to adopt findings before approving projects for which environmental impact reports (EIRs) are required. For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding, supported by substantial evidence, reaching one or more of three permissible conclusions. State 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 a 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 final 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 material 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.

State 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, including region-wide or statewide environmental 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, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project that 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.

Under CEQA and the State CEQA Guidelines, "feasible" is defined to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." (State CEQA Guidelines Section 15364; Public Resources Code Section 21061.1; 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 (see *City of Del Mar v. City of San Diego* [1982], 133 Cal. App. 3d 401, 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]; and *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*], Section 17.30, 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" (see *City of Del Mar*, *supra*, 133 Cal. App. 3d at p. 417; *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*, Section 17.29, p. 824]; and *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 State 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 the lead agency to 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 (State CEQA Guidelines Section 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" (State CEQA Guidelines Sections 15093, 15043[b]; see also Public Resources Code Section 21081[b]). The California Supreme Court has stated that "[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 for the Mission Project Project (Project) concluded that it would create significant and unavoidable impacts; thus, a statement of overriding considerations was 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. The City will use the MMRP to track compliance with Project's mitigation measures and project design features. The MMRP will remain available for public review during the compliance period. The final MMRP is attached to and incorporated into the environmental document approval resolution and approved in conjunction with certification of the EIR and adoption of these findings of fact.

Having received, reviewed, and considered the draft EIR and the final EIR for the Project, State Clearinghouse No. 2018072068, as well as other information in the record of proceedings on this

matter, the 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 City of Santa Clara for development of the Project. These actions by the City are listed in Section II.C.

A. Document Format

These findings have been organized into the following sections:

(1) Section I provides an introduction to the findings.

(2) Section II provides a summary of the Project, an 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 the 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 regarding impacts for which the City 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 City 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 the City 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 mitigation measures will be included in the 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, the findings specify how the 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.

(9) Section VIII contains the findings pursuant to Public Resources Code Section 21082.1(c)(3).

(10) Section IX contains the statement of overriding considerations for the Project pursuant to State CEQA Guidelines Section 15093.

B. Custodian and Location of Record

The Project EIR consists of:

1. The Draft EIR and Appendices 1 through 5, dated November 2023; and

2. The Final EIR, dated March 2024.

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 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 Notice of Preparation (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 on the Draft EIR by agencies or members of the public during the 46-day comment period;
- All comments and correspondence on the Draft EIR submitted to the City during the public comment period, in addition to all other timely comments;
- 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 the 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 related 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 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 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 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 adoption of the resolutions;
- The City General Plan along with all updates and related environmental analyses;
- Matters of common knowledge to the City, including, but not limited to, federal, State of California (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 Project, even if not every document was formally presented to the City Council or City staff members 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, 391-392, and *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 members 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 related to approval of the Project (see Public Resources Code Section 21167.6[e][10]; *Browning-Ferris Industries v. City Council of City of San Jose* [1986], 181 Cal. App. 3d 852, 866; and *Stanislaus Audubon Society, Inc. v. County of Stanislaus* [1995], 33 Cal. App. 4th 144, 153, 155).

II. Project Summary

A. Project Location

The Project site is located on nine parcels (assessor's parcel numbers [APNs] 104-04-150, 104-04-142, 104-04-143, 104-04-151, 104-04-112, 104-04-113, 104-04-065, 104-04-111, and 104-04-064), totaling approximately 46 acres, as well as Democracy Way, a privately owned street subject to an existing public right-of-way (ROW) easement that covers approximately 2.6 acres, for a combined total Project area of 48.6 acres. The Project site is generally located along the Great America Parkway corridor in Santa Clara. It is bounded by Tasman Drive to the north, Old Ironsides Drive to the east, the ROW associated with the Hetch Hetchy aqueduct to the south, and Patrick Henry Drive to the west.

The Project site is currently developed with four light industrial buildings, totaling approximately 142,050 gross square feet (gsf), on the northern portion of the site that were constructed in the late 1970s and a paved surface parking lot south of Democracy Way with approximately 5,081 parking spaces. Kylli, Inc. (Project Sponsor), the U.S. real estate subsidiary of Genzon Investment Group, currently occupies one of the buildings on the Project site; the other buildings are vacant. The current primary use on the Project site is temporary event parking for Levi's Stadium, which uses 3,300 parking spaces. The rest of the parking spaces are used by Amazon as training grounds for drivers. The Project site is designated in the General Plan as High-Intensity Office/Research and Development (R&D). The City Zoning Code currently designates the Project site as Light Industrial (ML). The City is in the process of updating the City's Zoning Code, the process for which will include rezoning the Project site to High-Intensity Office/R&D to be consistent with the Project site's existing General Plan designation.

Existing uses adjacent to the Project site include mostly low-intensity office/R&D uses within areas that have been zoned ML and Planned Development (PD). Businesses within the immediate vicinity of the Project site include Citrix, Silicon Valley Bank, Fabrinet West, PetaIO, Banpil Photonics, and National Instruments, among other companies. These are housed in office/industrial buildings that range from small single-story office buildings to mid-rise, multi-story buildings. Immediately south of the Project site, parcels with low-intensity office/R&D and light industrial uses are zoned PD. This area, referred to as the Patrick Henry Drive Specific Plan area, is bounded by the Hetch Hetchy ROW to the north, Great America Parkway to the east, Calabazas Creek Trail to the west, and Mission College Boulevard to the south. The Patrick Henry Drive Specific Plan was approved to convert industrial uses to high-density residential and/or office uses. San Francisco Bay is approximately 1 mile north of the Project site. California's Great

America amusement park and Levi's Stadium are approximately 0.3 and 0.45 mile east of the Project site, respectively.

B. Project Description

The Project Sponsor proposes a mixed-use development on a 48.61-acre site in Santa Clara, California. If approved by the City Council and applicable regulatory agencies, the Project would demolish existing office buildings and establish a new mixed-use neighborhood. The existing General Plan designation of High-Intensity Office/R&D would be changed to Urban Center Mixed Use, and existing zoning would be changed from ML to PD, providing a transit-oriented "live, work, socialize, and recreate" environment.

The Project would include up to 4,913,000 gsf of new development, including approximately 1.8 million gsf for residential uses (up to 1,800 units), approximately 3 million gsf of office/R&D[1] space, approximately 100,000 gsf for neighborhood retail uses, and approximately 10,000 gsf for childcare facilities, along with 3,000 gsf of community space. An approximately 27,000-square-foot electrical substation would also be constructed to support the Project.[2] Parking would be provided in a mix of subsurface and aboveground parking facilities. In addition, the Project would include up to approximately 16 acres of publicly accessible open space at grade level as well as approximately 10 acres of private open space for residential and office uses;[3] new bicycle, pedestrian, and vehicular circulation routes; and upgraded and expanded infrastructure.

C. Discretionary Actions

Implementation of the Project would require, but not be limited to, the following discretionary approvals from the City:

- Certification of the final EIR
- Adoption of an MMRP
- General Plan Amendment
- Rezoning
- Tentative Subdivision Map and/or Vesting Tentative Subdivision Map
- Development Agreement
- Architectural Review
- Tree Removal
- Transportation Demand Management Plan
- Affordable Housing Plan
- Relevant permits and approvals for vacation of the public ROW easement for Democracy Way, relocation of public utility easements (including the potential for tunnels/utilities under and/or bridges/connections), and establishment of Kylli Drive East and Kylli Drive West as private streets, subject to public and emergency access easements.

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1 Although the end uses have not yet been determined, the Project may include lab/R&D uses. For CEQA purposes, up to 30 percent laboratory use has been assumed. All future references to "office" include permitted lab/R&D uses.

2 The size, design, and location of the substation are subject to discussion with Silicon Valley Power.

3 Additional private open space would be provided on terraces, balconies, and rooftops. These spaces are not included as part of the calculations.

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

- Bay Area Air Quality Management District
- California Department of Transportation
- Federal Aviation Administration
- San Francisco Bay Regional Water Quality Control Board
- Santa Clara County Department of Public Health
- Santa Clara Fire Department
- Silicon Valley Power
- San Francisco Public Utility Commission

D. Statement of Project Objectives

The City identified the following Project objectives in the EIR, which are relevant to the physical impacts considered in this document:

- Support the City's North Santa Clara planning effort by converting an underutilized, single-use 48.6-acre site into a vibrant, pedestrian-oriented, high-intensity and very high-density mixed-use development that is sustainable and inclusive by design, with a range of building types, enriching connections between people, places, and open space.
- Broaden the housing supply and business opportunities in North Santa Clara through development of a human-centric, interconnected urban neighborhood that provides a diverse and complementary mix of residential, commercial, retail, and community space.
- Promote an active pedestrian realm with continuous access to at-grade, podium-level, and rooftop public and private open space with flexible programming.
- Promote and support local, regional, and State mobility and greenhouse gas (GHG) reduction objectives to reduce vehicle miles traveled and infrastructure costs through infill and mixed-use development in an existing urbanized and transit-rich area.
- Facilitate ridership of multimodal transportation and minimize vehicular infrastructure while providing efficient access to sufficient and flexible parking that meets current and future demand.
- Provide community benefits, including public open space, childcare facilities, and community space.
- Provide utility infrastructure to adequately support the Project.
- Meet the City's Affordable Housing Ordinance and Inclusionary Zoning requirements.
- Develop a model for urban growth that maximizes the Project site's economic, cultural, and ecological potential; generates tax revenue for the City; creates permanent and construction-related jobs; and contributes to achievement of the City's vehicle-miles-traveled goals.

The Project Sponsor identified the following additional objectives in the EIR:

- Redevelop the 48.6-acre site with up to 3 million gsf of office/R&D space, 100,000 gsf of neighborhood retail space, and 1,800 multifamily residences by consolidating, on a smaller portion of the property, the square footage for office/R&D previously assumed in the City's General Plan to accommodate new

multifamily housing, including affordable housing, public and private parks and open space, neighborhood-serving services and retail, a substation, and community amenity space.

- Allow flexibility and ensure an orderly build-out of the Project, based on projected market demand and other factors, such as local and regional growth, Project financing, and development of final construction plans to ensure the Project remains economically feasible throughout a multi-year development process.
- Create a vibrant, walkable new neighborhood with a diverse and complementary mix of uses that is sustainable by design and able to support the City's vehicle-miles-traveled goals while realizing a market return on the property reflecting the cost of development.
- Privatize existing Democracy Way while preserving appropriate public and emergency vehicle access.

III. Environmental Review and Public Participation

The Final EIR, dated March 2024, includes the Draft EIR dated November 2023; 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 an NOP for the draft EIR on April 18, 2022, to federal, State, regional, and local government agencies and interested parties to solicit comments and inform agencies and the public of the Project. The NOP was released for a 30-day public review period, beginning April 18, 2022, and ending May 18, 2022. One virtual public scoping meeting was held on May 4, 2022. The purpose of the NOP was to allow various private and public entities to transmit their concerns and comments on the scope and content of the Draft EIR, focusing on specific information related to each individual's or group's interest or agency's statutory responsibility early in the environmental review process.
- Based on the NOP and responses, a determination was made that the EIR would contain a comprehensive analysis of the following environmental issues, as identified in Appendix G of the State CEQA Guidelines: land use and planning, transportation, air quality, GHG emissions, energy, noise, cultural resources, biological resources, geology and soils, hydrology and water quality, hazards and hazardous materials, population and housing, public services and recreation, tribal and cultural resources, utilities and service systems, and cumulative impacts. The Project would not result in any environmental impacts related to agricultural and forestry resources, mineral resources, or wildfire because none of these resources or risks, as is the case with wildfire, exist at the Project site. The Project would also not result in environmental impacts related to aesthetics because it is a qualifying infill project within a transit priority area. Under Public Resources Code Section 21099(d), aesthetic impacts are not considered significant impacts on the environment for qualifying infill projects.
- An EIR was prepared for the Project in accordance with the State CEQA Guidelines. As required by CEQA, the EIR includes appropriate review, analysis, and mitigation measures for the environmental impacts of the Project.
- A Draft EIR was prepared and circulated for a 46-day public review period, beginning on November 17, 2023, and ending on January 2, 2024. 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 21092.
- 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 interested organizations and individuals. Comment letters on the Draft EIR were received from seven public agencies and one

organization. Comment letters and responses to comments are included in the Final EIR, which was issued in March 2024.

IV. Findings Regarding Project Environmental Effects

The following potentially significant impacts were analyzed in the EIR, and the effects of the Project were considered.

A. Less-than-Significant Impacts that Do Not Require Mitigation

The Final EIR identified the below subtopics that would result in no impact or less-than-significant impacts. The City finds that, based on substantial evidence in the record, the following areas would result in impacts that were determined to be less than significant or no impact in the Final EIR. Therefore, no mitigation measures would be required for any of the following areas:

1. Land Use and Planning

- **Impact LU-1: Physical Division of an Established Community.** There are no established residential communities on the Project site. The Project would create a cohesive urban center integrated into surrounding office, R&D and commercial uses and add new residential uses adjacent to the Patrick Henry Specific Plan area. Although Democracy Way would be vacated, the Project would not block any existing roads or sever connections between adjacent properties because it would incorporate extensive new vehicular, bicycle, and pedestrian access roads and circulations routes within the Project site to maintain access between sites. Thus, the Project would not physically divide or disrupt an established community and would not reduce access for adjacent properties, resulting in no impact.

- **Impact LU-2: Conflicts with Adopted City Land Use Plans and Policies Regarding the Jobs/Housing Balance.** Project construction would not conflict with any policies aimed at improving the City's jobs/housing balance because no permanent jobs or residences would be added during construction. Project operation also would not conflict with City General Plan policies aimed at improving the City's jobs/housing balance. With the exception of the need to amend the land use designation and zoning, the Project is consistent with all applicable general plan policies. The Project could include up to 3 million gsf of office/R&D development, which was assumed as part of the "Approved/Not Constructed and Pending Projects" identified in Figure 2.3-1 and Table 8.6.2 of the General Plan. Therefore, the Project's office/R&D development is excluded from the General Plan's phasing limits and would not exceed the commercial caps outlined for Phases II and III. The Project maintains the same amount of office R&D space planned for in the City's General Plan and the Plan Bay Area. But, the Project would also provide additional housing units not already included in the City's Housing Element, which would improve the City's jobs/housing ratio. Further the Project is consistent with the general policy direction and key objections of Plan Bay Area 2050 because the Project is on an infill site near transit and would provide pedestrian and bicycle friendly streets. Therefore, there would be no conflict with policies regarding the jobs/housing ratio and the Project would result in no impact.

- **Impact LU-3: Conflicts with Airport Land Use Plan (Construction).** The Project would have no impact due to a conflict with the Comprehensive Land Use Plan (CLUP) for San José International Airport during construction because no permanent structures would be constructed during this phase.

- **Impact LU-3: Conflicts with Airport Land Use Plan (Operation).** The Project would not result in a significant environmental impact due to a conflict with the CLUP for San José International Airport because the Project is outside any potentially applicable CLUP and is required to comply with all Regulation Part 77 notification requirements in the standard conditions of approval. Therefore, potential impacts related to conflicts with an Airport Land Use Plan during operation would be less than significant.

- **Impact LU-4: Conflicts with Other Adopted City Land Use Plans and Policies.** The Project would not result in a significant environmental impact due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect because the Project is generally consistent with applicable goals, policies and actions. The Project would include a General Plan amendment and a Zoning Code amendment to accommodate high-intensity, urban-oriented development, eliminating potential conflicts related to the site's land use classification. Therefore, potential impacts due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect would be less than significant.

- **Impact C-LU-1: Cumulative Land Use Impacts.** The Project, in combination with other foreseeable development in the nine-county ABAG region, would not result in a significant cumulative environmental impact due to a conflict with some applicable land use plans, policies, and regulations because the Project is consistent with applicable land use plans, policies and regulations and would not contribute to a significant cumulative impact. The Project's proposed General Plan amendment and land use classifications meet the intent of the City's land use policies. Therefore, potential cumulative impacts related to any potential conflicts with the General Plan would be less than significant.

2. Transportation

- **Impact TRA-1: Consistency with Adopted Plans, Ordinances, and Policies Regarding Roadways (Operation).** During operation, the Project would be consistent with Plan Bay Area 2050 goals and performance targets for transportation system effectiveness because the Project would increase non-auto mode share. The Project would be largely consistent with applicable plans, ordinances, and policies that address the circulation system, and impacts would be less than significant. In addition, Project Design Feature TRA-1 would require the Project Sponsor to implement a Transportation Demand Management (TDM) plan, which will achieve the vehicle miles traveled (VMT) reductions set forth in the City's Climate Action Plan (CAP) (Action T-3-1), as part of the application for a building permit for each phase of the Project.

  Project Design Feature TRA-1: Implement a Transportation Demand Management (TDM) Plan in Accordance with the City of Santa Clara 2022 Climate Action Plan. The Project Sponsor shall submit a Final TDM plan, subject to approval by the City, with the application for a building permit for each phase of the Project. The Final TDM plan will set forth a requirement for the Project Sponsor to form or join a Transportation Management Association (TMA) to facilitate the implementation of various TDM programs and services on behalf of multiple property owners and/or tenants. Furthermore, the TDM plan will set forth requirements for annual TDM monitoring and reporting. Examples of TDM measures that may be included in the Project's TDM plan include:

- Privately operated long-haul commuter shuttle service for office workers with onsite shuttle stops.
- Participation in a City-organized/-operated shuttle service to Caltrain and Bay Area Rapid Transit (BART) stations, with onsite shuttle stops available to all site workers and residents.
- Transit subsidy for office workers.
- Rideshare matching program.
- "Guaranteed ride home" program for all office workers.
- Preferential parking for carpools and vanpools.
- Unbundled parking for market-rate residential units.
- Participation in regional bikeshare and scooter program and/or establishment of onsite bicycle and scooter fleet.
- Bike repair stations and ample bicycle parking.
- Showers and lockers provided in office buildings.
- Real-time transit information displayed on screens throughout the site.
- Onsite parking spaces reserved for car-share service(s) (e.g., ZipCar or equivalent provider).
- Dedicated curb space for ride-hail and taxi-service passenger loading.
- Onsite transportation coordinator.
- Website and marketing program to disseminate information on commute options.
- High-speed internet infrastructure to enable telecommuting.
- Distribution of a TDM information packet to new employees and residents.
- Onsite bicycle and pedestrian network, linking buildings to transit stations and nearby trails.

The City of Santa Clara will review the Final TDM plan to ensure that the proposed TDM measures identified in the plan will achieve the following VMT reductions set forth in the 2022 CAP:

- A 25 percent reduction in Project-related VMT through active TDM measures for large employers with more than 500 employees, including aggressive regulations to reduce parking (Action T-3-1).
- A 20 percent reduction in VMT for multifamily residential, with a 10 percent reduction through active TDM measures, which may require parking maximums (Action T-3-1).

City approval of the Final TDM plan and issuance of a certificate of occupancy for each phase of the Project will be dependent upon the City finding that the Final TDM plan provides sufficient evidence to demonstrate that the proposed TDM measures will achieve the VMT reductions set forth in the 2022 CAP.

- **Impact TRA-2: Consistency with Adopted Plans, Ordinances, and Policies Regarding Transit (Operation).** During operation, the Project impact on transit services would be less than significant because the Project would not interfere or conflict with existing transit facilities, would comply with policies and goals regarding transit, and the Project would implement a TDM plan (Project Design Feature TRA-1), including transit subsidies and shuttles and other measures to increase public transportation ridership.

- **Impact TRA-3: Consistency with Adopted Plans, Ordinances and Policies Regarding Bicycle Facilities (Operation).** During operation, the Project's impact on bicycle facilities would be less than significant because the Project would improve bicycle facilities along the perimeter and within the Project site and provide safer conditions for bicyclists relative to existing conditions, consistent with the City's General Plan and the 2018 Bicycle Master Plan Update.

- **Impact TRA-4: Consistency with Adopted Plans, Ordinances and Policies Regarding Pedestrian Facilities (Operation).** During operation, the Project's impact on pedestrian facilities would be less than significant because the Project would improve pedestrian facilities within the Project site and along Project frontages, as well as provide safer conditions for pedestrians relative to existing conditions, consistent with the General Plan and the 2019 City Pedestrian Master Plan.

- **Impact TRA-5: Vehicle Miles Traveled.** Consistent with State CEQA Guidelines Section 15064.3(b), the Project would qualify as transit supportive and therefore would not exceed the applicable VMT threshold of significance and would have a less-than-significant environmental impact on VMT**.**

- **Impact TRA-6: Hazards Due to Design Features or Incompatible Uses (Operation).** During operation, the Project would not result in hazards due to design features or incompatible uses. The Project proposes an improved internal circulation network that would be designed to accommodate vehicular traffic and be balanced with other modes. Designs for intersections, driveways and multimodal facilities will be subject to City review, reducing potential conflicts between vehicles, bicyclists, pedestrians, buses, and incompatible uses. Therefore, the impact would be less than significant.

- **Impact TRA-7: Emergency Access (Operation).** During operation, the Project would not result in inadequate emergency access. Final Project designs for emergency vehicle access (EVA) roadways would be subject to City Fire Department review to ensure the adequacy of the circulation patterns and compliance with City EVA standards, such as minimum heights, as well as clearance along circulation routes. Therefore, the impact would be less than significant**.**

- **Impact C-TRA-2: Cumulative Vehicle Miles Traveled.** Consistent with State CEQA Guidelines Section 15064.3(b), the Project qualifies as transit supportive and therefore, in combination with other foreseeable development in the vicinity, would not exceed an applicable VMT threshold of significance. Efficiency metrics such as VMT per resident and VMT per employee ensure that, as long as each cumulative development is below the appropriate VMT threshold, the combined VMT per resident and VMT per employee would also be below the significance threshold. Thus, a less-

than significant impact finding for Project-level VMT implies a less-than-significant cumulative impact with respect to VMT. Therefore, because the Project would have a less-than-significant impact on VMT, the Project would have a less-than-significant cumulative environmental impact on VMT.

3. Air Quality

- **Impact AQ-1: Consistency with the Applicable Air Quality Plan.** The Project would not conflict with or obstruct implementation of the Bay Area Air Quality Management District (BAAQMD) 2017 Clean Air Plan because Project design features support attainment of California Ambient Air Quality Standard (CAAQS) and National Ambient Air Quality Standards (NAAQS) and incorporates measures to reduce building emissions, increase carbon sequestration, and support water conservation, as well as measures for stationary-source, transportation, energy, and waste management controls. Therefore, the Project would have a less-than-significant impact.

- **Impact AQ-3: Substantial Pollutant Concentration - Localized Carbon Monoxide Hot Spots.** The Project would not expose sensitive receptors to substantial concentrations of carbon monoxide because the 1-hour and 8-hour carbon monoxide concentrations would be well below the NAAQS and CAAQS (see Table 3.3-13). Therefore, the Project would have a less-than-significant impact related to carbon monoxide hot spots.

- **Impact AQ-3: Substantial Pollutant Concentration - Criteria Air Pollutants.** Under conservative modeling assumptions described in Appendix 3.3-2, the health effects from the Project's contribution to air pollution would be minimal relative to background incidences. Therefore, the Project would have a less-than-significant impact related to regional criteria air pollutant emissions.

- **Impact AQ-3: Substantial Pollutant Concentration - Asbestos.** Sensitive receptors would not be exposed to substantial asbestos risks because the Project would comply with BAAQMD asbestos emission controls. Therefore, the Project would have a less-than-significant impact related to asbestos emissions.

- **Impact AQ-4: Odor Impacts.** The Project would not result in other emissions (such as those leading to odors) that would adversely affect a substantial number of people because the Project does not propose any changes that would affect odor-generating facilities and any odors would be brief in duration and limited in scope and subject to compliance with BAAQMD regulations. Therefore, the Project would have a less-than-significant impact related to odors.

- **Impact C-AQ-1: Cumulative Consistency with the Applicable Air Quality Plan.** The Project, in combination with other foreseeable development in the vicinity, would not conflict with or obstruct implementation of the BAAQMD 2017 Clean Air Plan. Therefore, the Project's contribution to cumulative impacts would not be considerable and cumulative impacts related to consistency with an applicable air quality plan would be less than significant.

- **Impact C-AQ-4: Cumulative Odors**. The Project, in combination with other foreseeable development in the vicinity, would not result in other emissions (such as those leading to odors) that would adversely affect a substantial number of people because any Project related odors would be brief in duration and limited in scope and subject to compliance with BAAQMD regulations and other nearby uses would not cause odor-generating uses. Therefore, the level of

odors emitted by the Project in combination with the level of odors associated with other nearby projects would result in a less-than-significant cumulative impact related to odors.

4. Greenhouse Gas Emissions

- **Impact GHG-1: Generate GHG Emissions (Operation).** The Project's operational GHG emissions would be less than significant because the Project would be consistent with the Santa Clara CAP through implementation of Project Design Feature GHG-1, which requires satisfaction of applicable and mandatory actions from the City's 2022 CAP checklist.
- **Impact GHG-2: Consistency with Applicable Plans and Policies.** The Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing emissions of GHGs, including the Santa Clara CAP, California Air Resources Board (CARB) 2022 Scoping Plan, and Plan Bay Area 2050. Therefore, Project impacts would be less than significant.

5. Energy

- **Impact EN-1: Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources (Operation).** Operation of the Project would not result in the wasteful, inefficient, or unnecessary consumption of energy resources during operation due to the Project's mix of uses and energy efficiency measures, including compliance with CALGreen, implementation of a TDM plan, as well as incorporation of Leadership in Energy and Environmental Design (LEED) or equivalent design requirements, use of recycled water for irrigation and non-potable water uses in commercial buildings, drought resistant landscaping, rooftop photovoltaic panels, and a new Silicon Valley Power (SVP) substation. Therefore, the Project would have a less-than-significant impact due to wasteful, inefficient, or unnecessary consumption of energy resources during operation.
- **Impact EN-2: Conflict with Energy Plan.** The Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency because the Project would divert a minimum of 65 percent of construction waste and demolition material during construction, which would reduce the amount of fossil fuel consumed during construction and demolition waste, and operation of the Project would incorporate multiple sustainability, energy-saving, and TDM features. Therefore, the Project's impact would be less than significant.
- **Impact C-EN-1**: **Cumulative Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources**. The Project, in combination with other past, present and foreseeable development in the vicinity, would not cumulatively result in the wasteful, inefficient, or unnecessary consumption of energy resources during Project construction and operation because the Project and other future projects nearby would incorporate energy saving features during construction and operation. Therefore, the cumulative impact would be less than significant.
- **Impact C-EN-2: Cumulative Conflict with Energy Plan.** The Project, in combination with other past, present and foreseeable development in the vicinity, would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency during construction or operation because future projects would incorporate energy-saving features. Therefore, the cumulative impact would be less than significant.

6. Noise

- **Impact NOI-1: Construction Noise (Daytime Onsite Land Uses)**. The Project would have a less-than-significant impact on onsite residential land uses during daytime hours because the construction activities would be temporary in nature, would not conflict with the City code, and comparison of the noise level experienced at future onsite sensitive land uses to existing ambient noise is not appropriate because future occupants are not currently onsite and thus do not experience the existing ambient noise level.

- **Impact NOI-1: Construction Noise (Construction Haul and Vendor Truck Noise)**. The Project would have a less-than-significant impact related to haul and vendor truck trip noise because the addition of 686 haul truck trips per day would not result in an increase in traffic noise greater than 3 decibels (dB), which is considered "barely noticeable," at any analyzed segment and therefore would not be perceptible.

- **Impact NOI-2**: **Operational Noise from Traffic.** The Project would result in increased traffic volumes on existing roadways in the Project area because new residences and places of employment would be added on the Project site. However, the Project would not result in a noticeable increase in traffic noise compared to no-Project conditions. Therefore, noise impacts related to increased traffic during operation would be less than significant.

- **Impact NOI-2**: **Operational Noise from Amplified Music.** Project operation could include the use of amplified music from events in the general green area of the Project site that may impact nearby uses. However, any such amplified music would be required to comply with applicable noise regulations. Therefore, impacts related to amplified noise during operation would be less than significant.

- **Impact NOI-2**: **Operational Noise from Truck Loading.** Impacts related to truck loading during Project operations would be less than significant because loading activities would be temporary, dispersed among many loading zones, and occur throughout the day.

- **Impact NOI-2**: **Operational Noise from Parking Garage.** Impacts related to parking garage use during Project operations would be less than significant because noise from parking garages would not be expected to exceed the City's criteria of 55 A-weighted decibel (dBA) and 50 dBA at residential receptors during daytime and nighttime hours, respectively, or 60 dBA at commercial or office uses during nighttime hours.

- **Impact NOI-3: Ground-borne Vibration and Noise (Damage to Structures)**. The Project would have a less-than-significant impact related to damage to structures from ground-borne vibration because the vibration levels at residential and commercial uses would be less than applicable damage criterions.

- **Impact NOI-3: Ground-borne Vibration and Noise (Daytime Construction Offsite Residential)**. The Project would have a less than significant annoyance-related vibration impacts from daytime construction activities at offsite residences because the level of vibration would be barely perceptible.

- **Impact NOI-3: Ground-borne Vibration and Noise (Nighttime Construction Onsite and Offsite Land Uses)**. The Project would have less than significant annoyance-related vibration impacts from nighttime construction activities at offsite residential uses because the level of vibration would not be perceptible. The level of vibration would be perceptible for offsite commercial uses and onsite commercial and residential uses, but based on Table 3.6-3 the

vibration would not be considered excessive. Therefore, annoyance-related vibration impacts from nighttime construction would be less than significant.

- **Impact NOI-3: Ground-borne Vibration and Noise (Operation)**. The Project would have a less-than-significant impact related to ground-borne vibration and noise during operation because Project operation would not involve use of equipment that could generate excessive ground-borne vibration.

- **Impact NOI-4: Aircraft Noise**. The Project would not expose people residing or working in the Project area to excessive noise levels from aircraft because the Project site does not fall within the 60 dBA CNEL noise contour or the San Jose International Airport. Therefore, impacts would be less than significant.

- **Impact C-NOI-2: Cumulative Operational Noise from Traffic and Other Operational Noises.** The Project's contribution to the significant cumulative traffic noise impacts would be less than 3 dB for all analyzed segments. Therefore, the Project's contribution to cumulative impacts related to operational noise from traffic would not be cumulatively considerable and less than significant. Any future new residential units would be farther away than the distance used to evaluate impacts from other operational sources on onsite residential uses. Therefore, cumulative impacts related to other operational noises would be less than significant.

- **Impact C-NOI-3: Cumulative Ground-borne Vibration and Noise Levels (Operation)**. The Project would have a less-than-significant cumulative impact related to ground-borne vibration and noise during operation because Project operation would not involve use of equipment that could contribute excessive ground-borne vibration.

7. Cultural Resources

- **Impact CUL-1: Built Environment.** There are no built-environmental historical resources present on the Project site. Therefore, the Project would not cause a substantial adverse change in the significance of a historical resource pursuant to State CEQA Guidelines Section 15064.5 and there would be no impact on built environment historical resources.

- **Impact CUL-2: Archaeological Resources (Operation).** Archaeological deposits would not be encountered during Project operations, nor would Project operations result in an adverse change in a buried archaeological deposit that could qualify as a historical resource and/or unique archaeological resource. Therefore, there would be no impact related to buried archaeological deposits during Project operations.

- **Impact CUL-3. Human Remains (Operation).** Human remains would not be encountered during the Project operations, nor would Project operations disturb human remains. Therefore, there would be no impact to human remains from operation of the Project.

- **Impact C-CUL-1: Cumulative Impacts on Archaeological Resources and Human Remains (Operation).** Cumulative impacts on archaeological resources and human remains would not occur during operations of the Project or cumulative projects because cumulative impacts would occur during construction. Therefore, there would be no impact to buried archaeological deposits or human remains from Project operation under cumulative conditions.

8. Biology

- **Impact BIO-1: Loss or Damage to Special-Status Plants.** The Project would result in no impact on special-status plant species because no special-status plant species have been documented on the Project site and natural vegetation communities are not present on the Project site.
- **Impact BIO-1: Loss or Damage to Special-Status Species Other Than Nesting Birds and Bats.** The Project will have no impact on special-status species other than nesting birds and bats because no special-status species, other than nesting birds and bats, have been documented on the Project site and hydrological features supporting such species are not present on the Project site.
- **Impact BIO-1: Loss or Damage to Special-Status Species - Nesting Birds and Bats (Operation).** The Project would have less-than-significant impacts to nesting birds and bats during operations because any nesting birds and bats would become acclimated to the operational noise when choosing nesting or roosting sites or when birds are building nests on the Project site.
- **Impact BIO-2: Loss or Degradation of Riparian Habitat or Sensitive Natural Communities.** The Project would have no impact on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service because no such habitats or communities are present on the Project site.
- **Impact BIO-3: State or Federally Protected Wetlands.** The Project would not result in substantial adverse effects on State or federally protected wetlands through direct removal, filling, hydrological interruption, or other means because no federally protected wetlands occur on the Project site and compliance with the Stormwater Pollution Prevention Plan and Best Management Practices from the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit address any indirect impacts to nearby wetlands. Therefore, the Project will have less-than-significant impact.
- **Impact BIO-4: Interfere with Movement of Native Resident or Migratory Fish Species.** The Project would have no impact on the movement of fish species because there are no hydrological features onsite.
- **Impact BIO-4: Interfere with Wildlife Corridors.** The Project would have no impact on wildlife corridors because there are no known wildlife corridors on or directly adjacent to the Project site and wildlife will be able to move in and along Calabazas Creek during Project construction and operation.
- **Impact BIO-4: Impede Use of Native Wildlife Nursery Sites or Interfere with Movement of Native Migratory Wildlife Species (Nesting Birds During Operation).** The Project would have less-than-significant impacts on nesting birds during operation because any birds would become acclimated to the operational noise when choosing nesting sites and during building.
- **Impact BIO-5: Conflicts with Local Policies or Ordinances Protecting Biological Resources (Construction)**. The Project would result in the removal and replacement of trees in compliance with City regulations; therefore, construction impacts related to conflicts with local policies or ordinances protecting biological resources would be less than significant.

- **Impact BIO-5: Conflicts with Local Policies or Ordinances Protecting Biological Resources (Operation).** During operation the Project would not result in conflicts with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance because all replacement trees would be planted during construction of the Project, and therefore there would be no impact.

- **Impact BIO-6: Conflict with a Habitat Conservation Plan or Natural Community Conservation Plan.** The Project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan and no impact would occur, because the Project site is outside the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) permit area, the Project is not a covered activity and no species covered by the HCP/NCCP are expected to occur on the Project site.

- **Impact C-BIO-1: Cumulative Special-Status Species—Nesting Birds and Bats (Operation).** The Project and identified cumulative projects would have less-than-significant impacts on nesting birds and roosting bats during operations because any birds and bats would become acclimated to the operational noise when utilizing available habitat.

- **Impact C-BIO-2: Cumulative State or Federally Protected Wetlands.** The Project, in combination with other foreseeable development in the vicinity, would not result in substantial adverse effects on State or federally protected wetlands through direct removal, filling, hydrological interruption, or other means because the Project and other foreseeable development would be required to comply with the State requirements found in the Construction General Permit if more than 1 acre would be affected as well as requirements of the Regional Water Board, Bay Region, and the Municipal Regional Permit (MRP). The Project would protect water quality through BMPs during construction and until the site is stabilized and after construction by incorporating low-impact development practices into the design to prevent pollution from stormwater runoff, promote infiltration, and slow the volume of water coming from the Project site. Therefore, the Project would have less than significant cumulative impact.

- **Impact C-BIO-3: Cumulative Impede Use of Native Wildlife Nursery Sites or Interfere with Movement of Native Migratory Wildlife Species (Operation).** The Project and identified cumulative projects would have less-than-significant impacts on wildlife nursery sites, specifically birds and their active nests, during operations because any birds would become acclimated to the operational noise when utilizing available habitat.

- **Impact C-BIO-4: Cumulative Conflicts with Local Policies or Ordinances Protecting Biological Resources (Construction).** The Project, in combination with other foreseeable development in the vicinity, would not result in conflicts with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, because the Project would replace trees at a ratio that would be consistent with General Plan policies. Therefore, cumulative impacts would be less than significant.

- **Impact C-BIO-4: Cumulative conflicts with Local Policies or Ordinances Protecting Biological Resources (Operation).** The Project, in combination with other foreseeable development in the vicinity, would not result in conflicts with any local policies or ordinances protecting biological resources, such as the City's tree protection ordinance, during operation because all replacement trees would be planted during the construction phase of the cumulative projects and the Project. Therefore, there would be no cumulative impact.

9. Geology and Soils

- **Impact GEO-1: Landslides.** The Project would result in no impact related to landslides because the topography of the Project site and surrounding areas is relatively flat and not susceptible to landslides, and the Project site is not within or near a recognized Landslide Hazard Zone.

- **Impact GEO-1: Seismicity (Rupture of Known Earthquake Fault)**. The Project would not directly or indirectly cause potential substantial or adverse effects, including the risk of loss, injury, or death, involving rupture of a known earthquake fault, strong seismic ground shaking, or seismically related ground failure, because the Project site is not within a Alquist-Priolo Earthquake Fault Zone or Santa Clara County Fault Hazard Zone and no known active or potentially active faults exist on the Project site. Therefore, the impact would be less than significant.

- **Impact GEO-1: Seismicity (Groundshaking and Liquefaction).** The Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death, involving strong ground shaking, or seismically related ground failure because the Project would implement geotechnical recommendations of a design-level geotechnical report as required by the California Building Code and Santa Clara Municipal Code. Therefore, the Project would result in a less-than-significant impact.

- **Impact GEO-2: Erosion or Loss of Topsoil (Construction).** The Project would not result in substantial soil erosion or the loss of topsoil during construction because the Project will comply with the State Water Resources Control Board's Construction General Permit, including the Project's Stormwater Pollution Prevention Plan (SWPPP). Therefore, the Project would result in a less-than-significant impact.

- **Impact GEO-2: Erosion or Loss of Topsoil (Operation).** The Project would not result in substantial soil erosion or the loss of topsoil during operation because the Project site would be covered with buildings, pavement, and landscaping, which would minimize the potential for post-development erosion. Therefore, operation and maintenance of the Project would result in less-than-significant impacts.

- **Impact GEO-3: Soil Instability (Operation).** Operation of the Project would not result in unstable soil that could be subject to collapse because operations would not create new significant loads or require ongoing dewatering. Operation of the Project would result in no impacts related to static settlement, collapse or subsidence of unstable soil.

- **Impact GEO-3: Soil Instability (Lateral Spreading).** Potential impacts from lateral spreading due to construction of the Project would be less than significant because the potentially liquefiable layers under the Project site are not continuous and the soils have adequate cohesion.

- **Impact GEO-4: Expansive Soil.** The Project would not create substantial direct or indirect risks to life or property as a result of being located on expansive soil because the Project would be required to submit a design-level geotechnical report to the City for review and approval prior to the issuance of building and grading permits. The Project Sponsor would implement the geotechnical recommendations of the design-level geotechnical report to address expansive soil hazards and ensure the integrity of structures and other improvements. Accordingly, this impact would be less than significant.

- **Impact GEO-5: Septic Tanks and Alternative Wastewater Systems**. Sewer services at the Project site would be provided by the City of Santa Clara Sewer Utility. No septic tanks or alternative wastewater systems are proposed. The Project would not require soils that would be capable of supporting septic systems, resulting in no impact.

- **Impact GEO-6: Paleontological Resources (Operation).** There would be no impact on paleontological resources during Project operation because any impact on paleontological resources would occur during the construction phase of the Project.

- **Impact C-GEO-1: Cumulative Seismicity Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death, involving rupture of a known earthquake fault, strong seismic ground shaking, or seismically related ground failure because potential impacts of the Project related to seismicity would be localized and specific to the Project site and would not combine with other projects to create a cumulative impact. Therefore, no impact related to seismicity would result from the Project under cumulative conditions.

- **Impact C-GEO-2: Cumulative Erosion or Loss of Topsoil.** The Project, in combination with other foreseeable development in the vicinity, would not result in substantial soil erosion or loss of topsoil because potential impacts of the Project related to erosion or loss of topsoil would be localized and specific to the Project site and would not combine with other projects to create a cumulative impact. Therefore, no impact related to erosion or loss of topsoil would result from the Project under cumulative conditions.

- **Impact C-GEO-3: Cumulative Collapse of Unstable Soil.** The Project, in combination with other foreseeable development in the vicinity, would not result in the collapse of unstable soil because potential impacts of the Project related to collapse of unstable soil would be localized and specific to the Project site and would not combine with other projects to create a cumulative impact. Therefore, no impact related to the collapse of unstable soil would result from the Project under cumulative conditions.

- **Impact C-GEO-4: Cumulative Settlement or Subsidence of Unstable Soil (Operation)**. The Project, in combination with other foreseeable development in the vicinity, would not result in static settlement or subsidence during Project operation because the Project and cumulative projects would not create new significant loads that could trigger additional static settlement. The walls of the below-grade parking areas on the Project site would be waterproofed so that permanent dewatering would not be required during operation of the Project. Similar waterproofing would be required for structures extending below the groundwater table at the sites for cumulative projects, if any. Therefore, operation of the Project and cumulative projects would not result in the subsidence of unstable soil. Therefore, operation of the Project would result in no impacts related to static settlement or the subsidence of unstable soil under cumulative conditions.

- **Impact C-GEO-5: Cumulative Expansive Soil Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not create substantial direct or indirect risks to life or property as a result of being located on expansive soil because potential impacts of the Project related to expansive soil would be localized and specific to the Project site and would not combine with other projects to create a cumulative impact. Therefore, no impact related to expansive soil would result from the Project under cumulative conditions.

- **Impact C-GEO-6: Cumulative Paleontological Resources Impacts (Operations).** There would be no impact on paleontological resources during operation of any cumulative project or the Project; any impact on paleontological resources would occur during the construction phase of the Project. Therefore, there would be no impact during operation under cumulative conditions.

10. Hydrology and Water Quality

- **Impact WQ-1: Water Quality (Construction Discharge).** The Project would involve construction activities, including excavation and grading, which can increase the potential for erosion and sedimentation from stormwater runoff and for the leaching/transport of potential contaminants from disturbed soil. The Project would not violate any waste discharge requirements during construction because compliance with State, regional and local regulation would ensure protection of surface water and ground water quality during construction activities. Therefore, impacts related to discharges of construction dewatering effluent would be less than significant.

- **Impact WQ-3: Drainage Patterns (Erosion and Siltation).** Construction activities would involve excavation and grading, which could temporarily alter drainage patterns and expose soil to potential erosion. Compliance with the Construction General Permit would ensure that construction of the Project would result in less-than-significant impacts. During operation, the Project site would be covered by structures, pavement, and landscaping, with no ongoing soil exposure or disturbance that could result in erosion or siltation. Compliance with the MRP would have a beneficial effect on the quality of stormwater runoff from the Project site compared to the existing condition. Therefore, construction and operation of the Project would result in less-than-significant impacts related to erosion/siltation or creating other sources of polluted runoff.

- **Impact WQ-3: Drainage Patterns (Dam Failure).** The Project site is within the dam failure inundation areas of multiple dams operated by Valley Water. Although the Project could impede or redirect flooding from dam failure inundation, the likelihood of dam failure is low because these dams are regularly inspected by the Division of Safety of Dams (DSOD). Furthermore, reservoir restrictions are already in place for Anderson Dam, which was the only dam to be rated "poor" by DSOD. Therefore, the Project would result in less-than-significant impacts related to impeding or redirecting floodflows from dam failure inundation.

- **Impact WQ-4: Release of Pollutants Due to Inundation (Tsunami and Seiches).** No impacts related to the release of pollutants would occur due to a tsunami or seiches because the Project is not within a Tsunami Hazard Zone or an area subject to effects of seiches. The Project site is within the dam failure inundation areas of multiple dams operated by Valley Water. If a seiche were to occur in the reservoirs of any of these dams, it could cause overtopping of the dams and result in inundation of downstream areas. Because these dams are many miles upstream from the Project site, potential inundation caused by a seiche overtopping any of these facilities would be expected to remain within the creeks near the Project site.

- **Impact WQ-4: Release of Pollutants Due to Inundation (Flooding During Operation).** The Project would be designed to accommodate future flooding and sea-level rise (SLR), Therefore, the Project would not be at risk from pollutants being released due to inundation during operation and impacts would be less than significant.

- **Impact C-WQ-3: Cumulative Drainage Pattern Impacts (Erosion and Siltation).** Construction of the Project would involve excavation and grading that could temporarily alter drainage

patterns and expose soil to potential erosion. Compliance with the Construction General Permit would ensure that construction of the Project would not create cumulatively considerable impacts related to erosion and siltation or other sources of polluted runoff; the Project's contribution to cumulative impacts would not be considerable. During operation of the Project and cumulative projects, ground surfaces would be covered by structures, pavement, and landscaping, with no ongoing soil exposure or disturbance that could result in erosion and siltation. Required compliance with the MRP would also have a beneficial effect on the quality of stormwater runoff from the Project site and cumulative projects compared to existing conditions. Therefore, compliance with the MRP would ensure that operation of the Project would not create cumulatively considerable impacts related to erosion and siltation or other sources of polluted runoff; the Project's contribution to cumulative impacts would not be considerable. Cumulative impacts related to soil erosion are less than significant.

- **Impact C-WQ-4: Cumulative Release of Pollutants Due to Inundation (Tsunami and Seiches)**. The Project site and the sites for cumulative projects are not within a Tsunami Hazard Area. The Project site would not be subject to inundation by seiches and cumulative projects would also not be subject to inundation by seiches for the same reasons. Therefore, no cumulative impacts related to the release of pollutants in the event of a tsunami or seiche would occur.
- **Impact C-WQ-4: Cumulative Release of Pollutants Due to Inundation (Flooding During Operation).** The Project and cumulative projects that are intersected by special flood hazard areas would be designed to accommodate future flooding conditions in accordance with Chapter 15.45 of the City Code. The Project has been designed to accommodate future flooding conditions and SLR. Therefore, operation of the Project would not result in a risk related to the release of pollutants due to flooding, and this cumulative impact would be less than significant.

11. Hazards and Hazardous Materials

- **Impact HAZ-1: Routine Transport, Use, or Disposal of Hazardous Materials.** Hazardous materials (e.g., fuel, oils, paints) would be routinely transported, stored, and used at the Project site during construction activities. Because the Project would result in land disturbance involving more than 1 acre, the management of soil and hazardous materials during construction activities would be subject to the requirements of the NPDES Construction General Permit, which requires preparation and implementation of a SWPPP that includes hazardous materials storage requirements. Construction of the Project would result in the generation of various waste materials that would require recycling and/or disposal, including some waste materials that could be classified as hazardous waste. Hazardous materials would be transported by a licensed hazardous waste hauler and disposed of at facilities that are permitted to accept such materials, as required by the Department of Transportation (DOT), Resource Conservation and Recovery Act (RCRA), and State regulations. Compliance with existing regulations would ensure that potential impacts related to the routine transport, use, or disposal of hazardous materials during construction of the Project would be less than significant. Operation of the Project would involve the routine storage and use of small quantities of commercially available hazardous materials for routine maintenance (e.g., painting and cleaning); this could also include the generation of medical wastes related to laboratories and research-and-development facilities. Any laboratory spaces on the Project site would be required to be designed, constructed, and operated in accordance with the California Fire Code, which includes requirements for the use and storage of hazardous or flammable materials as well as hazardous or flammable fumes and exhaust systems. If hazardous materials would be stored in excess of specific quantities during Project operation,

the Project would be required to comply with existing hazardous materials regulations, including preparation of a Hazardous Materials Business Plan (HMBP), which is enforced by the City's Community Risk Reduction Division. Compliance with Occupational Safety and Health Administration (OSHA) and Cal/OSHA regulations, the California Fire Code, California Health and Safety Code Division 20, Chapter 6.5, CCR, DOT, RCRA, and federal, State, regional, and local regulations would ensure that the Project would not create a significant hazard to the public or the environment associated with the routine transport, use, or disposal of hazardous materials. Such materials would be properly handled during construction and operation of the Project. Therefore, this impact would be less than significant.

- **Impact HAZ-2: Accidental Releases of Hazardous Materials (Hazardous Building Materials).** Impacts related to the removal and disposal of hazardous buildings materials would be less than significant during Project construction and operation. Hazardous building materials removed prior to demolition activities must be transported in accordance with DOT regulations and disposed of in accordance with the RCRA, TSCA, CCR, and/or the California Universal Waste Rule at a facility permitted to accept the wastes. Compliance with Cal/OSHA's Construction Lead Standard and ACM regulations, CCR Title 8, Section 1532.1, Department of Health Services Regulation 17, CCR Sections 35001 through 36100, BAAQMD regulations under Rule 11-2, TSCA, DTSC hazardous waste rules, and other federal and State regulations (e.g., universal waste regulations), the Municipal Regional Stormwater NPDES Permit, and BASMAA protocols would ensure that potential construction and operational impacts of the Project related to the accidental release of hazardous building materials into the environment would be less than significant.

- **Impact HAZ-2: Accidental Releases of Hazardous Materials (Spills, Leaks, or Improver Disposal of Hazardous Materials).** Impacts related to accidental spills, leaks, and improver disposal of hazardous materials would be less than significant during Project construction and operation. The Project would prepare and implement a SWPPP to reduce the risk of spills or leaks that might reach the environment, including procedures to address minor spills of hazardous materials. Measures to control spills, leakage, and dumping must be addressed through structural as well as nonstructural best management practices (BMPs). For example, equipment and materials for the cleanup of spills must be available onsite, and spills and leaks must be cleaned up immediately, with contaminated materials disposed of properly. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. The transport of hazardous materials is subject to both federal and State regulations and if a discharge or spill of hazardous materials occurs during transportation, the transporter is required to take appropriate immediate action to protect human health and the environment (e.g., notify local authorities and contain the spill); the transporter is also responsible for the discharge cleanup. If significant quantities of hazardous materials would be stored at the Project site during operation, or if medical waste would be generated, compliance with City hazardous materials programs, as administered by the Community Risk Reduction Division, and compliance with DEH's Medical Waste Management Program would require hazardous materials and medical waste to be properly labeled, stored, and disposed of; training and planning would also be required to ensure appropriate responses to spills and emergencies. Compliance with existing regulations regarding the management, transport, and disposal of hazardous materials would ensure that potential impacts related to spills, leaks, or improper disposal of hazardous materials handled during construction and operation of the Project would be less than significant.

- **Impact HAZ-3: Hazardous Emissions within 0.25 Mile of Schools.** The Project would not emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school because the Project site is not within 0.25 of an active or pending school. Therefore, the Project would have no impact related to hazardous emissions within 0.25 mile of a school.

- **Impact HAZ-4: Government Code Section 65962.5.** The Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment. Therefore, the Project would have no impact related to listed hazardous sites.

- **Impact HAZ-5: Aviation Hazards**. The Project would not result in a safety hazard or excessive noise for people residing or working in the Project area due to proximity to San José International Airport because any proposed structure or building, including temporary construction cranes, on the Project site that could exceed an imaginary surface radiating at 100:1 (horizontal:vertical) from the runways of San José International Airport (this imaginary surface extends from approximately 168 feet above ground level (AGL) at the southeast portion of the Project site to approximately 185 feet AGL at the northwest portion of the Project site) would require submittal to the Federal Aviation Administration (FAA) for airspace safety review. For each building or structure with a maximum proposed height exceeding this imaginary surface, the Project must obtain a "Determination of No Hazard" from the FAA for each rooftop corner and any additional higher points. In addition, compliance with FAR Part 77 would ensure that the Project would be reviewed by the FAA and that any recommendations from the FAA for alteration of the Project's designs, markings, or lighting would be implemented to ensure that operation of the Project would not create aviation hazards. Therefore, compliance with conditions set forth by the FAA in its determinations and FAR Part 77 would ensure that the Project would not create aviation hazards and potential construction and operational impacts of the Project related to aviation hazards would be less than significant.

- **Impact HAZ-6: Emergency Response and Evacuation.** The Project would not impair or physically interfere with an adopted emergency response plan or emergency evacuation plan because construction activities that would result in temporary roadway closures would require traffic permits from the City and a traffic control plan, which would maintain emergency response and evacuation access through appropriate traffic control measures and detours. The Project would not impair or interfere with the City's ability to implement the emergency preparation or response actions described in the Local Hazard Mitigation Plan or Emergency Operations Plan (EOP). The Project would be built to adhere to all safety requirements required by the City and would not interfere with emergency response actions. Implementation of City General Plan policies related to emergency response and evacuation, including Policies 5.10.5-P1 through 5.10.5-P4 would ensure that the City would maintain an effective emergency response program that would account for development of the Project. Therefore, construction and operation of the Project would have a less-than-significant impact related to emergency response and evacuation.

- **Impact HAZ-7: Wildfire.** The Project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires because the Project site and surrounding areas are highly urbanized and not located near heavily vegetated areas or wildlands that could be susceptible to wildfire. The Project site and surrounding areas are in a Local Responsibility Area and not within or near a Very High Fire Hazard Severity Zone, as

mapped by the California Department of Forestry and Fire Protection (CAL FIRE). Therefore, the Project would have no impact related to wildland fire hazards.

- **Impact C-HAZ-1: Cumulative Routine Transport, Use, or Disposal of Hazardous Materials.** The Project, in combination with other foreseeable development in the vicinity, would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials because the Project and other foreseeable development in the vicinity would be required to comply with existing hazardous materials regulations, including OSHA and Cal/OSHA regulations; the California Fire Code; California Health and Safety Code Division 20, Chapter 6.5, Chapter 6.67, Chapter 6.7, and Chapter 6.95; CCR; DOT; RCRA; and federal, State, regional, and local regulations, which would ensure that the Project and cumulative projects would not create a significant hazard to the public or the environment associated with the routine transport, use, or disposal of hazardous materials during construction or operation. Therefore, the Project would not result in cumulatively considerable impact related to the routine transport, use, or disposal of hazardous materials.

- **Impact C-HAZ-2: Cumulative Accidental Releases of Hazardous Materials (Operation).** The Project, in combination with other foreseeable development in the vicinity, would not create a significant hazard to the public or the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment during operation because required compliance with existing hazardous materials regulations, including OSHA and Cal/OSHA regulations; the California Fire Code; California Health and Safety Code Division 20, Chapter 6.5, Chapter 6.67, Chapter 6.7, and Chapter 6.95; CCR; DOT; RCRA; and federal, State, regional, and local regulations, would ensure that the Project and cumulative projects, when operational, would not create a significant hazard to the public or the environment associated with an accidental release of hazardous materials. Therefore, the Project would not result in cumulatively considerable impact related to the accidental release of hazardous materials during operation.

- **Impact C-HAZ-3: Cumulative Aviation Hazards.** The Project, in combination with other foreseeable development in the vicinity, would not result in a safety hazard or excessive noise for people residing or working in the Project area due to proximity to San José International Airport because the Project and other foreseeable development in the vicinity would comply with FAR Part 77. Therefore, the Project would result in less-than-significant cumulative impacts related to aviation hazards.

- **Impact C-HAZ-4: Cumulative Emergency Response and Evacuation.** The Project, in combination with other foreseeable development in the vicinity, would not impair or physically interfere with an adopted emergency response plan or emergency evacuation plan because any construction activities that would result in temporary roadway closures would require traffic permits from the City and a traffic control plan, which would maintain emergency response and evacuation access through appropriate traffic control measures and detours. In addition, the Project and cumulative projects would not impair or interfere with the City's ability to implement the emergency preparation or response actions described in the Local Hazard Mitigation Plan or EOP. Implementation of the City's General Plan policies related to emergency response and evacuation, including Policies 5.10.5-P1 through 5.10.5-P4 would ensure that the City would maintain an effective emergency response program that would account for operation of the Project and cumulative projects. Therefore, construction and operational impacts from the Project would be less than significant and not cumulatively considerable.

12. Population and Housing

- **Impact POP-1: Population Growth.** Implementation of the Project would not induce substantial unplanned population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads of other infrastructure) because the population within the city or county as a result of workers relocating is not anticipated to increase substantially during Project construction. As shown in Table 3.12-6, the Project would result in the construction of up to 1,800 residential units on the Project site, 15 percent of which would be affordable. This would generate approximately 3,870 new residents, based on a household generation rate of 2.15 residents per unit. The Project would account for approximately 17.3 percent of the city's population growth over this 15-year period. However, the Project is an infill development within an already-developed area of the city, and the employment growth under the Project is largely accounted for in the General Plan as well as regional growth plans, such as ABAG projections. The Project would increase the supply of housing in the city by providing 1,800 new housing units. Although the Project would generate 544 employees beyond what was assumed for the site under the General Plan, the indirect regional housing demand generated by these additional employees would constitute approximately 0.07 percent of household growth expected in the Bay Area between 2025 and 2040, which is minimal. Because the Project would construct housing anticipated housing demand in the city can be accommodated in the city, and the level on unanticipated housing demand in the region would be small. Therefore, the Project would not induce a substantial level of unplanned population growth, either directly or indirectly, and impacts would be less than significant.

- **Impact POP-2: Displacement of Existing People or Housing.** The Project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere because, although the Project will demolish the four light industrial buildings present at the site, the Project would not demolish any residential housing, including the nearby Adobe Well Mobile Home Park. Therefore, the Project would not displace residents. The Project would result in no impact related to the displacement of housing.

- **Impact C-POP-1: Cumulative Population and Housing Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not induce substantial unplanned population growth within Santa Clara and region because construction workers for the Project and construction workers associated with the cumulative projects would not be expected to relocate permanently for construction work and therefore would not substantially increase the population in the city or the county. Therefore, the cumulative projects and the Project would not result in a significant cumulative impact related to unplanned population growth during construction. In addition, the cumulative scenario for this EIR includes 3 million gsf of office development for the Project site, as identified in the General Plan, and therefore is included in ABAG growth projections. Because the office development was included in projections, it would not contribute to a cumulative impact related to unplanned population and housing growth. As shown in Table 3.12-6, retail, childcare, and residential uses would generate 544 employees who were not included in projections; however, within the cumulative context, this is a very small number and would not, in combination with other foreseeable development, significantly contribute to a cumulative impact. Therefore, the Project's contribution to a cumulative impact would be less than significant.

13. Public Services

- **Impact PS-1: Fire Services and Facilities.** The Project would not result in the need for new or physically altered fire service facilities because the Project's estimated 400 onsite construction workers would most likely be drawn from the existing and future labor market in the city and the county and would be included with the service population of the Santa Clara Fire Department (SCFD). Additionally, a Fire Service Needs Assessment (Needs Assessment) was prepared for the Project in 2023. The Needs Assessment found that current service levels could be maintained with the operation of the Project, provided there was an increase in the personnel, the positions of Fire Protection Engineer and Deputy Fire Marshal were filled, and Fire Station 10 was completed and staffed. No specific need for additional facilities that could result in physical environmental impacts were identified in the Needs Assessment. Therefore, the Project would not result in substantial adverse physical environmental impacts associated with the provision of new or physically altered fire protection facilities in order to maintain acceptable service ratios, response times, or other performance objectives. As such, the Project's construction and operational impacts related to fire protection would be less than significant.

- **Impact PS-2: Police Services and Facilities.** The Project would not result in the need for new or physically altered police service facilities because the Project's estimated 400 onsite construction workers would most likely be drawn from the existing and future labor market in the city and the county and would not increase the Santa Clara Police Department's (SCPD's) existing service population in a way that would necessitate the expansion of SCPD facilities. In addition, the Project would not trigger the need for the construction of a new police facility or the expansion of the existing one. The SCPD participates in a mutual aid agreement with the other law enforcement jurisdictions in Santa Clara County, which could provide services to the Project site, as needed. Furthermore, the Project alone would not result in any impacts to the SCPD's response time objectives. The Project would not result in substantial adverse physical environmental impacts associated with the provision of new or physically altered police facilities in order to maintain acceptable service ratios, response times, or other performance objectives. Therefore, the construction and operation of the Project would result in a less-than-significant impact related to police services and facilities.

- **Impact PS-3: School Facilities.** The Project would not result in the need for new or physically altered school facilities because the Project's estimated 400 onsite construction workers would most likely be drawn from the existing and future labor market in the city and the county and would be included with the anticipation student population of the Santa Clara Unified School District (SCUSD). In addition, capacity for additional students currently exists in Kathryn Hughes Elementary and Huerta Middle School, which would serve the Project area. Capacity for additional students at Kathleen MacDonald High School would be available by the time the Project is operational. The Project would be subject to Senate Bill (SB) 50 School Impact Fees. Therefore, Project construction and operation would not trigger a need for the construction of new schools or expansion of existing facilities, resulting in a less-than-significant impact.

- **Impact PS-4: Parks and Recreation Facilities.** The Project would not result in the need for new or physically altered parks and recreational facilities, would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration would result, and would not include or require construction of recreational facilities that might have an adverse physical effect because the Project's estimated 400 onsite construction workers would most likely be drawn from the existing and future labor market in the city and the

county and construction of the Project would not result in the need for new or physically altered park facilities. In addition, the Project would dedicate parkland and provide recreational space, avoiding the impact of new residents on existing park and recreational space. If the amount of acreage changes, a fee in lieu of parkland dedication could be required. Because the Project would provide public parkland and private recreational space that would meet the demands of Project residents, the Project would result in a less-than-significant impact related to parks and recreation facilities.

- **Impact PS-5: Library Facilities.** The Project would not result in the need for new or physically altered library facilities, because the Project's 400 onsite construction workers would most likely be drawn from the existing and future labor market in the city and the county and therefore would not put additional strain on library services that would require rehabilitation or the construction of new library facilities. In addition, the Project's 3,870 residents and 12,544 employees would result in a population of 155,585, which would result in 0.67 square foot of library space per capita, still above the 0.3 square foot per capita that the American Planning Association (APA) suggests as the minimum for a city of this size. Therefore, the Project would result in a less-than-significant impact related to library facilities.

- **Impact C-PS-1: Cumulative Public Service Impacts.** The Project, in combination with other foreseeable development in the City, would not result in the need for new or physically altered public service facilities. The estimated 400 onsite construction workers associated with the Project and the construction workers associated with the cumulative projects would most likely be drawn from the existing and future labor market in the city and the county and included within the service population of the SCFD. In addition, construction workers would not increase the SCPD's existing service population in a way that would necessitate the expansion of SCPD facilities, would not increase the SCUSD's existing student population in a way that would necessitate the expansion of SCUSD facilities, would not increase the existing service population of the Parks Department in a way that would necessitate the expansion of park facilities, and would not put an additional strain on library services that would require the rehabilitation of existing facilities or the construction of new library facilities. A Needs Assessment prepared for the Project determined that with the completion of Fire Station 10, which would be operational by the time the Project would be constructed, and additional staffing, there would be no need for new facilities to maintain service ratios. The Project would also be built according to fire code standards, decreasing the likelihood of fire risk at the site. Because the Project, upon completion, would be close to a new fire station that would adequately serve the Project site, would not be located in a high-risk fire hazard zone, and would be constructed according to the most current fire code standards, the Project's operational contribution to cumulative fire protection impacts would not be cumulatively considerable. The Project would not trigger the need for the construction of a new police facility, the construction of which would cause significant environmental impacts. The Project's operational contribution to a cumulative police services impact would not be considerable. The SCUSD enacted development fees in accordance with the Leroy F. Greene School Facilities Act and levies the fees on development projects within its service area. Other projects would also be required to pay school impact fees, which are based on the amount of proposed residential and commercial space. This process, as well as the fee payment and SCUSD's Strategic Plan planning process discussed in the regulatory setting section above, would ensure that citywide growth would be reasonably accommodated within the cumulative context and the Project's operational contribution to cumulative impacts would not be considerable. Compliance with Santa Clara City Code Chapter 17.35 would ensure that

development projects would provide adequate park and recreational facilities or contribute a fee to meet the demand for recreational space generated by the projects. Therefore, the development projects would not increase the use of existing neighborhood parks such that physical deterioration of park facilities and overcrowding would occur or be accelerated. Therefore, the current development would not be expected to result in a significant cumulative impact related to parks and recreation. With the provision of adequate park and recreational land within the Project site and/or payment of a fee in lieu of dedication, the Project's operational contribution to cumulative impacts would not be considerable. The addition of the 3,870 residents generated by the Project would result in a population of 155,585, which would result in 0.67 square foot of library space per capita, still above the 0.3 square foot per capita APA suggests as the minimum for a city of this size. Therefore, the Project would not substantially contribute to the need for a new library facility. Therefore, operation of the Project would not result in a cumulatively considerable impact related to library services. Therefore, the Project would result in a less-than-significant cumulative impact related to public services.

14. Tribal Cultural Resources

- **Impact TRC-1: Tribal Cultural Resources (Operations).** Operation of the Project would not cause a substantial adverse change in the significance of a tribal cultural resource that is a) listed or eligible for listing in the CRHR or in a local register of historical resources, as defined in PRC Section 5020.1(k), or b) determined by the lead agency to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1 because any impact on tribal cultural resources would occur during Project construction. Thus, no impact related to tribal cultural resources could result from operation of the Project.

- **Impact C-TCR-1: Cumulative Impacts on Tribal Cultural Resources (Operation)**. Operation of the Project, in combination with other foreseeable development in the vicinity, would not result in impacts on tribal cultural resources because any impact on tribal cultural resources would occur during construction. Thus, no impact related to tribal cultural resources would result from operation under cumulative conditions.

15. Utilities and Service Systems

- **Impact UT-1: Utility Relocation, Construction, or Expansion (Other Than Stormwater Facilities).** The Project would not require or result in the relocation or construction of new or expanded water, wastewater treatment, electricity, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects during construction or operation. Therefore, impacts related to relocation or construction of new or expanded water, wastewater treatment, electricity, natural gas or telecommunication facilities would be less than significant.

- **Impact UT-2: Water Supply.** The Project would have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years because the Project is within the 2020 Urban Water Management Plan (UWMP) growth projections and implement sustainability features. Construction activities within the Project site would be served by existing recycled water systems and infrastructure. Because there is adequate recycled water service available at the Project site, construction activities that require water, such as for dust suppression and dewatering, would be met through the either the use of onsite recycled water or use of recycled water conveyed by water trucks and tanks. Because the City determined that the Project's

water demand would be within the City's modeled 2020 UWMP growth projections, an adequate water supply would be available to serve the Project under normal-year, single dry-year, and five consecutive dry-year conditions, as described above for the City's water service reliability assessment. Similarly, projected water demand for reasonably foreseeable future development, including the Project, would also be met with the City's water supply; therefore, the supply is projected to be adequate with respect to meeting demand through 2045. In addition, because recycled water is currently available at the Project site and at some of the reasonably foreseeable future development sites, the Project and future development could connect to the existing recycled water system. In addition to using recycled water, the Project would also include a number of sustainability features to reduce water use. Such features would involve building and landscape rainwater capture and reuse; greywater reuse; the use of reclaimed wastewater onsite, low-flow plumbing fixtures, native drought-tolerant landscaping, and flow-through planters; and reductions in impermeable surfaces. All of these Project-specific sustainability features would help offset potable water demand from the Project. Therefore, because the Project's water demand would be within the 2020 UWMP growth projects, and given the sustainability features that would be implemented, the Project's construction and operational impact on water supply would be less than significant.

- **Impact UT-3: Wastewater Treatment Capacity.** The Project would result in a determination by the wastewater treatment provider that serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments because portable restrooms would be temporarily installed onsite, construction is not anticipated to result in substantially elevated wastewater generation levels in the local sanitary sewer system, and dewatering discharge rates would be less than peak storm flows and within system capacity. Construction of the Project would not result in capacity deficiency in local or downstream sewers in the near term or future, according to the Project's Sanitary Sewer Capacity Evaluation (Sewer Study). Therefore, the San José/Santa Clara RWF would have adequate capacity to serve the Project's projected demand in addition to the wastewater facility's existing commitments. In addition, a Sewer Study evaluated wastewater treatment and sewer capacity projections for the Project, which found that both sewer options included in the Project would reduce the peak wet-weather flow reaching the Tasman Lift Station, and flows would not exceed the life station's capacity. The wastewater treatment provider that serves the Project would have adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments, Therefore, the Project would have a less-than-significant impact related to wastewater treatment capacity.

- **Impact UT-4: Solid Waste Capacity.** The Project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals because the Project would include a construction and demolition plan that would call for approximately 90 to 95 percent of demolition material to be recycled. The Project would use salvaged, recycled, and low-impact materials where appropriate and send them for treatment and reuse rather than to a landfill. During construction, the Project would reuse excavation materials, process demolition onsite, segregate waste streams, audit waste, and implement take-back schemes. Organic material cleared during construction could be reused as fill in future landscaped areas onsite or offsite. Therefore, because approximately 90 to 95 percent of demolition materials would be recycled, which is in excess of the 80 percent solid waste diversion goal in the City's CAP, the Project's construction impact would be less than significant. The Project would comply with the mandatory requirements of the Santa Clara Commercial and Residential Recycling Programs to help the City meet its waste diversion goal of 65 percent as well as City ordinances that regulate single-use carryout bags and

expanded polystyrene foam food-service ware. In addition, the Project would be served by a landfill with adequate permitted capacity and able to accommodate the Project's solid waste disposal needs. Therefore, the Project would have a less-than-significant impact on solid waste capacity.

- **Impact UT-5: Solid Waste Regulations.** The Project would not result in the generation of unique types of solid waste that would conflict with applicable solid waste disposal and would be required to comply with City solid waste disposal requirements, including recycling, composting, and special materials disposal programs to comply with the provisions of AB 939. Therefore, the Project would have no impact related to compliance with applicable federal, State, and local statutes and regulations related to solid waste.

- **Impact C-UT-1: Cumulative Utilities Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not require or result in the construction of new water, wastewater, stormwater treatment, electricity, or telecommunication facilities; result in a determination of inadequate wastewater treatment capacity; or generate solid waste in excess of State or local standards because construction of the cumulative projects would be temporary and would use existing utility connections for construction purposes to connect with water, wastewater, stormwater, electrical, and telecommunication systems. In addition, construction of the cumulative projects and the Project would not permanently increase wastewater generation or solid waste generation. Valley Water would assess whether changes to Valley Water's Water Supply Master Plan 2040 would be needed to adapt to changing supply and demand conditions, climate change, regulatory and policy changes, other risks, and uncertainty. Therefore, the Project would not result in cumulatively considerable impacts related to water supply facilities because the master plan accounts for facility planning, which includes the Project and Project region. Flows to the Tasman Lift Station decrease in future conditions under both options because a number of improvements to the sewer system are planned, which would be implemented by 2035. Therefore, a significant cumulative impact on wastewater treatment facilities and capacity would not occur. Development in the City would consist primarily of redevelopment, which would not substantially increase impervious surfaces in the City. Existing regulations require new projects to address the need for stormwater treatment. As such, there would be no cumulative impacts from development on the City's stormwater drainage facilities. The City has an arrangement with the Newby Island Landfill, as well as other landfills located outside of the county, to provide disposal capacity through 2041, according to CalRecycle. Therefore, there would be available capacity for the region, and no cumulative impacts related to solid waste would occur. The Project's proposed substation would be maintained by the City's public utility provider, SVP. As such, there would be no cumulative impacts from development on the City's electricity, natural gas, and telecommunications facilities. Therefore, the Project would result in a less than significant cumulative impact related to utilities.

B. Less-than-Significant Impacts that Require Mitigation

Potentially significant impacts have been determined by the City to be reduced to a level of less than significant through 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. For these impacts, the City has thus found—in accordance with CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1)—that "[c]hanges or alterations have been

required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment." (See also Public Resources Code Section 21081(a)(1).)

The Final EIR identified the significant impacts below that, with mitigation, can be reduced. Based on the findings in the Final EIR, as well as the evidence in the record, the impacts can be mitigated to a less-than-significant level, as discussed below.

1. Transportation

The topic of transportation was analyzed in Section 3.2 of the EIR. The EIR determined that the Project could result in significant impacts related to transportation and recommended mitigation measures, as discussed below.

Impact TRA-1: Consistency with Adopted Plans, Ordinances, and Policies Regarding Roadways (Construction).

FINDING: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce the construction impacts related to consistency with adopted plans, ordinances and policies regarding roadways to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. A Construction Management Plan would minimize disruptions to the roadway network caused by Project construction activities. The City hereby determines that any impacts related to consistency with adopted plans, ordinances, and policies regarding roadways from construction remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Typical activities related to construction of the Project could include lane narrowing and/or lane closures. Such activities could conflict with General Plan policies that require new development to provide streets that meet City goals and standards. Therefore, Project construction could conflict with an applicable plan, ordinance, or policy addressing the roadway network, resulting in a significant impact. Mitigation Measure TRA-1.1 would require the Project to prepare and submit a Construction Management Plan prior to issuance of any building permit and in the event of any type of closure, clear signage (e.g., closure and detour signs) must be provided to ensure that vehicles will be able to reach their intended destinations safely. With implementation of Mitigation Measure TRA-1.1, the Project would not conflict with an applicable plan, ordinance, or policy addressing the roadway network. This would reduce construction impacts related to consistency with adopted plans, ordinances, and policies regarding roadways to a less-than-significant level.

> Mitigation Measure TRA-1.1: Construction Management Plan. Prior to the issuance of each building permit, the Project Sponsor shall prepare a construction management plan for review and approval by the Public Works Department. The plan, which shall be implemented during construction, shall include at least the following items and requirements:
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> - A comprehensive set of traffic control measures, including measures regarding detour signs, if required; lane closure procedures; sidewalk closure procedures; signs; cones for drivers; and designated construction access routes.
> - Notification procedures for adjacent property owners, the public, transit operators, and public safety personnel regarding when detours and lane closures will occur.

- The location of construction staging areas for materials, equipment, and vehicles (must be located on the Project site).
- Identification of haul routes for the movement of construction vehicles to minimize impacts on vehicular, pedestrian, and transit vehicle traffic, circulation, and safety and provisions for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected. Construction vehicles shall be required to use designated truck/haul routes.
- Provisions for the removal of trash generated by Project construction activity.
- A process for responding to and tracking complaints pertaining to construction activity.
- Parking restrictions—specifically, construction vehicles and construction workers shall not be allowed to park in adjacent residential neighborhoods, and construction vehicles shall be required to park in the construction zone or in temporary parking lots onsite.
- Provisions that address the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes.

Impact TRA-2: Consistency with Adopted Plans, Ordinances, and Policies Regarding Transit (Construction).

FINDING: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce the construction impacts related to consistency with adopted plans, ordinances, and policies regarding transit to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby determines that any construction impacts related to consistency with adopted plans, ordinances, and policies regarding transit remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Project construction activities could temporarily impede light rail transit or bus operations or close the bus stop adjacent to the Project frontage on Tasman Drive. This would conflict with General Plan policies that encourage development of a multimodal transportation system. Therefore, Project construction could conflict with an applicable plan, ordinance, or policy addressing public transit, resulting in a significant impact. Any changes to light rail or bus operations during construction would require prior approval and adequate countermeasures approved by the Santa Clara Valley Transportation Authority (VTA). Mitigation Measure TRA-1.1 would include provisions to maintain these facilities and services. With implementation of Mitigation Measure TRA-1.1, the Project would not conflict with an applicable plan, ordinance, or policy addressing public transit. This would reduce the construction impacts related to consistency with adopted plans, ordinances, and policies regarding transit to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

Impact TRA-3: Consistency with Adopted Plans, Ordinances and Policies Regarding Bicycle Facilities (Construction).

FINDING: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce construction impacts to bicycle facilities to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby

determines that any impacts related to consistency with adopted plans, ordinances, and policies addressing bicycle facilities remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Project construction activities could result in the temporary closure of bike lanes on Tasman Drive. This would conflict with General Plan policies that encourage development of a multimodal transportation system and 2018 Bicycle Plan Update Policy 2.C.4, which states that bicycle lanes shall be maintained next to construction zones whenever feasible. Therefore, Project construction could conflict with an applicable plan, ordinance, or policy addressing bicycle facilities, resulting in a significant impact. Any changes to existing bicycle facilities would require prior approval or adequate countermeasures approved by the Public Works Department. Mitigation Measure TRA-1.1 would include provisions to maintain bicycle connections within the Project vicinity during construction. With implementation of Mitigation Measure TRA-1, the Project would not conflict with an applicable plan, ordinance, or policy addressing bicycle facilities. This would reduce the construction impacts related to consistency with adopted plans, ordinances, and policies regarding bicycle facilities to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

Impact TRA-4: Consistency with Adopted Plans, Ordinances and Policies Regarding Pedestrian Facilities (Construction).

FINDING: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce the construction impacts related to consistency with adopted plans, ordinances, and policies addressing pedestrian facilities to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby determines that any impacts related to consistency with adopted plans, ordinances, and policies regarding pedestrian facilities remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Project construction activities could result in the temporary closure of sidewalks and crosswalks. This would conflict with General Plan policies that encourage development of a multimodal transportation system and 2019 Pedestrian Master Plan Policy 2.C.4, which states that pedestrian lanes shall be maintained next to construction zones whenever feasible. Therefore, Project construction could conflict with an applicable plan, ordinance, or policy addressing pedestrian facilities, resulting in a significant impact. Any changes to existing pedestrian facilities would require prior approval or adequate countermeasures approved by the Public Works Department. Mitigation Measure TRA-1.1 would include provisions to maintain pedestrian connections within the Project vicinity. With implementation of Mitigation Measure TRA-1.1, the Project would not conflict with an applicable plan, ordinance, or policy addressing pedestrian facilities. This would reduce the construction impacts related to consistency with adopted plans, ordinances, and policies regarding pedestrian facilities to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

Impact TRA-6: Hazards Due to Design Features or Incompatible Uses (Construction).

FINDINGS: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce the construction impacts related to hazards due to design features or incompatible uses to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby determines that any construction impacts related to hazards due to design features or incompatible uses remaining after Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction activities could temporarily infringe on the existing street right-of-way (ROW) adjacent to the Project site, creating substandard design elements such as narrow lane widths or inadequate sight distances that could pose a hazard to users. Therefore, Project construction could substantially increase hazards due to a geometric design feature, resulting in a significant impact. As part of Mitigation Measure TRA-1.1, the City will review temporary traffic control plans to ensure that travel lane closures, on-street parking, shoulders, bike lanes, bus stops, and sidewalks during construction comply with the *California Temporary Traffic Control Handbook*[4] and the latest *California Manual on Uniform Traffic Control Devices.*[5] With implementation of Mitigation Measure TRA-1, and adherence to the design standards in these publications, the Project would not substantially increase hazards due to a geometric design feature or incompatible uses. This would reduce the construction impacts related to hazards due to design features or incompatible uses to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

Impact TRA-7: Emergency Access (Construction).

FINDINGS: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce the construction impacts related to emergency access to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby determines that any construction impacts related to emergency access remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction activities could result in temporary closures along travel lanes, bike lanes, or roadway shoulders. Such closures could interfere with emergency access to the Project site or adjacent properties. Therefore, Project construction could result in inadequate emergency access, resulting in a significant impact. As part of Mitigation Measure TRA-1.1, a construction management plan would include provisions to maintain adequate emergency access during each phase of construction. With implementation of Mitigation Measures TRA-1.1, the Project would not result in inadequate emergency access. This would reduce the construction impacts on emergency access to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

[4] California Inter-Utility Coordinating Committee. 2018. *California Temporary Traffic Control Handbook.* Seventh edition. May.

[5] California Department of Transportation. 2023. *2014 California Manual on Uniform Traffic Control Devices, Revision 7*. March 10.

Impact C-TRA-1: Cumulative Adopted Plans, Ordinances, and Policies Addressing the Circulation System.

FINDING: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce cumulative impacts related to adopted plans, ordinances, and polices addressing the circulation system to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby determines that any cumulative impacts related to consistency with adopted plans, ordinances, and policies regarding roadways remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The Project and other future developments that may be constructed within the Patrick Henry Specific Plan Area and the Freedom Circle Focus Area, as well as other approved and proposed developments in the vicinity of the Project site, would be required to comply with existing regulations, including General Plan policies and zoning regulations that have been enacted to minimize impacts related to transportation and circulation. However, without mitigation, Project construction, in combination with cumulative projects, could conflict with an applicable plan, ordinance, or policy addressing the roadway network, resulting in a significant cumulative impact. Construction management plans, similar to the construction management plan required under Mitigation Measure TRA-1.1 for the Project, would be required for all new developments, subject to review and approval by the Public Works Department, to ensure that all elements of the transportation network meet City goals and standards during construction. With implementation of Mitigation Measure TRA-1.1, the Project, in combination with other foreseeable development in the vicinity, would not conflict with an applicable plan, ordinance, or policy addressing the circulation system, including roadway, transit, bicycle, and pedestrian facilities. This would reduce the cumulative impacts related to adopted plans, ordinances, and policies to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

Impact C-TRA-3: Cumulative Hazards Due to Design Features or Incompatible Uses.

FINDING: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce impacts to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby determines that any cumulative impacts related to hazards due to design features or incompatible uses remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The Project combined with future developments would not substantially increase hazards due to a geometric design feature or incompatible uses. Overall, cumulative land use development, including future developments within the Patrick Henry Specific Plan Area and the Project site, would promote accessibility for people traveling to and through northern Santa Clara by conforming to General Plan and specific plan policies, zoning regulations, and City standards and adhering to planning principles that emphasize providing convenient connections and safe routes for people bicycling, walking, driving, or taking transit. However, Project construction activities could result in the temporary closure of bike lanes on Tasman Drive. Therefore, Project construction, in combination with other cumulative development, could result in hazards due to design features or incompatible uses, resulting in a significant cumulative impact. Plans would be reviewed by the City's Public Works Department to ensure that projects

are constructed according to City specifications. Construction management plans, similar to the construction management plan required under Mitigation Measure TRA-1.1 for the Project, would be required for all new developments, subject to review and approval by the Public Works Department, to ensure that temporary design features used during construction would not increase hazards, both individually and collectively. With implementation of mitigation, the Project, in combination with other foreseeable development in the vicinity, would not substantially increase hazards due to a geometric design feature or incompatible uses. This would reduce the cumulative impacts related to hazards due to design features or incompatible uses to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

Impact C-TRA-4: Cumulative Emergency Access.

FINDING: Implementation of Mitigation Measure TRA-1.1, which is hereby adopted and incorporated into the Project, would reduce cumulative impacts related to emergency access to a less-than-significant level. The City finds preparation and implementation of a Construction Management Plan to be feasible. The City hereby determines that any cumulative impacts related to emergency access remaining after implementation of Mitigation Measure TRA-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Project construction activities could temporarily infringe on the existing street ROW adjacent to the Project site, creating substandard design elements such as narrow lane widths or inadequate sight distances that pose a hazard to users. Therefore, Project construction, in combination with cumulative development, could substantially increase hazards due to a geometric design feature, resulting in a significant cumulative impact. Designs for EVA roadways would be subject to City review. This would ensure the adequacy of circulation patterns and compliance with City EVA standards related to minimum heights, clearance along circulation routes, drive aisle width, vertical clearance, turning radius, and slope. Construction management plans, similar to the construction management plan required under Mitigation Measure TRA-1.1 for the Project, would be required for all new developments, subject to review and approval by the Public Works Department, to ensure that temporary closures of travel lanes, bike lanes, or roadway shoulders that may be planned during concurrent construction projects would not result in inadequate emergency access. With implementation of Mitigation Measure TRA-1.1, the Project, in combination with other foreseeable development in the vicinity, would not result in inadequate emergency access. This would reduce the cumulative impacts related to emergency access to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure TRA-1.1.

2. Air Quality

The topic of air quality was analyzed in Section 3.3 of the EIR. The EIR determined that the Project could result in significant impacts related to air quality and recommended mitigation measures, as discussed below.

Impact AQ-2: Cumulatively Considerable Net Increase in Criteria Pollutants – Construction.

FINDING: Implementation of Mitigation Measures AQ-2.1 and AQ-2.2, which are hereby adopted and incorporated into the Project, would reduce construction impacts related to a cumulatively considerable net increase in criteria pollutants to a less-than-significant level. The City finds the use of clean diesel-powered or electric equipment during construction and implementation of BAAQMD basic construction

mitigation measures to be feasible. The City hereby determines that any impacts related to a cumulatively considerable net increase in criteria pollutants during construction remaining after implementation of Mitigation Measures AQ-2.1 and AQ-2.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction activities would generate emissions of criteria pollutants from the exhaust of off-road equipment, the exhaust of construction workers' vehicles and heavy-duty trucks traveling to and from the Project site, the application of architectural coatings, and paving. Fugitive PM_{10} and $PM_{2.5}$ dust would also be generated during soil movement and disturbance (e.g., grading and excavation) as well as demolition. The amount generated on a daily basis would vary, depending on the intensity and types of construction activities occurring simultaneously. The Project's emissions would exceed BAAQMD thresholds during 6 years of the Project's estimated 9 year construction timeframe. Exceedances would not necessarily occur on every day of construction for 6 years; rather, emissions in these 6 calendar years would exceed the thresholds on days when the worst-case scenario would occur. Regardless, the construction impact of the Project would be significant. In addition, BAAQMD's CEQA Air Quality Guidelines consider fugitive dust impacts to be significant prior to the application of BMPs to control dust. If BMPs are not implemented, then dust impacts would also be significant. Mitigation Measure AQ-2.1 would be implemented to reduce the Project's nitrogen oxide (NO_X) emissions by requiring EPA Tier 4 Final diesel engines. As shown in Table 3.3-8, for the mitigated scenario, implementation of Mitigation Measure AQ-2.1 (i.e., the requirement for EPA Tier 4 Final diesel engines) would reduce construction emissions of NO_x to a level below the BAAQMD threshold. In addition, Mitigation Measure AQ-2.2 would be incorporated to ensure that BAAQMD best management practices (BMPs), as well as additional recommended construction-related mitigation measures, would be implemented during Project construction. BMPs would be required and implemented to reduce impacts from construction-related fugitive dust emissions, including any cumulative impacts. With implementation of Mitigation Measures AQ-2.1 and AQ-2.2, the Project would not result in cumulatively considerable net increases in criteria pollutants during construction and any remaining construction impacts related to a cumulatively considerable net increase in criteria pollutants would be less-than-significant.

Mitigation Measure AQ-2.1: Use Clean Diesel-Powered or Electric Equipment during Construction to Control Construction-Related Emissions. The Project Sponsor shall ensure that all off-road diesel-powered equipment greater than 50 horsepower used during construction shall be equipped with EPA-approved Tier 4 Final engines or cleaner[6] to reduce exhaust $PM_{2.5}$ emissions. The construction contractor shall submit evidence of the use of EPA-approved Tier 4 Final engines or cleaner to the City of Santa Clara prior to the commencement of Project construction activities.

Mitigation Measure AQ-2.2: Implement BAAQMD Basic Construction Mitigation Measures to Reduce Dust Emissions. The Project Sponsor shall require all construction contractors to implement the BAAQMD Basic Construction Mitigation Measures as well as additional construction-related mitigation measures recommended by BAAQMD.[7] The emissions reduction measures shall include, at a minimum, all of the items listed below. The Project Sponsor shall provide documentation to the City

[6] Cleaner engine technology includes electric equipment and CARB Tier 5 engine standards, which are expected to begin in 2028 (CARB n.d.).

[7] Bay Area Air Quality Management District. 2017b. *California Environmental Quality Act, Air Quality Guidelines*. May. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed: February 2, 2023.

of Santa Clara that the Basic Construction Mitigation Measures as well as any additional measures recommended by BAAQMD, have been reflected in all construction contracts prior to the commencement of Project construction activities.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, unpaved access roads) shall be watered at least three times per day to maintain a minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or a moisture probe.
- All haul trucks transporting soil, sand, or other loose material offsite 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.
- Paving of all roadways, driveways, and sidewalks 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 5 minutes (as required by the California Airborne Toxics Control Measure, Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturers' specifications. All equipment shall be checked by a certified mechanic and determined to be in proper running condition prior to operation.
- A publicly visible sign shall be posted with the name and telephone number of the person to contact at the Lead Agency regarding dust complaints. That 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.

Impact AQ-3: Substantial Pollutant Concentration - Fugitive Dust (Construction).

FINDING: Implementation of Mitigation Measure AQ-2.2, which is hereby adopted and incorporated into the Project, would reduce construction impacts related to fugitive dust to a less-than-significant level. The City finds implementation of Bay Area Air Quality Management District (BAAQMD) basic construction mitigation measures to be feasible. The City hereby determines that any construction impacts related to fugitive dust remaining after implementation of Mitigation Measure AQ-2.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Grading and excavation during Project construction would generate localized fugitive dust. BAAQMD's CEQA Guidelines consider dust impacts to be less than significant if BAAQMD's construction BMPs are employed to reduce such emissions. With the implementation of BAAQMD's Basic Construction Mitigation Measures as required under Mitigation Measure AQ-2.2, any construction related-fugitive dust emissions would not expose receptors to substantial pollutant concentrations or risks. With implementation of Mitigation Measure AQ-2.2, any remaining construction impacts related to fugitive dust would be less-than-significant.

Mitigation Measure: Implement Mitigation Measure AQ-2.2.

3. Greenhouse Gas Emissions

The topic of GHG emissions was analyzed in Section 3.4 of the EIR. The EIR determined that the Project could result in significant impacts related to GHG emissions and recommended mitigation measures, as discussed below.

Impact GHG-1: Generate GHG Emissions (Construction).

FINDING: Implementation of Mitigation Measure GHG-1.1, which is hereby adopted and incorporated into the Project, would reduce impacts to a less-than-significant level. The City finds implementation of applicable construction-related measures from the 2017 Scoping Plan (Appendix B) and the 2022 BAAQMD Air Quality Guidelines recommended BMPs to be feasible. The City hereby determines that any impacts related to GHG emissions during construction and operation remaining after implementation of Mitigation Measure GHG-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. BAAQMD has not established a quantitative threshold for assessing construction-related GHG emissions, noting that they represent a very small portion of a project's lifetime GHG emissions.[8] As noted in the BAAQMD 2022 CEQA Air Quality Guidelines, BAAQMD recommends evaluating whether construction activities would conflict with statewide emission reduction goals, based on whether feasible BMPs for reducing GHG emissions would be implemented.[9] If a project fails to implement feasible BMPs identified by BAAQMD, its GHG emissions could conflict with statewide emission goals and represent a cumulatively considerable contribution to climate change, which would be a potentially significant impact. As such, before the inclusion of feasible BAAQMD-identified BMPs, the Project's construction-generated GHG emissions would be considered significant. Mitigation Measure GHG-1.1 requires implementation of applicable construction-related measures from the 2017 Scoping Plan (Appendix B) and the 2022 BAAQMD Air Quality Guidelines to reduce the level of GHGs associated with construction of the Project and avoid any conflict with statewide GHG reduction goals. Because Mitigation Measure GHG-1.1 would require implementation of all construction-related GHG reduction measures recommended by BAAQMD and CARB,[10] construction of the Project would not generate GHG emissions that could have a significant impact on the environment. With implementation of Mitigation Measure GHG-1.1, the Project would not generate GHG emissions that could have a significant impact on the environment. This would reduce construction impacts related to GHG emissions to a less-than-significant level.

> Mitigation Measure GHG-1.1 Require Implementation of Scoping Plan and BAAQMD-Recommended Best Management Practices to Reduce Construction GHG Emissions. The Project Sponsor shall require its contractors, as a condition of contracts (e.g., standard specifications), to reduce construction-related GHG emissions by implementing BAAQMD's recommended BMPs, including, but not limited

[8] Bay Area Air Quality Management District. 2022. *Appendix B: Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans*. April. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa-thresholds-2022/justification-report-pdf.pdf?la=en. Accessed: January 31, 2023.

[9] Bay Area Air Quality Management District. 2017b. *California Environmental Quality Act Air Quality Guidelines.* May. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_ may2017-pdf.pdf?la=en. Accessed: January 31, 2023.

[10] The current scoping plan, adopted in 2022, does not contain construction-related measures analogous to those in the 2017 scoping plan.

to, the measures listed below, based on BAAQMD's 2022 CEQA Air Quality Guidelines.[11] The Project Sponsor shall submit evidence of compliance to the City prior to permit issuance.

- Use zero-emission and hybrid-powered equipment to the greatest extent possible, particularly if emissions are occurring near sensitive receptors or within a Bay Area Air Quality Management District–designated Community Air Risk Evaluation (CARE) area or Assembly Bill 617 community.[12]
- Require all diesel-fueled off-road construction equipment to be equipped with U.S. Environmental Protection Agency Tier 4 Final engines or better.
- Require all on-road heavy-duty trucks to be zero emissions or meet the most stringent model-year emissions standard where feasible.
- Minimize idling time, either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes. Provide clear signage that posts this requirement for workers at the entrances to the site.
- Use California Air Resources Board–approved renewable diesel fuel in off-road construction equipment and on-road trucks where feasible.
- Use U.S. Environmental Protection Agency SmartWay-certified trucks for deliveries and equipment transport where feasible.
- Require all construction equipment to be maintained and properly tuned in accordance with the manufacturer's specifications.
- Where grid power is available, prohibit portable diesel engines and provide electrical hook-ups for electric tools, such as saws, drills, and compressors; use electric tools whenever feasible.
- Where grid power is not available, use alternative fuels, such as propane or solar electrical power, for generators at construction sites whenever feasible.
- Encourage and provide carpools, shuttle vans, transit passes, and/or secure bicycle parking to construction workers and offer meal options onsite or shuttles to nearby meal destinations for construction employees.
- Reduce electricity use in the construction office by using LED bulbs, powering off computers every day, and replacing heating and cooling units with more efficient ones.
- Minimize energy used during site preparation by deconstructing existing structures to the greatest extent feasible.
- Recycle or salvage nonhazardous construction and demolition debris, with a goal of recycling at least 15 percent more, by weight, than the diversion requirement in Title 24.
- Use locally sourced or recycled materials for construction (goal of at least 20 percent, based on cost of building materials and volume of roadway, parking lot, sidewalk, and curb materials).
- Use low-carbon concrete, minimize the amount of concrete used, and produce concrete onsite where feasible if it is more efficient than transporting ready-mix.

[11] Bay Area Air Quality Management District. 2017b. *California Environmental Quality Act Air Quality Guidelines.* May. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_ may2017-pdf.pdf?la=en. Accessed: January 31, 2023.

[12] The Project site is not located within a CARE or AB 617 community.

- Develop a plan to efficiently use water for adequate dust control because substantial amounts of energy can be consumed by pumping water.
- Include all requirements in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply compliant on- or off-road construction equipment prior to any ground-disturbing and construction activities.

Project Design Feature GHG-1: Implement Applicable and Mandatory Actions from the City of Santa Clara 2022 Climate Action Plan Compliance Checklist. The Project Sponsor shall ensure that the Project is consistent with the City of Santa Clara's 2022 CAP by including all mandatory and applicable actions from the City of Santa Clara 2022 Climate Action Plan Compliance Checklist (CAP Checklist). Inclusion of the following CAP Checklist measures is necessary to ensure the performance standard is met:

- B-1-5: Reach codes for new construction
- B-2-3: Energy-efficient and electric-ready building code
- T-1-2: EV charging for all new construction
- T-2-1: Pedestrian & Bicycle Master Plans Implementation
- T-3-1: TDM plan requirements
- T-3-3: Transit-oriented development (Projects within ½ mile of transit corridor only)
- T-3-5: Transportation Analysis Policy compliance
- M-1-1: Compliance with State Solid Waste Ordinances
- N-1-1: Right-of-way tree planting (Residential Projects Only)
- T-2-3: Bike & shared mobility improvements
- M-3-1: Reuse of salvageable building materials
- N-3-3: Water-efficient landscaping requirements
- N-3-5: Recycled water connection requirements
- C-2-2: Onsite & natural stormwater systems
- M-3-4: Carbon-smart building materials

The Project Sponsor would also include the following five optional actions from the CAP Checklist:

- B-3-5: Local grid resiliency & energy storage improvements (Optional)
- T-3-4: Telework (Optional)
- N-3-4: Community water portfolio diversion (Optional)
- T-2-2: Curb management improvements (Optional)
- N-2-3: Sustainable planting guide (Optional)

The Project Sponsor will submit evidence to the City demonstrating that each of the CAP Checklist actions listed above would be implemented prior to issuance of the first construction or grading permit for the Project.

4. Energy

The topic of energy was analyzed in Section 3.5 of the EIR. The EIR determined that the Project could result in significant impacts related to energy and recommended mitigation measures, as discussed below.

Impact EN-1: Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources (Construction).

FINDING: Implementation of Mitigation Measure GHG-1.1, which is hereby adopted and incorporated into the Project, would reduce construction impacts due to the wasteful, inefficient, or unnecessary consumption of energy resources to a less-than-significant level. The City finds implementation of a scoping plan and BAAQMD-recommended BMPs to be feasible. The City hereby determines that any construction impacts related to the wasteful, inefficient, or unnecessary consumption of energy resources after implementation of Mitigation Measure GHG-1.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Energy usage during construction would include the electricity used to power electric construction equipment or deliver water to construction sites, the gasoline and diesel fuel used to transport workers and drive haul trucks to and from construction sites, and the fuel used to operate off-road equipment. During build-out of the Project, construction-related energy usage and consumption would vary, depending on the level of activity, the length of the different construction periods, specific construction operations, the types of equipment, and the number of workers. Approximately 610,268 million BTUs would be consumed over the Project's approximately 9-year construction period. All construction under the Project would be required to comply with Mitigation Measure GHG-1.1, which would require construction contractors to implement BAAQMD- and CARB-recommended construction BMPs. In addition, the Project Sponsor would commit to achieving a construction diversion rate of 65 percent (minimum) as well as preparing a Construction Waste Management Plan or hiring a waste management company to recycle, reduce, and/or reuse construction waste. These measures would reduce the amount of fossil fuel consumed during construction as well as the energy intensiveness associated with building materials, including discarded construction and demolition waste. With implementation of Mitigation Measure GHG-1.1, the Project would not result in significant environmental impacts due to the wasteful, inefficient, or unnecessary consumption of energy resources during construction or operation. Mitigation Measure GHG-1.1 would reduce construction impacts due to the wasteful, inefficient, or unnecessary consumption of energy resources to a less-than-significant level.

Mitigation Measure: Implement Mitigation Measure GHG-1.1.

5. Noise

The topic of noise was analyzed in Section 3.6 of the EIR. The EIR determined that the Project could result in significant impacts related to noise and recommended mitigation measures, as discussed below.

Impact NOI-2: **Operational Noise from Mechanical Equipment.**

FINDING: Implementation of Mitigation Measure NOI-2.1, which is hereby adopted and incorporated into the Project, would reduce impacts related to operation of mechanical equipment to a less-than-significant level. The City finds implementation of a Noise Reduction Plan for stationary sources to be feasible. The City hereby determines that any impacts related to operational noise from mechanical equipment and

emergency generators remaining after implementation of Mitigation Measure NOI-2.1 would be less than significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The Project would include the operation of HVAC equipment as well as a substation. Specifically, proposed equipment would include cooling towers, air-source heat pumps, air handling units, exhaust fans, chillers, and heat pumps, along with the substation. If all of the equipment listed above were to operate simultaneously, which is unlikely to occur frequently or at all, the combined noise level would be 84 dBA. Although there are many unknown variables, it is conservatively assumed that equipment noise levels could exceed the City's allowable levels at the nearest land use because an estimated level of 84 dBA would exceed the City Code limits during daytime and nighttime hours. Mitigation Measure NOI-2.1 would ensure that noise from Project mechanical equipment would comply with the exterior noise limits outlined in Section 9.10.040 of the City Code. With implementation of Mitigation Measure NOI-2.1, Project operation would not generate a substantial permanent increase in ambient noise levels in the vicinity of the Project site that would be in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. Mitigation Measure NOI-2.1 would reduce impacts related to mechanical equipment noise to a less-than-significant level.

Mitigation Measure NOI-2.1. Stationary Sources Noise Reduction Plan. To reduce potential noise impacts resulting from Project mechanical equipment and other stationary sources, including HVAC equipment and emergency generators, the Project Sponsor shall conduct a noise analysis to estimate noise levels of Project-specific mechanical equipment, based on the final equipment models and design features selected. This analysis shall be included in a Noise Reduction Plan to ensure that the noise levels of the equipment, once installed, are below the criteria specified in City Code Section 9.10.040 and presented in Table 3.6-4. The Noise Reduction Plan shall include any necessary noise reduction measures required to reduce Project-specific mechanical equipment noise to less-than-significant levels. The plan shall demonstrate that, with the inclusion of selected measures, noise from equipment will be below the City Code noise limits. Potential noise reduction measures to reduce noise to levels below the City Code Section 9.10.040 noise limits include, but are not limited to:

- Selecting quieter equipment, where feasible,
- Utilizing silencers and acoustical equipment at vent openings,
- Installing exhaust mufflers or silences,
- Siting equipment farther from the roofline and increasing the distance between the source and noise-sensitive receptor,
- Enclosing all equipment in a mechanical equipment room designed to reduce noise and / or placing barriers around the equipment to facilitate the attenuation of noise, and
- Orienting or shielding equipment to protect noise-sensitive receptors to the greatest extent feasible.

To result in meaningful attenuation from shielding, all walls, enclosures, or screens surrounding generators must be solid, with no holes or gaps. Attenuation also varies, based on the type of material used for the walls or screens. In addition, the Project Sponsor shall incorporate all feasible methods to reduce the noise levels identified above, as well as other feasible recommendations from the Noise

Reduction Plan, into both the building design and operations as necessary to ensure that noise sources do not exceed the City Code noise limits at receiving properties.

The Noise Reduction Plan shall be provided to the City prior to the issuance of building permits for each building and prepared by persons qualified in acoustical analysis and/or engineering. The plan shall demonstrate, with reasonable certainty, that noise from mechanical equipment selected for the Project, with attenuation features incorporated into the Project design, will not exceed the City Code noise limits, presented in Table 3.6-4, at noise-sensitive land uses located either within or external to the Project site.

Impact NOI-2: **Operational Noise from Emergency Generators.**

FINDING: Implementation of Mitigation Measure NOI-2.1, which is hereby adopted and incorporated into the Project, would reduce impacts related to operation of emergency generators to a less-than-significant level. The City finds implementation of a Noise Reduction Plan for stationary sources to be feasible. The City hereby determines that any impacts related to operational noise from emergency generators remaining after implementation of Mitigation Measure NOI-2.1 would be less than significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Twenty-one 400-kilowatt (kW) generators would be required for the Project. The units would create noise during monthly testing and during power outages when backup power is required. Generator testing and maintenance is anticipated to occur for a duration of 2 to 4 hours per month, or up to 50 hours per year, for each generator. Testing of the proposed generators is not anticipated to occur simultaneously. Even though the testing of emergency generators is short term and intermittent, noise resulting from generator testing must comply with City Code Section 9.10.040. It is conservatively assumed that noise levels from testing of the proposed 400kW generators would affect onsite uses and exceed the City Code criteria of 55 dBA and 50 dBA at residential receptors during daytime and nighttime hours, respectively, if generators are located within 50 feet of onsite residential uses. Mitigation Measure NOI-2.1 would ensure that noise from emergency generators during testing would comply with the noise limits outlined in Section 9.10.040 of the City Code. Therefore, noise impacts from Project emergency generator testing would be less than significant with Mitigation Measure NOI-2.1.

Mitigation Measure: Implement Mitigation Measure NOI-2.1.

Impact C-NOI-2: Cumulative Operational Noise from Mechanical Equipment.

FINDING: Implementation of Mitigation Measure NOI-2.1, which is hereby adopted and incorporated into the Project, would reduce cumulative impacts related to operational noise from mechanical equipment to a less-than-significant level. The City finds implementation of a Noise Reduction Plan for stationary sources to be feasible. The City hereby determines that any impacts related to cumulative operational noise from mechanical equipment remaining after implementation of Mitigation Measure NOI-2.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The Project area contains many disparate buildings, with each likely to have its own noise-generating mechanical equipment. Because multiple cumulative projects may be located close to one another, it is possible that noise from the Project's mechanical equipment could combine with equipment from nearby projects to cause a cumulative noise impact at noise-sensitive land uses. As such, it is conservatively assumed that cumulative impacts from stationary sources would be significant. Noise

from the mechanical equipment at the Project site could exceed the noise limits in the City Code, particularly at future onsite residences and commercial uses located within 50 feet. This could be considered a cumulatively considerable contribution to noise from other projects in the area. In addition, in the future, there will be an expansion in noise-sensitive land uses in the area, with construction of the residential units at the site for the Patrick Henry Specific Plan approximately 100 feet from the Project site. With implementation of Mitigation Measure NOI-2.1, the Project's-contribution to the cumulative noise impact would not be cumulatively considerable. Mitigation Measure NOI-2.1 would reduce noise from mechanical equipment associated with the Project, which would minimize the noise exposure for future receptors south of the Project site. In addition, it is likely that similar mitigation would be required for other projects in the vicinity, ensuring that equipment noise would be in compliance with the applicable local noise standards. As a result, the contribution of the Project to the significant cumulative operational equipment noise impact would not be cumulatively considerable. This impact would be less than significant with Mitigation Measure NOI-2.1.

Mitigation Measure: Implement Mitigation Measure NOI-2.1.

Impact C-NOI-2: Cumulative Operational Noise from Emergency Generators

FINDING: Implementation of Mitigation Measure NOI-2.1, which is hereby adopted and incorporated into the Project, would reduce cumulative impacts related to operational noise from emergency generators to a less-than-significant level. The City finds implementation of a Noise Reduction Plan for stationary sources to be feasible. The City hereby determines that any impacts related to cumulative operational noise from emergency generators remaining after implementation of Mitigation Measure NOI-2.1 would be less than significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Emergency generators included in the development of cumulative projects would result in the generation of audible noise during testing. It is very unlikely that the testing of an emergency generator for the Project would occur concurrently with the testing of a generator at a nearby project. Even if testing were to occur simultaneously, it is not likely that the generators would be close enough together for the noise to meaningfully combine at an individual receptor. However, the Patrick Henry Specific Plan is a future project that would allow up to 12,000 net new residential units, resulting in noise-sensitive land uses being located approximately 100 feet from the southern border on the Project site. Although the Patrick Henry Specific Plan residential units would be more than 50 feet from the Project site, generator noise could still exceed the City Code noise limits at 100 feet. Mitigation Measure NOI-2.1 would reduce generator noise from the Project, which would minimize the noise exposure for future receptors located south of the Project site. With implementation of Mitigation Measure NOI-2.1, the Project, in combination with other foreseeable development, would not generate a substantial permanent increase in ambient noise levels in the vicinity of the Project site that would be in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. Therefore, a significant cumulative impact would not occur with respect to mechanical equipment and emergency generator noise, and the impact would be less than significant with mitigation.

Mitigation Measure: Implement Mitigation Measure NOI-2.1.

6. Cultural Resources

The topic of cultural resources was analyzed in Section 3.7 of the EIR. The EIR determined that the Project could result in significant impacts related to cultural resources and recommended mitigation measures, as discussed below.

Impact CUL-2: Archaeological Resources (Construction).

FINDING: Implementation of Mitigation Measures CUL-2.1, CUL-2.2, CUL-2.3, which are hereby adopted and incorporated into the Project, would reduce construction impacts related to archaeological resources to a less-than-significant level. The City finds implementation of a monitoring plan, worker awareness training, and requirements to stop work if archaeological deposits are encountered during ground-disturbing activities to be feasible. The City hereby determines that any construction impacts related to archaeological features remaining after implementation of Mitigation Measures CUL-2.1, CUL-2.2, CUL-2.3 would be less than significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR**.** The results of the NWIC records search conducted in 2019 and 2022 indicate that no known previously recorded cultural resources are located within or adjacent to the Project site. Historic-period maps and aerial photographs indicate that the Project site was undeveloped and primarily agricultural fields until mid-twentieth century; therefore, it is unlikely that any historic-period archaeological deposits are located within the Project site that could qualify as historical resources. However, a review of the relevant geologic literature indicated sensitivity for buried pre-European contact archaeological deposits. Project construction would require below-grade excavations of up to 16 feet for parking, service access to buildings, foundations, and most utilities and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement. Therefore, excavations related to Project construction could encounter archaeological deposits and result in an adverse change to a buried archaeological deposit that could qualify as a historical resource and/or unique archaeological resource. Thus, significant impacts related to buried archaeological deposits could result from construction of the Project. With implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, the Project would not cause a substantial adverse change in the significance of a historical or archaeological resource pursuant to Section 15064.5. This would reduce the potential construction impacts on archaeological features to a less-than-significant level.

> Mitigation Measure CUL-2.1: Develop and Implement Archaeological Monitoring Plan. Given the potential for buried pre-European contact archaeological deposits to be encountered during Project construction, the following measures shall be undertaken to avoid any significant impacts on such resources. An Archaeological Monitoring Plan shall be developed by a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology[13] prior to any Project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The Archaeological Monitoring Plan shall detail when and where monitoring will take place. The plan shall include protocols that outline archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol. The

[13] U.S. Department of the Interior. 1983. *Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines.* Available: https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf.

Archaeological Monitoring Plan shall, at a minimum, detail the role and responsibility of the monitor, the monitoring methods to be used, the communication protocol, and the procedures to be followed in case of inadvertent discoveries. The Unanticipated Discovery Protocol shall describe steps to follow if unanticipated archaeological discoveries are made during Project work and identify a chain of contact, including, at a minimum, the following steps: halting construction, evaluating the find, and implementing appropriate mitigation measures. The Archaeological Monitoring Plan shall be submitted for review and approval by the City prior to the issuance of any grading or other permit that would allow ground disturbance on the Project site.

Mitigation Measure CUL-2.2: Conduct Cultural Resource Sensitivity Training Prior to Project-Related Ground Disturbance. Prior to any Project-related ground disturbance, the Project Sponsor shall ensure that all construction workers who directly oversee excavation or operate ground-disturbing vehicles receive training, which shall be overseen by a qualified profession archaeologist who is experienced in teaching non-specialists, to ensure that contractors can recognize archaeological artifacts and deposits, as well as tribal cultural resources, in the event that any are discovered during construction. Construction personnel directly overseeing excavation, or operating ground-disturbing vehicles, will be required to participate in this preconstruction training.

Mitigation Measure CUL-2.3: Stop Work if Archaeological Deposits Are Encountered during Ground-Disturbing Activities. If archaeological deposits are encountered during Project-related ground disturbance, work in the area (i.e., within a 100-foot radius) shall stop immediately. The onsite qualified archaeologist (if required) shall assess the find and determine the path forward. Archaeological deposits include, but are not limited to, flaked stone or ground stone, midden and shell deposits, historic-era refuse, and/or structure foundations.

If any human remains are discovered during ground-disturbing activities, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie human remains. The remains would be treated in accordance with existing State laws, including PRC Section 5097.98 and Health and Safety Code Section 7050.5.

Impact CUL-3. Human Remains (Construction).

FINDINGS: Implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, which are hereby adopted and incorporated into the Project, would reduce construction impacts related to human remains to a less-than-significant level. The City finds adherence to State regulations, including Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5, regarding the discovery of human remains during construction, along with implementation of mitigation measures, to be feasible. The City hereby determines that any construction impacts related to human remains remaining after implementation of Mitigation Measures CUL-2.1, CUL-2.2 and CUL-2.3 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Human remains would not be encountered during the Project operations, therefore there would be no impact to human remains from operation of the Project. The Project could disturb human remains, including those interred outside of dedicated cemeteries during Project construction. The results of the NWIC records searches conducted in 2019 and 2022 and the historic-period maps and aerial photographs indicate that no known previously recorded dedicated cemeteries or cultural resources that include human remains are located within or adjacent to the Project site. However, given the sensitivity for buried pre-European contact archaeological deposits, as well as requirements for below-grade excavations up to 16 feet for parking, service access to buildings, foundations, and most

utilities and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement, the potential exists for encountering unknown remains associated with archaeological deposits. Should human remains be unearthed during Project construction, they would be treated in accordance with existing State laws, including PRC Section 5097.98 and Health and Safety Code Section 7050.5. With enforcement of State laws and implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, Project impacts related to a disturbance of human remains would be less than significant with mitigation.

Mitigation Measures: Implement Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3.

Impact C-CUL-1: Cumulative Impacts on Archaeological Resources and Human Remains (Construction).

FINDING: Implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, which are hereby adopted and incorporated into the Project, would reduce cumulative construction impacts related to archaeological resources and human remains to a less-than-significant level. The City finds the mitigation measures to be feasible. The City hereby determines that cumulative construction impacts related to archaeological resources and human remains remaining after implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The Project, in combination with other foreseeable development in the vicinity, could result in impacts on unknown archaeological resources and human remains. Because the Project site is situated in an archaeologically sensitive area, the possibility exists of encountering unknown archaeological resources during ground-disturbing activities associated with Project construction. The Project could contribute to a cumulative loss of archaeological resources and disturbance of human remains. Therefore, the Project's cumulative impact prior to the application of mitigation measures could be cumulatively considerable. In addition to adopted policies and existing regulations to protect cultural resources and human remains, the Project would be subject to Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, which call for development and implementation of a monitoring plan, worker awareness training, and requirements to stop work if archaeological deposits are encountered during ground-disturbing activities. Compliance with Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3 would reduce the Project's contribution to a cumulative construction impact to less than cumulatively considerable, resulting in a cumulative construction impact that would be less than significant with mitigation.

Mitigation Measures: Implement Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3.

7. Biology

The topic of biology was analyzed in Section 3.8 of the EIR. The EIR determined that the Project could result in significant impacts related to biology and recommended mitigation measures, as discussed below.

Impact BIO-1: Loss or Damage to Nesting Birds and Bats.

FINDING: Implementation of Mitigation Measures BIO-1.1 and BIO-4.1, which are hereby adopted and incorporated into the Project, would reduce construction impacts related to nesting birds and bats to a less-than-significant level. The City finds protection for roosting bats to be feasible. With implementation of mitigation, the Project would not have a substantial adverse effect on nesting birds or their nests or on

bats. The City hereby determines that any construction impacts related to nesting birds and bats remaining after implementation of Mitigation Measures BIO-1.1 and BIO-4.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR**.** If the Project is implemented during the nesting season for birds (February 1 through August 31), construction activities could result in the direct mortality of adult or young birds, the destruction of active nests, and/or disturbance of nesting adults, causing nest abandonment and/or loss of reproductive effort. Any disturbance of nesting birds that results in the abandonment of active nests or the loss of active nests through vegetation or building removal would be considered a significant impact. In addition, construction activities could result in the direct mortality of roosting bats, including pallid bat, during tree and building removal, which would also be considered a significant impact. Implementation of Mitigation Measure BIO-4.1, described below under Impact BIO-4, would reduce potential impacts on nesting migratory birds to less than significant with mitigation. Implementation of Mitigation Measure BIO-1.1 would reduce potential Project construction impacts on bats, including pallid bat, to less than significant with mitigation.

Mitigation Measure BIO-1.1: Protect Roosting Bats. To avoid impacts on roosting bats that may utilize trees and/or vacant buildings in the Project area for day roosting, the Project Sponsor shall retain a qualified wildlife biologist to conduct a survey for roosting bats no sooner than 14 days prior to the start of demolition of any vacant buildings with ingress and egress points, as determined by a qualified wildlife biologist, that could be used by bats or the removal of suitable roosting vegetation (i.e., trees) for bats. If building demolition or vegetation removal efforts do not begin within the 14 days following the survey for roosting bats, another survey shall be required. Trees adjacent to the transmission line routing options would not require surveys for bats because they would not be affected by construction activities. If roosting bats are detected, the biologist shall enact a 150-foot (minimum) no-work buffer from the perimeter of the area the bats are thought to be occupying and confer with CDFW to determine potential roost protection or roost eviction practices, such as installing one-way exclusion devices or using lights to deter roosting. After conferring with CDFW, the protective buffer may be adjusted, based on specific roost needs. Once bats have been protected by a buffer, construction may resume outside the buffered area. The buffer may be removed and construction may resume inside the buffered area once the bats have been safely evicted from roosting sites (as approved by CDFW), thereby avoiding take, as defined by CESA and the California Fish and Game Code.

Mitigation Measure: Implement Mitigation Measure BIO-4.1 (below).

Impact BIO-4: Impede Use of Native Wildlife Nursery Sites or Interfere with Movement of Native Migratory Wildlife Species (Nesting Birds During Construction).

FINDING: Implementation of Mitigation Measure BIO-4.1, which are hereby adopted and incorporated into the Project, would reduce impacts related to nesting birds during construction to a less-than-significant level. The City finds protection for nesting birds to be feasible. The City hereby determines that any impacts related to nesting migratory birds during construction remaining after implementation of Mitigation Measure BIO-4.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Currently, there are approximately 350 ornamental and landscaping trees on the Project site and four buildings, all of which are planned for removal during construction. Trees along streets adjacent to the transmission line routing options are located outside of the Project

boundaries and would not be affected by construction activities. Impacts on native migratory birds, including tree-nesting raptors, could involve direct impacts from the removal of nesting trees or shrubs, or other nesting substrate (e.g., buildings), as well as indirect impacts from increases in noise and human activity near nesting habitat. An increase in noise and human activity could reduce the quality of that habitat and ultimately change the behavior of nesting birds, resulting in nest abandonment. Construction activities have the potential to produce noise levels that would be higher than those that currently exist in the Project area. Therefore, impacts on bird nesting sites from construction noise, as well as impacts from eliminating bird nesting sites during construction, are considered significant. Mitigation Measure BIO-4.1 would reduce potential Project impacts related to nesting migratory birds during construction to a less-than-significant level.

Mitigation Measure BIO-4.1: Protect Nesting Birds. To the extent feasible, the Project Sponsor and its contractor shall avoid conducting vegetation removal during the migratory bird season (February 1 through August 31). If Project-related activities must take place during the migratory bird season, the Project Sponsor shall retain a qualified wildlife biologist to conduct a survey for nests of migratory birds. Surveys for nesting migratory birds shall occur within 3 days prior to the commencement of ground disturbance and vegetation removal in areas that will be affected by Project construction activities. Multiple nest surveys shall be required if construction is phased or when construction work stops for more than 2 weeks at a portion of the site where suitable nesting habitat occurs within the minimum nest buffer zone widths described below. If construction is ongoing for multiple years, these surveys shall be conducted each year.

If an active nest is discovered, a no-disturbance buffer zone around the nest tree or shrub, or, for ground-nesting species, the nest itself, shall be established. The no-disturbance zone shall be marked with flagging or fencing that can be easily identified by the construction crew and shall not affect the nesting bird or attract predators to the nest location. In general, the minimum nest buffer zone widths shall be as follows: 50 feet (radius) for non-raptor ground-nesting species, 50 feet (radius) for non-raptor shrub- and tree-nesting species, and 300 feet (radius) for raptor species. Buffer widths may be modified, based on discussion with CDFW. Buffers shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest.

Impact BIO-4: Impede Use of Native Wildlife Nursery Sites or Interfere with Movement of Native Migratory Wildlife Species (Bird Collisions).

FINDING: Implementation of Mitigation Measure BIO-4.2, which are hereby adopted and incorporated into the Project, would reduce impacts related to bird collisions to a less-than-significant level. The City finds implementation of bird-safe design standards to be feasible. The City hereby determines that any impacts related to bird collisions remaining after implementation of Mitigation Measure BIO-4.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The Project would construct buildings up to 20 stories tall. Resident and migratory birds could experience injury or death from collisions with buildings due to the use of transparent or reflective glass on the buildings or improper lighting at the Project site, which could misdirect or confuse birds during flight. Impacts on the movement of birds due to collisions with buildings are considered significant. Although bird collisions cannot be completely avoided, the Project Sponsor would incorporate the City's standard condition of approval for bird safety into the final design of Project buildings to reduce

potentially significant impacts related to bird collisions. Mitigation Measure BIO-4.2, along with building designs, would reduce potential Project impacts related to bird collisions to a less-than-significant level.

Mitigation Measure BIO-4.2: Implement Bird-Safe Design Standards into Project Buildings and Lighting Design. The Project Sponsor, either directly or through its contractor, shall prepare and implement a set of specific standards in the site plans submitted for approval by the City for minimizing hazards to birds. These specific standards shall include the following measures to minimize hazards to birds:

- Reduce large areas of transparent or reflective glass
- Locate water features and other bird habitat away from building exteriors to reduce reflection
- Reduce the visibility of landscaped areas behind glass or eliminate them
- To the extent feasible, take appropriate measures to avoid the use of unnecessary lighting at night, especially during bird migration season (i.e., February–May and August–November), through the installation of motion sensors for lighting, automatic shut-off mechanisms, downward-facing exterior light fixtures, or other effective measures to the extent possible.

Impact C-BIO-1: Cumulative Special-Status Species—Nesting Birds and Bats (Construction).

FINDINGS: Implementation of Mitigation Measures BIO-1.1 and BIO-4.1, which are hereby adopted and incorporated into the Project, would reduce cumulative construction impacts related to special-status species, including nesting birds and bats, to a less-than-significant level. The City finds protection for roosting bats and nesting birds to be feasible. The City hereby determines that any cumulative construction impacts related to special-status species, including nesting birds and bats, remaining after implementation of Mitigation Measures BIO-1.1 and BIO-4.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Because Santa Clara is largely built out and has limited undeveloped land, cumulative projects in the vicinity of the Project site would involve primarily the construction of new buildings on previously developed sites or modifications to existing buildings or infrastructure. Cumulative impacts on biological resources could be significant because reasonably foreseeable projects could affect or remove additional structures and trees or erect new structures. However, environmental review for individual projects would address potential impacts. Impacts on nesting birds and bats would be reduced because the cumulative projects would also be subject to the requirements of the wildlife protection laws, including CESA, the MBTA, and the California Fish and Game Code. However, the Project's contribution to a cumulative impact could be significant. Implementation of Mitigation Measures BIO-1.1 and BIO-4.1 would require pre-construction surveys for nesting birds and bats. In addition, the Project would be required to comply with Policy 5.3.1-P10 of the General Plan as well as City Code Chapter 12.35, which requires new development to replace removed protected trees at a 2:1 ratio for 24-inch box trees, 4:1 for 15-gallon trees, or 1:1 for dead trees; therefore, any nesting habitat lost from tree removal would be replaced. Implementation of these mitigation measures and compliance with City policies and codes would ensure that the Project's contribution to cumulative construction impacts on nesting bird and bat species would not be cumulatively considerable.

Mitigation Measures: Implement Mitigation Measures BIO-1.1 and BIO-4.1.

Impact C-BIO-3: Cumulative Impede Use of Native Wildlife Nursery Sites or Interfere with Movement of Native Migratory Wildlife Species.

FINDING: Implementation of Mitigation Measure BIO-4.1, which is hereby adopted and incorporated into the Project, would reduce the impacts related to native wildlife nursery sites and movement of native migratory wildlife species, specifically birds and their active nests, to a less-than-significant level. The City finds pre-construction surveys for nesting birds and compliance with Policy 5.3.1-P10 of the General Plan as well as City Code Chapter 12.35 to be feasible. The City hereby determines that any impacts related to native wildlife nursery sites and migratory wildlife species, specifically birds and their active nests, due to tree removal and bird collisions remaining after implementation of Mitigation Measure BIO-4.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Cumulative impacts on native wildlife nursery sites and migratory wildlife species could be significant because reasonably foreseeable projects could affect or remove additional structures and trees and erect new structures. However, impacts on nesting birds would be reduced because cumulative projects would also be subject to the requirements of wildlife protection laws, including the MBTA and California Fish and Game Code, and individual project environmental review would address potential impacts. For Project-specific impacts, Mitigation Measure BIO-4.1 would require pre-construction surveys for nesting birds. In addition, the Project would be required to comply with Policy 5.3.1-P10 of the General Plan as well as City Code Chapter 12.35, which requires new development to replace protected trees to be removed at a 2:1 ratio for 24-inch box trees, 4:1 for 15-gallon trees, or 1:1 for dead trees; therefore, any nesting habitat lost from tree removal would be replaced onsite. Implementation of this mitigation measure and compliance with City policies and codes would ensure that the Project's contribution to cumulative impacts on the use of native wildlife nursery sites would not be cumulatively considerable and would be less than significant.

In addition, cumulative impacts on these biological resources could be significant because it is reasonable to expect that cumulative projects would erect new buildings or structures that could also result in injury or death involving resident or migratory birds from collisions with buildings. Although bird collisions cannot be completely avoided, the City's standard condition of approval with respect to bird safety would require the final design of Project buildings to reduce significant impacts related to bird collisions. For the Project, Mitigation Measure BIO-4.1 would require implementation of bird-safe design standards in Project buildings and lighting designs. Implementation of Mitigation Measure BIO-4.1 would ensure that the Project's contribution to cumulative impacts on the movement of native migratory wildlife species would not be cumulatively considerable.

Mitigation Measure: Implement Mitigation Measure BIO-4.1.

8. Geology and Soils

The topic of geology and soils was analyzed in Section 3.9 of the EIR. The EIR determined that the Project could result in significant impacts related to geology and soils and recommended mitigation measures, as discussed below.

Impact GEO-3: Soil Instability (Construction).

FINDINGS: Implementation of Mitigation Measure GEO-3.1, which is hereby adopted and incorporated into the Project, would reduce the impacts related to soil instability, specifically subsidence and

settlement, to a less-than-significant level. The City finds preparation of a design-level geotechnical report with recommendations and implementation of corrective measures to be feasible. The City hereby determines that any impacts related to soil instability, specifically subsidence and settlement, remaining after implementation of Mitigation Measure GEO-3.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction of the Project would require excavation up to a depth of approximately 16 feet for the one level of below-grade parking and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement. Settlement due to new loads from the placement of fill material could damage existing improvements surrounding the Project site (e.g., streets, sidewalks, utilities) or proposed improvements on the Project site (e.g., proposed structures, streets, sidewalks, utilities), which would be a significant impact. Shoring would be required to restrain the sidewalls of the excavations laterally, ensuring that they would not collapse, and limit the movement of adjacent improvements, such as public streets, sidewalks, and utilities. If potential settlement due to the placement of fill material is not accounted for in the Project design, damage to existing or proposed improvements could occur. If appropriate shoring systems are not designed and installed, the movement or collapse of excavation sidewalls, as well as subsidence due to dewatering, could result in damage to adjacent improvements. Thus, significant impacts related to soil instability could result from construction of the Project. But such impacts would be adequately addressed by Mitigation Measure GEO-3.1, which would reduce soil instability impacts, specifically related to subsidence and settlement, to a less-than-significant level.

Mitigation Measure GEO-3.1: Static Settlement, Subsidence, or Collapse. The Project Sponsor shall define the extent and depth of fill materials that would be placed on the Project site in the Project plans. The Project Sponsor shall hire a qualified geotechnical engineer to prepare a design-level geotechnical report for the Project, which shall include the following:

- A design-level analysis of potential total and differential settlement associated with the placement of defined amounts of fill material, construction of other improvements, and dewatering activities on the Project site. The settlement analysis shall define a buffer distance away from the Project site within which settlement could occur as a result of the Project and describe the settlement amounts that could occur within this buffer distance.
- Allowable settlement estimates for planned and existing improvements, both on the Project site and within the buffer distance described above, which shall account for estimated settlement amounts developed for existing and planned improvements on surrounding properties.
- Recommendations to minimize the amount of subsidence/settlement and differential settlement that would result from the Project (e.g., minimizing the placement of fill, using lightweight fill, employing shoring systems that minimize the amount of excavation dewatering required).
- Recommendations to mitigate potential damage to proposed and existing improvements (e.g., structures, pavement surfaces, roadways, utilities), both on and off the Project site, that could result from settlement of existing unstable soil on and near the Project site as a result of the Project. Such recommendations could include the installation of flexible utility couplings or relocation of utilities.
- If the settlement analysis indicates that existing offsite improvements could be adversely affected by settlement as a result of the Project, a pre-construction survey (e.g., crack survey) and

settlement monitoring program shall be developed and implemented before and during construction for existing improvements that may be affected by the Project. This survey shall be used as a baseline for evaluating any damage claims; it shall also be used to assist the contractor when assessing the performance of shoring systems. The pre-construction survey shall record the elevation and horizontal position of all existing installations within the buffer distance determined by the settlement analysis, as described above, and shall consist of, but not be limited to, photographs, video documentation, and topographic surveys. The settlement monitoring program shall include the installation of inclinometers and groundwater monitoring wells within an approximate distance of 5 to 15 feet from excavations toward existing improvements. Settlement surveys shall be performed on a weekly basis during excavation and on a monthly basis starting approximately 1 month after the excavation has been completed and continuing for a period of at least 2 years after the completion of construction activities (or other frequency and duration recommended by the geotechnical engineer of record).

The Project Sponsor shall submit the Project plans and design-level geotechnical report to the City for review and approval prior to the City issuing grading or building permits. The Project Sponsor shall repair damage to existing or planned improvements if settlement monitoring identifies obvious damage or an exceedance of allowable settlement amounts or an exceedance of allowable settlement amounts. The repair of damage shall be performed prior to the City issuing a certificate of occupancy for the applicable portion of the Project.

Impact GEO-6: Paleontological Resources (Construction)

FINDINGS: Implementation of Mitigation Measure GEO-6.1, which is hereby adopted and incorporated into the Project, would reduce construction impacts related to paleontological resources to a less-than-significant level. The City finds paleontological resource monitoring, the evaluation of found resources, and preparation of a recovery plan to be feasible. The City hereby determines that any construction impacts related to paleontological resources remaining after implementation of Mitigation Measure GEO-6.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The Project would be located in areas that are underlain by geologic units that have yielded scientifically important fossil finds, including vertebrate remains. There would be no impact on paleontological resources during Project operation. The Project construction involves excavation to a maximum depth of 28 feet bgs in sediments that have been previously disturbed at ground surface. Based on boring samples, it appears that geologic units underlying the site have not been disturbed at depth. Therefore, it is possible that Project-related excavation could encounter significant paleontological resources. Accordingly, the Project could have a significant impact on significant paleontological resources because construction of the Project could directly or indirectly destroy a unique paleontological resource or site or unique geological feature. Implementation of Mitigation Measure GEO-6.1 would protect any paleontological resources discovered during Project construction and ensure that impacts would be less than significant, providing for identification, recovery, and curation of paleontological resources.

Mitigation Measure GEO-6.1: Paleontological Resources. Monitor for Discovery of Paleontological Resources, Evaluate Found Resources, and Prepare and Follow a Recovery Plan for Found Resources.

Given the potential for paleontological resources to be present in construction areas at ground surface and at excavation depths in sensitive geologic units in the paleontological resources study area, the

following measures shall be undertaken to avoid any potentially significant effect on paleontological resources from the improvements. Before the start of any drilling or pile-driving activities, the Project Sponsor shall retain a qualified paleontologist, as defined by the Society of Vertebrate Paleontology, who is experienced in teaching non-specialists. The qualified paleontologist shall be approved by the City prior to the start of any drilling or pile-driving activities. Prior to construction, the qualified paleontologist shall prepare a general (high-level) recovery plan, which could be tailored to a specific area in the event of a discovery. The qualified paleontologist shall train all construction personnel, including the site superintendent, who are involved with earthmoving activities regarding the possibility of encountering fossils, the appearance and types of fossils that are likely to be seen during construction, and proper notification procedures should fossils be encountered. Procedures to be conveyed to workers include halting construction within 50 feet of any potential fossil find and notifying a qualified paleontologist, who shall evaluate the significance. The qualified paleontologist shall also visit the Project site once per week during earthmoving to verify that workers are following the established procedures, unless determined by the qualified paleontologist that more frequent visits are warranted.

If paleontological resources are discovered during earthmoving activities, the construction crew shall immediately cease work within 50 feet of the find and notify the City and Project Sponsor. Construction work in the affected areas shall remain stopped or be diverted to allow recovery of fossil remains in a timely manner. The Project Sponsor shall retain a qualified paleontologist (who has been approved by the City) to evaluate the resource and tailor the general recovery plan to the specific nature of the discovery, in accordance with Society of Vertebrate Paleontology guidelines.[14] The tailored recovery plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. The City shall review and approve the tailored recovery plan prior to recommendations being implemented. Recommendations in the tailored recovery plan that are determined by the City to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. The Project Sponsor, with City oversight, shall be responsible for ensuring that the monitor's recommendations regarding treatment and reporting are implemented.

Impact C-GEO-4: Cumulative Settlement or Subsidence of Unstable Soil (Construction).

FINDING: Implementation of Mitigation Measure GEO-3.1, which is hereby adopted and incorporated into the Project, would reduce cumulative construction impacts related to settlement or subsidence of unstable soil to a less-than-significant level. The City finds preparation of a design-level geotechnical report with recommendations and implementation of corrective measures to be feasible. The City hereby determines that the Project's contribution to a cumulative construction impact related to settlement or subsidence of unstable soil would not be cumulatively considerable and any cumulative construction impacts from the Project related to unstable soil remaining after implementation of Mitigation Measure GEO-3.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Potential cumulative impacts associated with the settlement or subsidence

[14] Society of Vertebrate Paleontology. 2010. *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources*. Available: http://vertpaleo.org/Membership/Member-Ethics/SVP_Impact_Mitigation_ Guidelines.aspx. Accessed: September 1, 2023.

of unstable soil could occur if projects near the Project site cause settlement from new loads or subsidence from dewatering, which could affect existing and proposed improvements, including structures, pavement/roadways, and utilities. Multiple projects are adjacent to the Project site that could cause cumulative settlement and subsidence impacts. Cumulative projects could involve the placement of fill material or structures that could contribute to the settlement of unstable soil in adjacent areas from new loads. They could also involve dewatering, which could contribute to subsidence in adjacent areas. Settlement or subsidence in areas adjacent to these cumulative projects could combine with settlement or subsidence associated with the Project and contribute to damage for existing or planned improvements. Therefore, the Project, in combination with other foreseeable development in the vicinity, could result in a cumulatively considerable contribution to settlement or subsidence. Implementation of Mitigation Measure GEO-3.1 would ensure that 1) the potential for settlement, including subsidence, from the Project would be evaluated in the design-level geotechnical report and geotechnical recommendations to address potential settlement issues; 2) settlement monitoring would be performed during and following construction of the Project, as necessary; and 3) if excessive settlement occurs, corrective measures (e.g., repair of damage) would be implemented. Therefore, the Project's contribution to a cumulative impact related to settlement or subsidence of unstable soil during construction would not be cumulatively considerable, and the cumulative construction impact would be less than significant with mitigation.

Mitigation Measure: Implement Mitigation Measure GEO-3.1.

Impact C-GEO-6: Cumulative Paleontological Resources Impacts (Construction).

FINDINGS: Implementation of Mitigation Measure GEO-6.1, which is hereby adopted and incorporated into the Project, would reduce construction impacts to a less-than-significant level. The City finds paleontological resource monitoring, the evaluation of found resources, and preparation of a recovery plan to be feasible. The City hereby determines that the Project's contribution to a cumulative impact related to paleontological resources would not be cumulatively considerable and any construction impacts related to paleontological resources remaining after implementation of Mitigation Measure GEO-6.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR**.** The Project vicinity has seen extensive development over the past decades, and a small number of important early Holocene and Pleistocene vertebrate fossils have been recovered. Cumulative projects on this geologic unit, including all projects involving excavation into the Quaternary alluvium, could affect paleontological resources as a result of ground-disturbing activities, such as grading and excavation during construction. Therefore, construction of the Project, in combination with other foreseeable development in the vicinity, could result in a substantial effect on paleontological resources, Implementation of Mitigation Measure GEO-6.1 would protect any paleontological resources discovered during Project construction and ensure that impacts would be less than significant, providing for identification, recovery, and curation of paleontological resources. Therefore, the Project's contribution to a cumulative impact on paleontological resources would not be considerable, and the cumulative impact would be less than significant with mitigation.

Mitigation Measure: Implement Mitigation Measure GEO-6.1.

9. Hydrology and Water Quality

The topic of hydrology and water quality was analyzed in Section 3.10 of the EIR. The EIR determined that the Project could result in significant impacts related to hydrology and water quality and recommended mitigation measures, as discussed below.

Impact WQ-1: Water Quality.

FINDING: Implementation of Mitigation Measures HAZ-2.1, WQ-1.1, and WQ-1.2, which are hereby adopted and incorporated into the Project, would reduce impacts related to water quality to a less-than-significant level. The City finds implementation of a Dewatering Plan and a Soil and Groundwater Management Plan, as well as monitoring wells, to address known and potential unidentified subsurface contamination to be feasible. The City hereby determines that any impacts related to water quality remaining after implementation of Mitigation Measures HAZ-2.1, WQ-1.1 and WQ-1.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Groundwater dewatering would be required for subsurface construction activities. Excavation dewatering activities can affect groundwater quality by contributing to saltwater intrusion or the migration of contaminated groundwater to previously uncontaminated areas. Construction is anticipated to occur over a period of about 9 years and could require a substantial amount of excavation dewatering. The effects of dewatering on groundwater conditions in the area surrounding the Project site would depend on the characteristics of the water-bearing zones encountered by excavation, the excavation shoring and dewatering system designs, and the duration/phasing of Project construction. Historic groundwater pumping and land subsidence resulted in saltwater intrusion in the shallow aquifer of the Santa Clara Plain. Furthermore, saltwater intrusion has been identified in the Project area. Therefore, dewatering at the Project site could contribute to further saltwater intrusion, which would be a significant impact related to groundwater quality. Mitigation Measure WQ-1.1 would evaluate the potential for saltwater intrusion through geotechnical analysis and modeling and require the Project to use shoring systems that would limit dewatering volumes and durations to the maximum extent possible, if deemed necessary by Valley Water. Implementation of Mitigation Measure WQ-1.1 would ensure that the significant impacts related to saltwater intrusion during dewatering during construction would be reduced to a less-than-significant level.

In addition, previously unidentified groundwater contamination could be present in areas near the Project site because of previous and existing commercial/industrial land uses in the Project area. Therefore, dewatering activities at the Project site could contribute to the migration of potentially contaminated groundwater to previously uncontaminated areas, which would be a significant impact related to groundwater quality. Implementation of Mitigation Measures WQ-1.1 and HAZ-2.1 would ensure that the significant impact related to the migration of contaminated groundwater would be reduced to a less-than-significant level by ensuring that subsurface contamination at the Project site and along proposed transmission line routes for the Project would be further investigated and remediated, if necessary, under the oversight of a regulatory agency and that modeling of the proposed dewatering activities would include an evaluation of the potential for the migration of contaminated groundwater. Implementation of Mitigation Measure HAZ-2.1 also requires preparation and implementation of a Soil and Groundwater Management Plan to address known and potential unidentified subsurface contamination that may be encountered during construction. With implementation of Mitigation Measures WQ-1.1 and HAZ-2.1, plus compliance with State, regional, and local regulations, the Project would not violate any water quality

standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality and impacts on water quality would be less-than-significant.

If there are wells on the Project site and the wells are not properly destroyed prior to or during redevelopment, the wells could act as vertical conduits and allow future migration of saltwater and other potential contaminants from shallow groundwater into deeper groundwater zones, which would be a significant impact on groundwater quality. Additionally, the installation of landscaping (in particular, stormwater treatment/infiltration features) over areas of contaminated soil or groundwater could increase the leaching of contaminants from soil into groundwater or the migration of contaminated groundwater, which would be a significant impact on groundwater quality. Implementation of Mitigation Measure WQ-1.2 would ensure that the significant impact related to wells would be reduced to a less-than-significant level by requiring potential wells on the Project site to be investigated and properly destroyed. Implementation of Mitigation Measure HAZ-2.1 would ensure that the significant impact related to contaminated groundwater would be reduced to a less-than-significant level by ensuring that subsurface contamination at the Project site would be further investigated and remediated, as necessary, under the oversight of a regulatory agency. Implementation of Mitigation Measure HAZ-2.1 would require preparation and implementation of a Soil and Groundwater Management Plan to address known and potential unidentified subsurface contamination that may be encountered during construction. Thus, compliance with the MRP and implementation of Mitigation Measures WQ-1.2 and HAZ-2.1 would ensure the protection of groundwater and surface water quality during operation and maintenance of the Project, and impacts would be less than significant with mitigation.

Mitigation Measure: Implement Mitigation Measures HAZ-2.1 (*Subsurface Contamination*), below.

Mitigation Measure WQ-1.1: Dewatering. The Project Sponsor shall prepare a Dewatering Plan that shall be submitted to Valley Water and City for review and approval. The Dewatering Plan shall account for phasing of excavation/construction activities and include the following:

- A detailed analysis of soil formations that would be affected by excavation and dewatering activities;
- A detailed description of proposed excavation shoring systems;
- The proposed dewatering locations, flow rates, and durations that would be required, based on the soil formations present and the proposed excavation activities and shoring systems;
- The design of the proposed dewatering systems and effluent treatment systems;
- Geotechnical analysis and hydraulic modeling to demonstrate the anticipated performance of the dewatering systems and potential changes to surrounding hydrogeologic conditions, including changes in groundwater levels and flow directions, potential movement of contaminated groundwater, potential saltwater intrusion, and potential settlement due to subsidence.
- Proposed dewatering effluent discharge locations and flow rates; and
- Adequate onsite storage capacity to limit or cease dewatering discharges during times of heavy rain/flooding.

The Project shall utilize shoring systems, such as soil/cement cutoff walls, if deemed necessary by Valley Water to ensure sustainable management of the Santa Clara Subbasin, that limit dewatering volumes and durations to the maximum extent possible. The designs for the proposed shoring systems and dewatering systems as well as the Dewatering Plan shall be revised as necessary, based on comments from the City or Valley Water. The Dewatering Plan shall be approved by Valley Water

and the City prior to the issuance of permits by Valley Water for the installation of dewatering wells and permits from the City for construction of shoring and dewatering systems.

Mitigation Measure WQ-1.2: Wells. The Project Sponsor shall evaluate the potential presence of wells on the Project site, based on Valley Water records. If suspected wells have already been properly destroyed, the Project Sponsor shall provide evidence to Valley Water to demonstrate this. If it cannot be readily determined whether any wells are present on the Project site or whether the suspected wells have been properly destroyed, the Project Sponsor shall further investigate the locations of suspected wells. This investigation shall be performed under the direction of Valley Water and may include the use of geophysical surveying methods, potholing, excavation, or other exploratory activities, as deemed necessary by Valley Water, to evaluate the locations and conditions of the suspected wells. If any wells are identified at the Project site that have not been properly destroyed, the Project Sponsor shall properly destroy the wells under permits from Valley Water. The Project Sponsor shall provide the City with evidence that suspected wells on the Project site have been investigated and properly destroyed, if necessary, to the satisfaction of Valley Water prior to the City issuing demolition or grading permits for the Project. If any well is discovered during construction that has not been properly destroyed, the well shall be protected until it can be properly destroyed under permits from Valley Water at the soonest possible time.

Impact WQ-2: Groundwater Supplies.

FINDING: Implementation of Mitigation Measures GEO-3.1, WQ-1.1, and WQ-2.1, which are hereby adopted and incorporated into the Project, would reduce impacts related to groundwater supplies to a less-than-significant level. The City finds the evaluation of construction dewatering in the design-level geotechnical report and the Dewatering Plan as well as the water-saving features during operation in the MWENDO to be feasible. The City hereby determines that any impacts related to groundwater supplies remaining after implementation of Mitigation Measures GEO-3.1, WQ-1.1, and WQ-2.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction of the Project would require excavation for utilities and below-grade parking. The amount of excavation dewatering required for the Project could vary significantly, depending on the excavation shoring systems utilized but construction dewatering for such excavation would be required. Extraction of groundwater for several years by the Project construction could be considered a substantial use of groundwater resources, particularly during periods of drought and when considering that construction and operation of other developments in the Santa Clara Plain could also increase groundwater pumping in the plain. In addition, construction dewatering could contribute to a significant impact related to decreasing groundwater supplies. Depending on the amount of construction dewatering performed and the characteristics of the soil formations and overlying improvements within the area that would be affected by dewatering, there is potential for permanent subsidence to occur, which would be a significant impact related to dewatering and subsidence. The below-grade structures on the Project site would be waterproofed; therefore, operational dewatering would not be required following the completion of construction. However, because of future water demand in Santa Clara and reasonably anticipated deficiencies from other sources, the City may need to rely more heavily on groundwater for the future water supply. Valley Water has requested that the City and Project Sponsor implement specific measures from the Model Water Efficiency New Development Ordinance (MWENDO) to reduce or avoid impacts on the water supply. If the Project does not implement specific measures from the MWENDO to reduce or avoid impacts on the water supply, the Project could contribute to unsustainable management

of the Santa Clara Subbasin by increasing groundwater pumping and contributing to unsustainable levels of groundwater extraction from the Santa Clara Subbasin, which would be a significant impact.

Implementation of Mitigation Measure WQ-1.1 would require a Dewatering Plan to be prepared and submitted to Valley Water and the City for review and approval. It would also require the Project to use shoring systems, such as soil/cement cutoff walls, if deemed necessary by Valley Water to ensure sustainable management of the Santa Clara Subbasin, that would limit dewatering volumes and durations to the maximum extent possible. Therefore, Implementation of Mitigation Measure WQ-1.1 would ensure that potential impacts of Project construction on groundwater supplies would be less than significant with mitigation. In addition, implementation of Mitigation Measures GEO-3.1 and WQ-1.1 would ensure that potential subsidence due to construction dewatering would be evaluated in the design-level geotechnical report and the Dewatering Plan that would be prepared for the Project, which would be required to modify the proposed shoring systems and dewatering systems, as deemed necessary by Valley Water, to ensure sustainable management of the Santa Clara Subbasin. This includes controlling subsidence due to groundwater pumping. Implementation of Mitigation Measures GEO-3.1 and WQ-1.1 would therefore ensure that impacts related to impeding sustainable groundwater management of the basin and subsidence from construction of the Project would be less than significant with mitigation.

Implementation of Mitigation Measure WQ-2.1 would ensure that potential operational impacts of the Project related to substantially decreasing groundwater supplies or impeding sustainable groundwater management of the basin would be less than significant with mitigation, ensuring that water efficiency measures would be incorporated into the Project design, as requested by Valley Water. With implementation of Mitigation Measure WQ-2.1, the Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project would impede sustainable groundwater management of the basin.

Mitigation Measures GEO-3.1 and WQ-1.1.

Mitigation Measure WQ-2.1: Water Supply. The Project shall incorporate specific measures from the MWENDO into the Project design, as requested by Valley Water, to ensure that projected use of water by the Project is consistent with Valley Water's countywide water-supply planning efforts and the WSA. The Project Sponsor shall provide the City and Valley Water with evidence of approval from SBWR for the Project's use of recycled water to reduce the demand generated by the Project to the extent feasible, based on Project design and operation. The water-saving features of the Project design and WSA prepared for the Project shall be provided to Valley Water for review. Additional water-saving measures shall be incorporated into the Project design if requested by Valley Water or the City, ensuring that the Project would be consistent with the WSA and Valley Water's countywide water-supply planning efforts. The water-saving features of the Project design shall be approved by Valley Water and the City prior to the City issuing building permits for the Project. The following specific measures from the MWENDO shall be incorporated into the Project design, as applicable:

- Install hot-water recirculation systems;
- Install graywater dual-distribution plumbing;
- Incorporate alternative water sources (e.g., cisterns) and recycled water connections as feasible;
- Install pool and spa covers;
- Encourage reuse of recycled water, graywater, and rainwater/stormwater in new development and remodels through the installation of dual plumbing for irrigation, toilet flushing, cooling towers, and other non-potable uses;

- Require dedicated landscape meters where applicable;
- Require installation of separate submeters to each unit in multifamily developments and individual spaces within commercial buildings to encourage efficient water use; and
- Install weather- or soil-based irrigation controllers.

Impact WQ-3: Drainage Patterns (Stormwater).

FINDING: Implementation of Mitigation Measures WQ-3.1 and WQ-3.2, which are hereby adopted and incorporated into the Project, would reduce impacts related to stormwater conveyance and flooding to a less-than-significant level. The City finds a hydraulic study, modifications to the Project design (if necessary), and implementation of a Construction-Period Stormwater Drainage Control Plan to be feasible. The City hereby determines that any impacts related to stormwater conveyance and flooding remaining after implementation of Mitigation WQ-3.1 and WQ-3.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction activities would involve excavation and grading, which could temporarily alter drainage patterns and expose soil to potential erosion. The precise timing for stormwater drainage system construction has not been defined. If modifications to the existing stormwater drainage systems are not appropriately designed or constructed at the appropriate times with regard to the different phases of Project construction, as well as weather conditions (e.g., rain), then runoff from the Project site could exceed the capacity of existing or proposed stormwater drainage systems, flooding could occur onsite or offsite, and floodflows could be impeded or redirected by the Project, which would be a significant impact related to altering stormwater drainage patterns. In addition, if the proposed stormwater drainage systems are not appropriately designed and constructed, runoff from the Project site during operation could exceed the capacity of existing or proposed stormwater drainage systems. Flooding could occur onsite or offsite, and floodflows could be impeded or redirected by the Project, which would be a significant impact related to altering stormwater drainage patterns. Implementation of Mitigation Measures WQ-3.1 and WQ-3.2 would ensure that potential construction impacts of the Project related to exceeding the capacity of existing or proposed stormwater drainage systems, flooding onsite or offsite, and impeding or redirecting floodflows would be less than significant by requiring a hydraulic study to be prepared to evaluate the potential impacts; modifications to the Project design, if necessary; and implementation of a Construction-Period Stormwater Drainage Control Plan. In addition, implementation of Mitigation Measure WQ-3.1 would ensure that potential operational impacts of the Project related to exceeding the capacity of existing or proposed stormwater drainage systems, flooding onsite or offsite, and impeding or redirecting floodflows would be less than significant by requiring a hydraulic study to be performed and the Project design to be modified, if necessary, to demonstrate that the Project would not result in significant impacts related to stormwater conveyance and flooding.

Mitigation Measure WQ-3.1: Drainage and Flooding during Construction and Operation. The Project Sponsor shall prepare a Hydraulic Study to evaluate whether that the existing and proposed stormwater drainage systems that would receive runoff from the Project site would be capable of conveying the 10-year peak runoff from the Project site and flows from the Project site during a 100-year flood event would remain within public roadway limits and would not extend into private property, per City requirements. For Project construction, the Hydraulic Study shall also evaluate stormwater runoff patterns during all phases, including surface runoff flow directions and estimated discharge rates. For Project operation, the Hydraulic Study shall also evaluate the proposed changes

to drainage patterns at the Project site and placement of fill material and structures within the special flood hazard area currently mapped within Democracy Way and determine whether such changes would result in an increase in the base flood elevation by more than 1 foot in any areas within Santa Clara when combined with changes in flooding conditions from all other existing and anticipated development. If the Hydraulic Study finds that the Project would not meet the required stormwater conveyance and flooding conditions above, the Project design shall be modified to the satisfaction of the City to meet these conditions. Such design modifications could include additional stormwater retention systems, such as swales or underground cisterns/storage pipes with metered outlets, and/or changing the size and location of proposed storm drain systems on the Project site. The Hydraulic Study shall be submitted to the City for review and approval prior to the City issuing grading or building permit.

Mitigation Measure WQ-3.2: Construction Stormwater Drainage. The Project Sponsor shall prepare and implement a Construction-Period Stormwater Drainage Control Plan, which shall be submitted to the City for review and approval prior to the City issuing grading or building permits. The Construction-Period Stormwater Drainage Control Plan shall account for the phasing of construction activities and include the following:

- A detailed construction schedule for the entire Project that includes the timing for construction of new stormwater drainage systems and removal of existing stormwater drainage systems.
- Figures depicting the proposed grading of the Project site, including areas of excavation and the placement of fill during various phases of construction, and the drainage control systems that would be utilized during the various phases of construction (e.g., temporary berms and swales, sumps/pumps for subsurface structures, existing and planned stormwater drainage systems);
- A summary of detailed hydraulic evaluations of stormwater runoff patterns (see Mitigation Measure WQ-3.1), including surface runoff flow directions and estimated discharge rates for all construction phases.
- The proposed construction-period drainage control systems shall be designed such that the estimated rates and volumes of stormwater discharged to existing or proposed offsite stormwater drainage systems shall not increase beyond the existing condition. If rates and volumes of stormwater discharge to existing or proposed offsite stormwater drainage systems increase beyond the existing condition, the Construction-Period Stormwater Drainage Control Plan shall demonstrate that the existing or proposed offsite stormwater drainage systems have the capacity necessary to convey the increased discharges.
- Timing restrictions and methods for rerouting flows from existing storm drain systems during modification to ensure that construction activities do not impede flows within the systems.
- Special precautions to be taken for construction activities within special flood hazard zones, including not allowing the storage of hazardous materials or placement of features that could impede or redirect floodflows within special flood hazard zones.

Impact WQ-4: Release of Pollutants Due to Inundation (Flooding During Construction).

FINDING: Implementation of Mitigation Measure WQ-3.2, which is hereby adopted and incorporated into the Project, would reduce construction impacts related to release of pollutants due to inundation to a less-than-significant level. The City finds implementation of a Construction-Period Stormwater Drainage Control Plan to be feasible. The City hereby determines that any construction impacts related to the

release of pollutants due to inundation remaining after implementation of Mitigation Measure WQ-3.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. If hazardous materials are stored during construction within special flood hazard areas and flooding occurs, the Project could result in a release of pollutants due to inundation, which would be a significant impact. In addition, the Project would include the placement of fill material and structures within the special flood hazard area mapped within Democracy Way. Implementation of Mitigation Measure WQ-3.2 would ensure that the potential impact from release of pollutants due to inundation during construction would be less than significant with mitigation by requiring hazardous materials not to be stored in special flood hazard areas during construction of the Project.

Mitigation Measure: Implement Mitigation Measure WQ-3.2.

Impact WQ-5: Conflict with a Water Quality Control Plan or Sustainable Groundwater Management Plan.

FINDINGS: Implementation of Mitigation Measures WQ-1.1, WQ-1.2, WQ-2.1, HAZ-2.1, and GEO-3.1, which are hereby adopted and incorporated into the Project, would reduce impacts related to conflicts with a water quality control plan or sustainable groundwater management plan to a less-than-significant level. The City finds the evaluation of construction dewatering in the design-level geotechnical report, Dewatering Plan, and Soil and Groundwater Management Plan as well as the water-saving features during operation in the MWENDO to be feasible. The City hereby determines that any impacts related to conflicts with a water quality control plan or sustainable groundwater management plan remaining after implementation of Mitigation Measures WQ-1.1, WQ-1.2, WQ-2.1, HAZ-2.1, and GEO-3.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction of the Project would be required to comply with National Pollutant Discharge Elimination System (NPDES) permit requirements, including the Construction General Permit. Implementation of Mitigation Measures WQ-1.1 and HAZ-2.1 would further ensure the protection of groundwater and surface water quality during construction of the Project. Implementation of Mitigation Measures WQ-1.1 and GEO-3.1 would ensure that construction of the Project would not substantially decrease groundwater supplies or impede sustainable groundwater management of the basin. Therefore, potential construction impacts related to conflicting with or obstructing implementation of the Basin Plan or Groundwater Management Plan (GMP) for the Santa Clara and Llagas Subbasins would be less than significant with mitigation.

Operation of the Project would be required to comply with the MRP, which would ensure the protection of surface water quality. Implementation of Mitigation Measures WQ-1.2 and HAZ-2.1 would ensure the protection of groundwater water quality during operation of the Project. Implementation of Mitigation Measure WQ-2.1 would ensure that operation of the Project would not substantially decrease groundwater supplies or impede sustainable groundwater management of the basin. Therefore, potential operational impacts related to conflicting with or obstructing implementation of the Basin Plan or GMP for the Santa Clara and Llagas Subbasins would be less than significant with mitigation.

Mitigation Measures: Implement Mitigation Measures WQ-1.1, WQ-1.2, WQ-2.1, HAZ-2.1, and GEO-3.1.

Impact C-WQ-1: Cumulative Water Quality Impacts.

FINDING: Implementation of Mitigation Measures WQ-1.1, WQ-1.2, and HAZ-2.1, which are hereby adopted and incorporated into the Project, would reduce cumulative impacts related to water quality to a less-than-significant level. The City finds implementation of a Dewatering Plan and a Soil and Groundwater Management Plan, as well as monitoring wells, to address known and potential unidentified subsurface contamination to be feasible. The City hereby determines that the Project's contribution to a cumulative impact related to water quality would not be cumulatively considerable and any impacts related to cumulative water quality would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Stormwater discharged from past and existing land uses in the Project area and surrounding areas have contained pollutants and cumulatively contributed to impairment of the water quality in San Tomas Aquino Creek, Guadalupe Slough, and South San Francisco Bay. Furthermore, historical groundwater pumping in the Santa Clara Valley has resulted in cumulative impacts on groundwater quality through saltwater intrusion. Therefore, cumulative conditions exist for impacts on water quality in the Project area. Stormwater runoff and groundwater dewatering from the Project site and cumulative projects could result in the degradation of surface water and groundwater if not appropriately managed.

Stormwater runoff and groundwater from dewatering during construction of the Project would be managed, treated, and monitored in accordance with NPDES permit requirements, including the Construction General Permit. Cumulative projects would also be required to comply with these existing regulations to protect water quality. The Project would be required to implement Mitigation Measures WQ-1.1 and HAZ-2.1, which would further ensure the protection of groundwater and surface water during construction. As a result, construction of the Project would not have a cumulatively considerable impact on surface water or groundwater quality; therefore, the Project's contribution to cumulative impacts would not be considerable. The cumulative construction impact related to water quality would be less than significant with mitigation.

Stormwater runoff during operation of the Project would be managed and treated in accordance with the MRP. Cumulative projects would also be required to comply with the MRP to protect water quality. The Project would be required to implement Mitigation Measures WQ-1.2 and HAZ-2.1 to ensure the protection of groundwater during operation. As a result, operation of the Project would not have a cumulatively considerable impact on surface water or groundwater quality; therefore, the Project's contribution to cumulative impacts would not be considerable. The cumulative operational impact related to water quality would be less than significant with mitigation.

Mitigation Measures: Implement Mitigation Measures WQ-1.1, WQ-1.2, and HAZ-2.1.

Impact C-WQ-2: Cumulative Groundwater Supply Impacts.

FINDING: Implementation of Mitigation Measures GEO-3.1, WQ-1.1, and WQ-2.1, which are hereby adopted and incorporated into the Project, would reduce impacts to a less-than-significant level. The City finds the evaluation of construction dewatering in the design-level geotechnical report and the Dewatering Plan, plus the water-saving features during operation in the MWENDO, to be feasible. The City hereby determines that any impacts related to cumulative groundwater supply remaining after implementation of Mitigation Measures GEO-3.1, WQ-1.1, and WQ-2.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Historical groundwater pumping in the Santa Clara Valley has resulted in cumulative impacts, including a decline in groundwater levels and subsidence. Management of groundwater use in the Santa Clara Subbasin is currently performed by Valley Water through implementation of the GMP for the Santa Clara and Llagas Subbasins to limit cumulative impacts related to groundwater supply and subsidence. However, the extraction of groundwater during construction of the Project and cumulative projects could result in decreased groundwater supplies as well as subsidence. During construction, the Project would be required to implement Mitigation Measures GEO-3.1 and WQ-1.1, which would ensure that construction of the Project would not substantially decrease groundwater supplies or result in subsidence that could impede sustainable management of the groundwater basin. Similar requirements would be applied to the cumulative projects, as applicable. As a result, construction of the Project would not have a cumulatively considerable impact on groundwater supplies or sustainable management of the groundwater basin; the Project's contribution to cumulative impacts would not be considerable. The cumulative impact related to groundwater supply would be less than significant with mitigation.

During operation, the Project would be required to implement Mitigation Measure WQ-2.1, which would ensure that operation of the Project would not substantially decrease groundwater supplies or result in subsidence that could impede sustainable management of the groundwater basin. Similar requirements would be applied to the cumulative projects, as applicable. As a result, operation of the Project would not have a cumulatively considerable impact on groundwater supplies or sustainable management of the groundwater basin; the Project's contribution to cumulative impacts would not be considerable. The impact related to groundwater supply would be less than significant with mitigation.

Mitigation Measures: Implement Mitigation Measures GEO-3.1, WQ-1.1, and WQ-2.1.

Impact C-WQ-3: Cumulative Drainage Pattern Impacts.

FINDING: Implementation of Mitigation Measures WQ-3.1 and WQ-3.2, which are hereby adopted and incorporated into the Project, would reduce the cumulative impacts related to drainage patterns to a less-than-significant level. The City finds a hydraulic study, modifications to the Project design (if necessary), and implementation of a Construction-Period Stormwater Drainage Control Plan to be feasible. The City hereby determines that any impacts related to cumulative drainage patterns after implementation of Mitigation Measures WQ-3.1, and WQ-3.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Erosion and siltation can result in cumulative impacts by reducing the conveyance capacity of stormwater drainage systems and creeks (though sedimentation) and reducing water quality. Furthermore, the erosion of contaminated soils can increase pollutant loads in runoff and receiving waters. Similar to the Project, cumulative projects would involve excavation and grading that could temporarily alter drainage patterns and expose soil to potential erosion and siltation. Portions of the Project site and surrounding areas are susceptible to flooding hazards due to inadequate drainage systems. Increased runoff from developments and altered drainage patterns have resulted in a cumulative condition related to flooding hazards in the Project area. The Project, along with cumulative projects in the area, could also result in impacts related to stormwater drainage systems and flooding, which would be a potentially cumulatively considerable impact and therefore significant with respect to altering stormwater drainage patterns. Although the Project would result in an overall decrease in stormwater

runoff from the Project site compared to the existing condition, different amounts of runoff from the Project site could be conveyed to different storm drain systems compared to the existing condition. The Project could also alter flooding conditions by placing fill material and structures within a special flood hazard zone. Cumulative projects may involve similar changes to drainage patterns.

During construction, the Project would be required to implement Mitigation Measures WQ-3.1 and WQ-3.2, which would ensure that construction of the Project would not exceed the capacity of existing or proposed stormwater drainage systems, result in flooding onsite or offsite, or impede or redirect floodflows. As a result, construction of the Project would not create a cumulatively considerable impact related to exceeding the capacity of existing or proposed stormwater drainage systems, flooding onsite or offsite, or impeding or redirecting floodflows; therefore, these cumulative impacts would be less than significant with implementation of Mitigation Measure WQ-3.1 and WQ-3.2.

During operation, the Project would be required to implement Mitigation Measures WQ-3.1, which would ensure that operation of the Project would not exceed the capacity of existing or proposed stormwater drainage systems, result in flooding onsite or offsite, or impede or redirect floodflows. As a result, operation of the Project would not create a cumulatively considerable impact related to exceeding the capacity of existing or proposed stormwater drainage systems, flooding onsite or offsite, or impeding or redirecting floodflows; therefore, these cumulative impacts would be less than significant with implementation of Mitigation Measure WQ-3.1.

Mitigation Measures: Implement Mitigation Measures WQ-3.1 and WQ-3.2.

Impact C-WQ-4: Cumulative Release of Pollutants Due to Inundation.

FINDING: Implementation of Mitigation Measure WQ-3.2, which is hereby adopted and incorporated into the Project, would reduce impacts due to inundation to a less-than-significant level. The City finds implementation of a Construction-Period Stormwater Drainage Control Plan to be feasible. The City hereby determines that any impacts related to the cumulative release of pollutants due to inundation remaining after implementation of Mitigation Measure WQ-3.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. If hazardous materials are stored for construction of the cumulative projects within special flood hazard areas and flooding occurs, the cumulative projects, in combination with the Project, could risk the release of pollutants, which would be a significant cumulative impact. During construction, implementation of Mitigation Measure WQ-3.2 would ensure that the Project's contribution would not be considerable by requiring hazardous materials not to be stored in special flood hazard areas. As a result, construction of the Project would not create a cumulatively considerable impact related to the release of pollutants due to inundation; therefore, this cumulative impact would be less than significant with implementation of Mitigation Measure WQ-3.2.

Mitigation Measure: Implement Mitigation Measure WQ-3.2.

Impact C-WQ-5: Cumulative Conflicts with a Water Quality Control Plan or Sustainable Groundwater Management Plan.

FINDING: Implementation of Mitigation Measures WQ-1.1, WQ-2.1, HAZ-2.1, and GEO-3.1, which are hereby adopted and incorporated into the Project, would reduce cumulative impacts related to conflicts with a water quality control plan or sustainable groundwater management plan to a less-than-significant level. The City finds the evaluation of construction dewatering in the design-level geotechnical report,

Dewatering Plan, and Soil and Groundwater Management Plan as well as the water-saving features during operation in the MWENDO to be feasible. The City hereby determines that any cumulative impacts related to conflicts with a water quality control plan or sustainable groundwater management plan remaining after implementation of Mitigation Measures WQ-1.1, WQ-2.1, HAZ-2.1, and GEO-3.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Construction of projects in the area would be required to comply with NPDES permit requirements, including the Construction General Permit. Operation of cumulative projects would be required to comply with the MRP, which would ensure the protection of surface water quality. However, without mitigation, groundwater and surface water could be affected during cumulative construction and operation. During construction, the Project would be required to implement Mitigation Measures WQ-1.1 and HAZ-2.1 to ensure the protection of groundwater and surface water quality. In addition, implementation of Mitigation Measures WQ-1.1 and GEO-3.1 would ensure that construction of the Project would not substantially decrease groundwater supplies or impede sustainable groundwater management of the basin. As a result, construction of the Project would not create cumulatively considerable impacts related to conflicting with or obstructing implementation of the Basin Plan or GMP for the Santa Clara and Llagas Subbasins; therefore, the Project's contribution to cumulative impacts would not be considerable. The cumulative construction impacts related to conflicts with a water quality control plan or sustainable groundwater management plan would be less than significant with implementation of Mitigation Measures WQ-1.1 and HAZ-2.1.

During operation, stormwater runoff would be managed and treated in accordance with the MRP. Cumulative projects would also be required to comply with the MRP to protect water quality. The Project would be required to implement Mitigation Measures WQ-1.2 and HAZ-2.1 to ensure the protection of groundwater during operation. Furthermore, the use of groundwater by the cumulative projects for the water supply could result in decreased groundwater supplies and subsidence, which would be a significant cumulative impact related to conflicting with the GMP for the Santa Clara and Llagas Subbasins. Implementation of Mitigation Measure WQ-2.1 would ensure that operation of the Project would not substantially decrease groundwater supplies or impede sustainable groundwater management of the basin. As a result, operation of the Project would not create cumulatively considerable impacts related to conflicting with or obstructing implementation of the Basin Plan or GMP for the Santa Clara and Llagas Subbasins; therefore, the Project's contribution to cumulative impacts related to conflicts with a water quality control plan or sustainable groundwater management plan would not be considerable. The cumulative impact related to conflicts with a water quality control plan or sustainable groundwater management plan remaining after implementation of Mitigation Measures WQ-1.2 and HAZ-2.1 would be less than significant.

Mitigation Measures: Implement Mitigation Measures WQ-1.1, WQ-1.2, WQ-2.1, HAZ-2.1, and GEO-3.1.

10. Hazards and Hazardous Materials

The topic of hazards and hazardous materials was analyzed in Section 3.11 of the EIR. The EIR determined that the Project could result in significant impacts related to hazards and hazardous materials and recommended mitigation measures, as discussed below.

Impact HAZ-2: Accidental Releases of Hazardous Materials (Subsurface Contamination).

FINDING: Implementation of Mitigation Measure HAZ-2.1, which is hereby adopted and incorporated into the Project, would reduce impacts related to subsurface contamination to a less-than-significant level. The City finds the investigation and appropriate management of subsurface contamination under the oversight of a regulatory agency to be feasible. The City hereby determines that any impacts related to the accidental releases of hazardous materials due to subsurface contamination would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. The disturbance of contaminated soil or groundwater, if encountered, during construction activities could result in impacts on construction workers, the public, and the environment because dust or vapors containing hazardous materials could be released into the environment, and the movement of contaminated soil could spread contamination to new areas. Construction in areas with elevated levels of methane could also create hazards related to fire and explosion due to potential methane accumulation within excavations or enclosed spaces. Therefore, the potential release of subsurface hazardous materials into the environment during construction of the Project is a significant impact. If landscaping would be installed over areas of contaminated soil or groundwater not excavated as part of the Project, stormwater infiltration during operation of the Project could increase the leaching of contaminants from soil into groundwater or the migration of contaminated groundwater. The placement of buildings and utilities in areas with elevated methane and VOC levels in soil vapor could create hazards related to fire and explosion due to potential methane accumulation within enclosed spaces and create health hazards for future occupants of the Project site due to vapor intrusion to indoor air. Therefore, the potential release of subsurface hazardous materials into the environment during operation of the Project is a significant impact. Implementation of Mitigation Measure HAZ-2.1 would ensure that subsurface contamination would be further investigated and appropriately managed under the oversight of a regulatory agency. With implementation of this mitigation, the Project would not create a significant hazard for the public or the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment. Implementation of Mitigation Measure HAZ-2.1 would reduce impacts from accidental releases of hazardous materials due to subsurface contamination to a less-than-significant level.

> Mitigation Measure HAZ-2.1: Subsurface Contamination. The Project Sponsor shall engage with an appropriate regulatory agency (e.g., the San Francisco Bay Regional Water Board, Santa Clara County DEH, DTSC) to provide oversight for additional subsurface investigation at the Project site and proposed transmission line routes for the Project, prepare and implement a Soil and Groundwater Management Plan (SGMP), and implement remedial actions, as necessary and required by the appropriate regulatory agency. When site uses and building layouts/designs are finalized and available, additional soil vapor testing shall be performed to evaluate the need for vapor intrusion mitigation measures. The additional subsurface investigation activities shall include, to the extent required by the appropriate regulatory agency, investigation of potential contamination along the proposed transmission line routes for the Project and investigation of potential contamination source areas/features of environmental concern (e.g., former hazardous materials storage areas, clarifiers/sumps/vaults and associated piping, possible UST areas) to define the extent of subsurface contamination at the Project site. The SGMP shall outline the soil and groundwater management protocols that would be implemented during redevelopment of the Project site to ensure that construction workers, the public, future occupants, and the environment would not be exposed to hazardous materials that may be present in the subsurface of the Project site. The SGMP shall include, at a minimum, the following procedures, to be implemented during construction:

- Health and safety requirements for construction workers who may handle contaminated soil or groundwater
- Guidelines for controlling airborne dust, vapors, and odors
- Air monitoring requirements for methane and VOCs during construction
- Guidelines for controlling hot work (e.g., welding) in areas where methane concentrations approach or exceed 10 percent of the lower explosive limit (i.e., 0.5 percent)
- Regulatory notification requirements if undocumented contamination, features of environmental concern (e.g., USTs or clarifiers/sumps/vaults and associated piping), or elevated methane levels are encountered, which shall include notification of the City's Community Risk Reduction Division for USTs and the fire department for hot work in methane areas
- Inspection and sampling protocols for contaminated soil or groundwater by a qualified environmental professional
- Guidelines for groundwater dewatering, treatment, and disposal to ensure compliance with applicable regulations/permit requirements
- Guidelines for the segregation of contaminated soil, stockpile management, characterization of soil for offsite disposal or onsite re-use, and importing of clean fill material

The SGMP shall be submitted to applicable regulatory oversight agencies, including the City, for review and approval prior to the City issuing demolition or grading permits for the Project. Remedial actions that may be required for the Project could include, but would not necessarily be limited to, removal of hazardous material containers/features (e.g., USTs, piping, clarifiers/sumps/vaults), removal and offsite disposal of contaminated soil or groundwater, in-situ treatment of contaminated soil or groundwater, or implementation of engineering/institutional controls (e.g., capping of contaminated soils, installation of vapor intrusion mitigation systems, establishment of deed restrictions).

If remedial actions are required for any portion of the Project site or proposed transmission line routes for the Project, the Project Sponsor shall submit to the City evidence of approvals from all applicable regulatory oversight agencies for any proposed remedial action plans prior to the City issuing any demolition, grading, or building permits for that portion of the Project site or transmission line route. The Project Sponsor shall submit to the City evidence of approval(s) from all applicable regulatory oversight agencies for the completion of remedial actions on the applicable portion of the Project site prior to the City issuing a certificate of occupancy for any buildings located on said portion of the Project site.

Impact C-HAZ-2: Cumulative Accidental Releases of Hazardous Materials (Construction).

FINDING: Implementation of Mitigation Measure HAZ-2.1, which is hereby adopted and incorporated into the Project, would reduce cumulative construction impacts related to accidental release of hazardous materials to a less-than-significant level. The City finds the investigation and appropriate management of subsurface contamination under the oversight of a regulatory agency to be feasible. The City hereby determines that any cumulative construction impacts related to an accidental release of hazardous materials remaining after implementation of Mitigation Measure HAZ-2.1 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental

effect, as identified in the EIR. Cumulative projects may include the demolition of buildings that contain hazardous building materials or redevelopment in areas with subsurface contamination. Given the past and current commercial/industrial land uses near the Project site that may have involved the storage and use of hazardous materials, it is possible that previously unidentified subsurface contamination could be present at other cumulative projects near the Project site. Redevelopment of multiple projects in areas of subsurface contamination at the same time could result in cumulative exposure of construction workers, the public, and the environment to hazardous materials, which would be a significant cumulative impact. Implementation of General Plan policies, including Policies 5.10.5-P22 and 5.10.5-P23, would ensure that the City would regulate development on sites with suspected soil and/or groundwater contamination and require appropriate cleanup and remediation of contaminated sites, ensuring that construction workers, the public, future occupants, and the environment would be adequately protected from hazards associated with contamination. Implementation of Mitigation Measure HAZ-2.1 would ensure that potential impacts of the Project associated with accidental releases of hazardous materials due to subsurface contamination would not be cumulatively considerable. Cumulative construction impacts related to accidental releases of hazardous materials remaining after implementation of Mitigation Measure HAZ-2.1 would be less than significant with mitigation.

Mitigation Measure: Implement Mitigation Measure HAZ-2.1.

11.Tribal Cultural Resources

The topic of tribal cultural resources was analyzed in Section 3.14 of the EIR. The EIR determined that the Project could result in significant impacts related to tribal cultural resources and recommended mitigation measures, as discussed below.

Impact TCR-1: Tribal Cultural Resources (Construction).

FINDING: Implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, which are hereby adopted and incorporated into the Project, would reduce construction impacts related to tribal cultural resources to a less-than-significant level. The City finds mitigation measures that call for development and implementation of a monitoring plan, worker awareness training, and requirements to stop work if tribal cultural resource deposits are encountered during ground-disturbing activities to be feasible. The City hereby determines that any construction impacts related to tribal cultural resources remaining after implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR**.** The results of the Northwest Information Center records search and literature review indicate no previously recorded cultural resources within or adjacent to the Project site. This includes tribal cultural resources listed or eligible for listing in the CRHR or a local register of historical resources. In addition, no tribal cultural resources were identified during the 2019 and 2022 consultation outreach by the City. However, archaeological deposits that qualify as tribal cultural resources could be encountered during Project excavation. Should deposits be encountered during Project excavation, this could result in an adverse change to a tribal cultural resource. Thus, significant impacts related to tribal cultural resources could result from construction of the Project. Implementation of Mitigation Measures CUL-2.1, CUL-2.2 and CUL-2.3 would ensure that impacts related to any tribal cultural resources that may be uncovered at the site would be less than significant with mitigation through development and implementation of an archaeological monitoring plan, implementation of cultural resources sensitivity training (including training regarding sensitivity to tribal cultural resources) for all construction crews participating in ground-disturbing activities, and requirements to stop work if archaeological deposits are encountered during ground-disturbing

activities. With implementation of mitigation, the Project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed in or eligible for listing in the California Register of Historical Resources (CRHR) or a local register of historical resources, as defined in PRC Section 5020.1(k), or determined by the lead agency to be significant pursuant to criteria set forth in Public Resources Code Section 5024.1. Therefore, this impact would be less than significant with implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3.

Mitigation Measures: Implement Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3.

Impact C-TCR-1: Cumulative Impacts on Tribal Cultural Resources (Construction).

FINDING: Implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, which are hereby adopted and incorporated into the Project, would reduce cumulative construction impacts related to tribal cultural resources to a less-than-significant level. The City finds mitigation measures that call for development and implementation of a monitoring plan, worker awareness training, and requirements to stop work if archaeological deposits are encountered during ground-disturbing activities to be feasible. The City hereby determines that any cumulative construction impacts related to tribal cultural resources would not be cumulatively considerable and after implementation of Mitigation Measure CUL-2.1, CUL-2.2, and CUL-2.3 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. Urban development that has occurred over the past several decades in the vicinity of the Project site has resulted in the demolition or alteration of non-archaeological and archaeological resources that may qualify as tribal cultural resources under CEQA. It is reasonable to assume that present and future development will continue to result in impacts on these resources by disturbing native soils and altering the landscape. Because tribal cultural resources are unique and non-renewable members of finite classes, all adverse effects or negative impacts erode a dwindling resource base. For this reason, the cumulative effects of development in the region on tribal cultural resources are considered significant. Because the Project site is situated in an archeologically sensitive area, the possibility exists of encountering unknown tribal cultural resources during ground-disturbing activities associated with Project construction. The Project would be subject to Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3, which require implementation of an archaeological monitoring plan, cultural resources sensitivity training (including training regarding sensitivity to tribal cultural resources) for all construction crews participating in ground-disturbing activities, and stopping work if archaeological deposits are encountered during ground-disturbing activities. Compliance with these mitigation measures would reduce the Project's contribution to a cumulative impact to less than cumulatively considerable, resulting in a cumulative construction impact that would be less than significant with implementation of Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3.

Mitigation Measures: Implement Mitigation Measures CUL-2.1, CUL-2.2, and CUL-2.3.

12. Utilities and Service Systems

The topic of utilities and service systems was analyzed in Section 3.15 of the EIR. The EIR determined that the Project could result in significant impacts related to utilities and service systems and recommended mitigation measures, as discussed below.

Impact UT-1: Utility Relocation, Construction, or Expansion (Stormwater Facilities).

FINDING: Implementation of Mitigation Measures WQ-3.1 and WQ-3.2, which are hereby adopted and incorporated into the Project, would reduce impacts related to stormwater facilities to a less-than-significant level. The City finds a hydraulic study, modifications to the Project design (if necessary), and implementation of a Construction-Period Stormwater Drainage Control Plan to be feasible. The City hereby determines that any impacts related to stormwater facilities remaining after implementation of Mitigation Measures WQ-3.1 and WQ-3.2 would not be significant.

FACTS IN SUPPORT OF FINDING: Changes or alterations have been required in, or incorporated into, the mitigation measures for the Project that would avoid or substantially lessen the significant environmental effect, as identified in the EIR. If modifications to the existing stormwater drainage systems are not appropriately designed or constructed at the appropriate times with regard to the different phases of Project construction, as well as weather conditions (e.g., rain), then runoff from the Project site could exceed the capacity of existing or proposed stormwater drainage systems, thereby requiring the construction of additional stormwater drainage facilities, which would be a significant impact. Implementation of Mitigation Measures WQ-3.1 and WQ-3.2 would ensure that potential impacts of the Project related to exceeding the capacity of existing or proposed stormwater drainage systems would be less than significant. Specifically, the mitigation measures would require a hydraulic study to be prepared to demonstrate that existing and proposed stormwater drainage systems would be capable of conveying 10-year peak runoff flows from the Project site and ensure that such flows during a 100-year flood event would remain within public roadway limits and would not extend into private property. Furthermore, modifications to the Project design would be implemented, if necessary, and a construction-period stormwater drainage control plan would be implemented. Therefore, with implementation of stormwater treatment measures and Mitigation Measures WQ-3.1 and WQ-3.2, impacts on stormwater drainage facilities would be less than significant.

Mitigation Measures: Implement Mitigation Measures WQ-3.1 and WQ-3.2.

C. Significant and Unavoidable Impacts

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 State 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.

1. Air Quality

Impact AQ-2: Cumulatively Considerable Net Increase in Criteria Pollutants – Operation and Construction plus Operation.

FINDING: Implementation of Mitigation Measures AQ-2.1 through AQ-2.6, which are hereby adopted and incorporated into the Project, would reduce impacts related to cumulatively considerable net increase in criteria pollutions from operation of the Project and concurrent construction and operation, but not to a

less-than-significant level. Although the City finds Mitigation Measures AQ-2.1 through AQ-2.6 feasible, there are no additional feasible mitigation measures that will reduce this impact a less-than-significant level. Therefore, the City hereby determines that impacts related to a cumulatively considerable net increase in criteria pollutants during operation or construction plus operation would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: Long-term operational emissions from the Project would be caused by vehicle trips and area sources (e.g., cleaning supplies, architectural coatings, landscape maintenance equipment). In addition, stationary-source emissions would result from intermittent use of 21 diesel-powered emergency generators, which were conservatively assumed to be tested 50 hours per year. Operation of the Project would generate levels of reactive organic gas (ROG), nitrogen oxide (NO_X), particulate matter less than 10 microns in aerodynamic diameter (PM_{10}), and particulate matter less than 2.5 microns in aerodynamic diameter ($PM_{2.5}$) that would exceed the applicable Bay Area Air Quality Management District (BAAQMD) mass emissions thresholds. Therefore, unmitigated operation of the Project would result in a cumulatively considerable net increase in criteria air pollutants for which the San Francisco Bay Area Air Basin (SFBAAB) is designated as a nonattainment area with respect to the federal or State ambient air quality standards, resulting in a significant impact. In addition, construction could overlap with Project operations because the Project would be constructed over a period of nearly 10 years. Concurrent construction and operation of the Project would result in unmitigated ROG, NO_X, and PM_{10} emissions that would exceed BAAQMD's recommended thresholds. Thus, the Project would result in a significant impact during concurrent construction and operation.

Mitigation Measure AQ-2.1 would be implemented to reduce the Project's NO_X emissions by requiring EPA Tier 4 Final diesel engines. Implementation of Mitigation Measure AQ-2.1 (i.e., the requirement for EPA Tier 4 Final diesel engines) would reduce construction emissions of NO_x to a level below the BAAQMD threshold. In addition, Mitigation Measure AQ-2.2 would be incorporated to ensure that BAAQMD BMPs, as well as additional recommended construction-related mitigation measures, would be implemented during Project construction. BMPs would be required and implemented to reduce impacts from construction-related fugitive dust emissions, including any cumulative impacts.

However, project operation and concurrent Project construction and operation would result in a cumulatively considerable net increase in a criteria pollutant for which the Project region is classified as a nonattainment area under an applicable federal or State ambient air quality standard. Implementation of Mitigation Measures AQ-2.3 through AQ-2.6 would reduce operational ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions but not to a less-than-significant level. Mitigation Measures AQ-2.3 and AQ-2.4 would require the Project Sponsor to use architectural coatings and cleaning supplies with a low volatile-organic-compound (VOC) content for all Project buildings, thereby reducing fugitive emissions of ROG throughout operations. Mitigation Measure AQ-2.5 would require the Project Sponsor to replace gas-powered landscape equipment with zero-emission landscape equipment, thereby reducing emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$ by eliminating the use of internal-combustion engines for landscaping activities. Mitigation Measure AQ-2.6 would require the Project Sponsor to install EPA Tier 4 Final stationary emergency generators, if commercially available in a timely manner. EPA Tier 4 Final stationary emergency generators would reduce ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions; however, the emissions modeling assumes the use of Tier 3 generators because of uncertainties in the availability of Tier 4 generators. Mitigated emissions are estimated in Table 3.3-10, which shows that net mitigated ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions would exceed the applicable BAAQMD thresholds. Most of the emissions that contribute to the exceedance in ROG emissions result from the volume of consumer products used, which is dependent on the size of a project. The other main contributor to ROG emissions, as well as NO_X, PM_{10}, and $PM_{2.5}$, is travel to and from the Project site by vehicles. The ROG and NOx exceedances are from vehicle

exhaust; the PM10 and PM2.5 exceedances are primarily from road dust that gets re-suspended by vehicle movement. The Project would reduce motor vehicle travel by locating a high-density, mixed-use development in an infill and transit-rich location, thereby promoting transportation efficiency, implementing a TDM plan, and exploring alternative transit methods. Nonetheless, the high-density aspect of the Project would lead to emissions from vehicles traveling to and from the site, emissions that would represent a large portion of the Project's ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions. There are no additional onsite mitigation measures to reduce emissions from vehicle trips. Therefore, even with implementation of Mitigation Measures AQ-2.1 through AQ-2.6, operation of the Project and concurrent construction and operation of the Project would result in a cumulatively considerable net increase in criteria air pollutants for which the SFBAAB is designated as a nonattainment area with respect to the federal or State ambient air quality standards. This impact would be significant and unavoidable with mitigation.

Mitigation Measures AQ-2.1 and 2-2: *For Construction plus Operation* (described in Section B)

Mitigation Measure AQ-2.3: Require Low-VOC Coatings during Project Construction and Operation. The Project Sponsor shall require contractors, as a condition of contract, to reduce construction-related fugitive ROG emissions by ensuring that low-VOC coatings with a VOC content of 50 grams per liter or less are used during construction and operation. For construction coatings, prior to permit issuance, the Project Sponsor shall submit evidence to the City of Santa Clara regarding the use of low-VOC coatings.

Mitigation Measure AQ-2.4: Use Low-VOC Cleaning Supplies. The Project Sponsor shall provide educational resources for residential and commercial tenants concerning zero- or low-VOC cleaning products. Prior to receipt of any certificate of final occupancy, the Project Sponsor shall work with the City of Santa Clara to develop the electronic correspondence to be distributed by email to new residential and commercial tenants regarding a requirement to purchase cleaning products that generate less than the typical VOC emissions.

Mitigation Measure AQ-2.5: Replace Gas-Powered Landscape Equipment with Zero-Emission Landscape Equipment. The Project Sponsor shall provide educational resources for tenants concerning zero-emission landscape equipment. The Project Sponsor, as a condition of contract, shall require all tenants to use only electric landscaping equipment throughout Project operation to reduce ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions. By the time the Project is operational, new internal-combustion engine landscaping equipment will not be available for purchase in California; thus, electric landscaping equipment will be the only commercially available landscaping equipment for purchase.

Mitigation Measure AQ-2.6: EPA Tier 4 Final Stationary Emergency Generators. The Project Sponsor shall require contractors or lessees, as a condition of contract, to install EPA Tier 4 Final stationary emergency generators, if commercially available at any point before occupancy. If Tier 4 Final emergency generators are not commercially available before occupancy, the Project Sponsor and contractor shall install Tier 3 emergency generators. Prior to occupancy permit issuance, the Project Sponsor shall submit evidence to the City regarding the use of Tier 4 Final emergency generator, if commercially available, or Tier 3 emergency generators.

Impact AQ-3: Substantial Pollutant Concentrations - Toxic Air Contaminants (Health Risks from Diesel Particular Matter and Localized $PM_{2.5}$).

FINDING: Implementation of Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6, which are hereby adopted and incorporated into the Project, would reduce the impacts related to substantial concentrations of toxic

air contaminant (specifically health risks from diesel particulate matter and localized $PM_{2.5}$) but not to a less-than-significant level. Although the City finds Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6 feasible, there are no additional feasible mitigation measures or alternatives that will reduce this impact a less than significant level. Therefore, the City hereby determines that any impacts related to substantial pollutant concentrations of toxic air contaminants (specifically health risks from diesel particulate matter and localized $PM_{2.5}$) would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: The Project would expose sensitive receptors to substantial pollutant concentrations of toxic air contaminants, specifically diesel particulate matter and localized $PM_{2.5}$. The health risks to sensitive receptors and $PM_{2.5}$ concentrations would exceed BAAQMD thresholds. The cancer risk threshold exceedance for onsite receptors is due to future residential receptors being exposed to DPM during construction and then to DPM during operations from generator testing and vehicle traffic for nearly 30 years. The primary cause of the $PM_{2.5}$ exceedance is the operation of vehicles as they travel to and from the site and generate fugitive $PM_{2.5}$ from re-suspended road dust. Therefore, impacts related to DPM and localized $PM_{2.5}$ would be significant. Mitigation Measures AQ-2.1 and AQ-2.2 would reduce DPM and $PM_{2.5}$ concentrations by requiring clean diesel-powered or electric construction equipment and implementing BAAQMD basic construction mitigation measures, respectively. Mitigation Measure AQ-2.6 would reduce DPM and $PM_{2.5}$ concentrations through the use of Tier 4 emergency generators; however, because there is uncertainty regarding the availability of the generators, the analysis results reflect the use of Tier 3 emergency generators. In addition, because the Project would generate a relatively large number of daily vehicle trips, fugitive dust and exhaust emissions would result in a correspondingly large increase in $PM_{2.5}$ concentrations. There is no feasible mitigation to reduce $PM_{2.5}$ concentrations because of the nature of the emissions source (i.e., the large number of privately owned vehicles traveling on public roadways). The Project Sponsor has little control over this type of emissions source. Nonetheless, the Project would reduce the demand for motor vehicle travel by promoting transportation efficiency, implementing a TDM plan, and exploring alternative transit methods. Still, the health risks and $PM_{2.5}$ concentrations would exceed BAAQMD thresholds. There are no additional onsite mitigation measures that would reduce vehicle trips to and from the site. Thus, health risks and $PM_{2.5}$ concentrations would exceed BAAQMD thresholds after the incorporation of Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6, and no further mitigation is available. Therefore, the Project would result in an impact that would be significant and unavoidable with mitigation with respect to health risks and $PM_{2.5}$.

Mitigation Measures: Implement Mitigation Measures AQ-2.1, AQ-2.2, described in Section B, and AQ-2.6.

Impact C-AQ-2: Cumulatively Considerable Net Increase in Criteria Pollutants.

FINDING: Implementation of Mitigation Measures AQ-2.1 through AQ-2.6, which are hereby adopted and incorporated into the Project, would reduce cumulative impacts related to a cumulatively considerable net increase in criteria pollutants but not to a less-than-significant level. Although the City finds Mitigation Measures AQ-2.1 through AQ-2.6 feasible, there are no additional feasible mitigation measures that will reduce this impact a less than significant level. Therefore, the City hereby determines that any cumulative impacts related to cumulatively considerable net increases in criteria pollutants during operation and concurrent construction and operation would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: BAAQMD's emissions thresholds represent the daily emissions that a project may generate before contributing to a cumulative impact on regional air quality. Therefore, exceedances of the BAAQMD project-level thresholds would be cumulatively considerable for project activities in the SFBAAB. The Project would exceed established BAAQMD regional construction and

operational mass thresholds, even with mitigation incorporated. Specifically, the Project's construction-generated NO_X emissions, as well as operational ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions, would exceed applicable BAAQMD emissions thresholds before mitigation. With implementation of Mitigation Measure AQ-2.1, which requires the use of clean diesel-powered or electric construction equipment, and Mitigation Measure AQ-2.2, which requires implementation of BAAQMD basic construction mitigation measures to reduce dust emissions, the Project's construction-generated emissions would not exceed applicable BAAQMD emissions thresholds. However, even with implementation of Mitigation Measures AQ-2.3 through 2.6, which require the use of coatings and cleaning supplies with low VOC content, zero-emission landscape equipment, and EPA Tier 4 Final stationary emergency generators, the Project's operational emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$, as well as construction and operational overlap emissions of ROG, NO_X, and PM_{10}, would exceed BAAQMD mass emissions thresholds. Moreover, the use of consumer products and generation of vehicle trips to and from the Project site would represent a large portion of the Project's operational ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions. There are no further mitigation strategies to reduce emissions from these activities. Because the Project would exceed regional thresholds, which are inherently cumulative, the Project, would result in a cumulatively considerable net increase in criteria pollutants for which the Project region is classified as a nonattainment area under an applicable federal or State ambient air quality standard, resulting in a cumulative impact that would be significant and unavoidable with mitigation.

Mitigation Measures: Implement Mitigation Measures AQ-2.1 through AQ-2.6.

Impact C-AQ-3: Cumulative Substantial Pollutant Concentrations.

FINDING: Implementation of Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6, which are hereby adopted and incorporated into the Project, would reduce cumulative impacts related to substantial pollutant concentrations but not to a less-than-significant level. Although the City finds Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6 feasible, there are no additional feasible mitigation measures that will reduce this impact a less than significant level. Therefore, the City hereby determines that any construction or operation impacts related to cumulative substantial pollutant concentrations (health risks and $PM_{2.5}$) remaining after implementation of Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6 would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: The Project, in combination with other foreseeable development in the vicinity, would expose sensitive receptors to substantial pollutant concentrations (health risks and $PM_{2.5}$). Health risks associated with existing stationary, roadway, and railway sources in combination with the Project would exceed BAAQMD cumulative thresholds. Specifically, operational $PM_{2.5}$ concentrations, as well as construction and concurrent construction and operation, would exceed the BAAQMD $PM_{2.5}$ cumulative threshold for several types of receptors (i.e., residential, worker, recreational). No cumulative thresholds would be exceeded at any school receptors. In addition, no cancer or non-cancer risk cumulative thresholds would be exceeded at any receptors. Impacts related to cumulative substantial pollutant concentrations (health risks and $PM_{2.5}$) during construction and operation would be significant. Mitigation Measures AQ-2.1 and AQ-2.2 would reduce DPM and $PM_{2.5}$ concentrations by requiring clean diesel-powered or electric construction equipment and implementing BAAQMD basic construction mitigation measures, respectively. Mitigation Measure AQ-2.6 would reduce DPM and $PM_{2.5}$ concentrations through the use of Tier 4 emergency generators; however, because there is uncertainty regarding the availability of the generators, the analysis reflects the use of Tier 3 emergency generators. In addition, because the Project would generate a relatively large number of daily vehicle trips, the resulting fugitive dust and exhaust emissions from that vehicle travel would cause a correspondingly large increase in $PM_{2.5}$ concentrations. There is no feasible mitigation to reduce $PM_{2.5}$ concentrations because of the nature of the

emissions source (i.e., the large number of privately owned vehicles traveling on public roadways). The Project Sponsor has little control over this type of emissions source. Nonetheless, the Project would reduce demand for motor vehicle travel by promoting transportation efficiency, implementing a TDM plan, and exploring alternative transit methods. Still, the $PM_{2.5}$ concentrations resulting from Project operation, as well as construction and operational overlap, would exceed the BAAQMD $PM_{2.5}$ cumulative threshold, and there are no additional onsite mitigation measures to reduce the number of vehicle trips to and from the site. Thus, health risks and $PM_{2.5}$ concentrations would exceed BAAQMD thresholds after the incorporation of Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6, and no further mitigation is available. Therefore, the cumulative effect of health risks associated with toxic air contaminants (TACs) emitted by the Project in combination with health risks associated with existing TAC sources would result in a cumulatively considerable local health risk at sensitive land uses. This impact would be significant and unavoidable with mitigation.

Mitigation Measures: Implement Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6.

2. Noise

Impact NOI-1: Construction Noise (Daytime Offsite and Nighttime Offsite and Onsite).

FINDING: Implementation of Mitigation Measure NOI-1.1, which is hereby adopted and incorporated into the Project, would reduce impacts but not to a less-than-significant level. Although the City finds Mitigation Measure NOI-1.1 feasible, there are no additional feasible mitigation measures that will reduce this impact a less than significant level. Therefore, the City hereby determines that any impacts related to construction noise would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: During daytime hours, construction activities would temporarily elevate ambient noise levels. The pile-driving subphase would result in the loudest noise levels; therefore, those noise levels are used to evaluate the worst-case impacts that would occur. Other construction activities would also result in elevated noise levels. Although construction activities associated with the Project would not conflict with the City Code, because daytime construction noise is exempt, construction may increase noise at off-site sensitive receptors by more than 10 dB during some activities. Therefore, daytime construction noise could result in a substantial physical effect on the environment at offsite land uses, despite being exempt from regulation by City Code. Daytime construction noise impacts to off-site sensitive receptors would be considered significant. Nighttime construction outside the City's allowed construction hours is subject to the City's exterior noise limits. The Project would generate a substantial temporary increase in ambient noise levels in the vicinity of the Project due to construction activities during nighttime hours in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. Impacts from nighttime construction noise would not be significant at the nearby Hilton Santa Clara because an increase of more than 10 dB over ambient noise would not occur and nighttime construction noise would most likely not exceed the City's exterior noise limits. However, estimated noise levels during nighttime construction would very likely exceed the City's exterior noise limits at onsite and offsite residential receptors. Therefore, construction noise impacts on onsite and offsite uses during nighttime hours would be significant.

Implementation of Mitigation Measure NOI-1.1 would reduce construction noise at offsite land uses as well as onsite land uses by incorporating practices to minimize noise. Mitigation Measure NOI-1.1 is informed by Mitigation Measure 4.14-3 in the *Integrated Final EIR for the City of Santa Clara 2010–2035 General Plan*, which states that property owners should develop construction noise control plans that consider available controls to reduce construction noise levels as much as practical. The precise locations of construction equipment cannot be known at this stage of Project development; therefore, it is not currently possible to indicate the specific timing and physical location requirements for implementing

this measure. The construction noise analysis uses a worst-case scenario analysis, which is simultaneous operation of the three loudest pieces of equipment. It would be speculative to attempt to predict the exact time and location where the worst-case scenario would occur and when the mitigation measure would be necessary. Implementation of this mitigation measure would require development of a noise reduction plan to determine the specific details and components needed to reduce noise. Noise controls may not reduce noise enough in all instances to prevent a noise increase of 10 dB or more relative to ambient noise levels or reduce nighttime construction noise to levels that would comply with City Code noise limits. Therefore, construction noise impacts would be significant and unavoidable with mitigation during daytime hours at off-site sensitive receptors and during nighttime hours at on-site sensitive receptors and off-site residential sensitive receptors.

Mitigation Measure NOI-1.1: Construction Noise Reduction Control Plan. The Project Sponsor and/or contractor(s) shall develop a construction noise control plan to reduce noise levels as much as possible and, to the extent feasible, comply with City Code noise limits, ensuring that a 10 dB increase over the ambient noise level will not occur at offsite and onsite noise-sensitive land uses, as defined by Policy 5.10.6-P6 from the General Plan.

For nighttime construction activities, the plan shall demonstrate that noise from construction activities will comply with the applicable City Code noise limits at the nearest offsite and onsite land uses and that a 10 dB increase over ambient noise levels will not occur at offsite or onsite noise-sensitive land uses. For daytime construction activities, which are exempt from the City Code limits, the plan shall demonstrate that a 10 dB increase over ambient noise levels will not occur. If the plan does not demonstrate these findings, it shall explain why compliance with such noise limits is not feasible and adopt all feasible measures to reduce noise impacts to the extent possible.

The construction noise control plan shall be approved by the City prior to the issuance of building permits for the portion of the Project at issue in the noise control plan to confirm the actual minimization strategies that will be implemented. Project construction shall comply with all identified measures in the noise control plan. In addition, because Project construction would not be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday or 9:00 a.m. to 6:00 p.m. on Saturdays, excluding holidays, the Project Sponsor shall obtain an exemption permit for all activities occurring outside of the exempt hours, per the City Code.

At a minimum, the following measures to reduce noise from construction activity shall be incorporated into the Construction Noise Control Plan:

- Use “quiet” models of air compressors and other stationary noise sources where technology exists;
- Equip all internal-combustion engines with mufflers that are in good condition and appropriate for the equipment;
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent noise-sensitive land uses;
- Locate staging areas and construction material areas as far away as possible from adjacent noise-sensitive land uses;
- Prohibit all unnecessary idling of internal-combustion engines;
- Notify all adjacent land uses of the construction schedule in writing;
- Designate a “disturbance coordinator,” a person who will be responsible for responding to local complaints about construction noise. The disturbance coordinator will determine the cause of the

noise complaint (e.g., starting too early, bad muffler) and require reasonable measures to correct the problem to be implemented;

- Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule; and
- Install noise-reducing soundwalls or fencing with sound blankets around noise-generating equipment, to the extent feasible.

During permit approval, the City may impose additional or alternative noise reduction control measures to further reduce noise levels as much as possible and, to the extent feasible, comply with City Code noise limits. Any such additional or alternative noise reduction measures required by the City shall also be incorporated into the Construction Noise Control Plan.

Impact NOI-3: Ground-borne Vibration and Noise Levels (Daytime Construction Onsite Uses and Offsite Commercial Uses).

FINDING: Implementation of Mitigation Measure NOI-3.1, which is hereby adopted and incorporated into the Project, would reduce impacts related to ground-borne vibration at offsite commercial and onsite uses from daytime construction but not to a less-than-significant level. Although the City finds Mitigation Measure NOI-3.1 feasible, there are no additional feasible mitigation measures that will reduce this impact a less than significant level. Therefore, the City hereby determines that any impacts related to ground-borne vibration and noise levels at offsite commercial and onsite uses from daytime construction would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: Construction of the Project would involve the use of construction equipment that could generate ground-borne vibration. Although commercial and office uses are not always considered sensitive to vibration, vibration-related annoyance impacts on the nearby commercial buildings (approximately 100 feet from the Project site) were evaluated. At a distance of 100 feet, an impact pile driver could produce a PPV of up to 0.190 in/sec. This level is above the identified strongly perceptible level. Therefore, annoyance-related vibration impacts from daytime construction activities on the nearby commercial buildings would be considered significant. In addition, during daytime construction activities, vibration-generating equipment may be operated approximately 100 feet from onsite residential buildings developed as part of the Project. Vibration from daytime construction activities, which could include the use of an impact pile driver, could exceed the strongly perceptible level at the nearest future onsite residences (100 feet from pile driving). Therefore, annoyance-related vibration impacts from daytime construction activities on future onsite residences would be significant. Implementation of Mitigation Measure NOI-3.1 would reduce vibration-related annoyance effects at sensitive uses by requiring implementation of vibration attenuation measures under the supervision of a qualified acoustical consultant. However, because pile drivers are considered more vibration intensive than typical equipment, it cannot be determined if vibration levels would be reduced to below the strongly perceptible threshold in all circumstances. Therefore, annoyance-related vibration impacts could be considered excessive, even with mitigation, during daytime hours. Therefore, vibration-related annoyance impacts at offsite commercial and onsite uses from daytime construction would be significant and unavoidable with mitigation.

Mitigation Measure NOI-3.1: Pile Driving Vibration Reduction Plan. The Project Sponsor and/or contractor(s) shall develop a construction Vibration Reduction Plan to reduce vibration levels to the extent feasible. This plan shall be approved by the City prior to the issuance of building permits to confirm the actual minimization strategies that will be implemented. To reduce vibration levels from pile driving, alternative pile installation methods, such as those indicated below, shall be implemented

under the supervision of a qualified acoustical consultant during the Project construction period. The goal of the measures shall be to achieve a PPV that is less than 0.10 in/sec., which is considered the strongly perceptible threshold.

The Project Sponsor shall require the construction contractor to limit pile-driving activity so that the PPV at offsite uses is less than 0.10 in/sec, to the extent feasible. Alternative pile installation methods that do not require impact or vibratory pile driving, such as auger cast pressure-grouted displacement piles, cast-in-drilled-hole piles, or sonic pile drivers, shall be utilized where feasible.

The Project Sponsor shall also ensure that the construction contractor appoints a coordinator who will serve as the point of contact for vibration-related complaints during Project construction. Contact information for the coordinator shall be posted at the Project site and on a publicly available Project website. The coordinator shall work with the construction team to adjust activities if complaints are received, to the extent feasible, or reschedule activities for a less sensitive time. The coordinator shall notify the City of all vibration-related complaints and actions taken to address the complaints.

Impact C-NOI-1: **Cumulative Construction Noise.**

FINDING: Implementation of Mitigation Measure NOI-1.1, which is hereby adopted and incorporated into the Project, would reduce impacts related to cumulative construction noise but not to a less-than-significant level. Although the City finds Mitigation Measure NOI-1.1 feasible, there are no additional feasible mitigation measures that will reduce this impact a less than significant level. Therefore, the City hereby determines that any impacts related to cumulative construction noise would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: The Project, in combination with other foreseeable development in the vicinity, would generate a substantial temporary increase in ambient noise levels due to construction activities in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. Future or approved projects in proximity to the Project site could undergo construction concurrently with the Project, resulting in significant noise-level increases and an increased number of people exposed to construction noise. Construction noise from the Project and other cumulative projects could exceed the City's exterior noise limits at sensitive land uses or result in a 10 dB or greater increase over the ambient noise level. Therefore, cumulative construction noise impacts would be considered significant. Implementation of Mitigation Measure NOI-1.1 would reduce construction noise levels by incorporating practices to minimize noise and ensuring that Project construction activities would comply with the City Code provisions pertaining to construction noise. However, the noise controls may not reduce noise enough in all instances to prevent a noise increase of 10 dB or more relative to ambient noise levels or reduce nighttime construction noise to a level that would be in compliance with City Code noise limits. Although mitigation would be implemented for the Project to reduce construction noise impacts, project-level construction noise impacts for the Project were determined to be significant and unavoidable. Because Project construction noise could exceed the City's exterior noise limits at sensitive land uses or result in a 10 dB or greater increase over the ambient noise level, resulting in a significant impact on its own due to the inability to mitigate the impact to less than significant, the Project's contribution to this cumulative impact would be cumulatively considerable. The cumulative impact would occur at onsite receptor locations and the future residential uses at the site for the Patrick Henry Specific Plan. Thus, this cumulative impact would be significant and unavoidable with mitigation.

Mitigation Measure: Implement Mitigation Measure NOI-1.1.

Impact C-NOI-3: Cumulative Ground-borne Vibration and Noise Levels (Construction).

FINDING: Implementation of Mitigation Measure NOI-3.1, which is hereby adopted and incorporated into the Project, would reduce cumulative impacts related to ground-borne vibration during construction but not to a less-than-significant level. Although the City finds Mitigation Measure NOI-3.1 feasible, there are no additional feasible mitigation measures that will reduce this impact a less than significant level. Therefore, the City hereby determines that any impacts related to cumulative ground-borne vibration and noise levels during construction would be significant and unavoidable.

FACTS IN SUPPORT OF FINDING: The Project, in combination with other foreseeable development in the vicinity, would generate excessive ground-borne vibration or ground-borne noise levels. In general, vibration from multiple construction sites, even if they are close to one another, would not combine to raise the maximum PPV level at sensitive uses. For this reason, a significant cumulative impact from construction vibration from multiple construction projects near one another (or even adjacent to one another) would not occur. . However, the Patrick Henry Specific Plan would construct new residential units, which would result in vibration-sensitive land uses being located approximately 100 feet from the southern border on the Project site. Although there are currently no sensitive land uses in this area, the land uses and occupants would very likely be present during construction. At a distance of 100 feet, pile driving would generate vibration that would be above the level considered strongly perceptible. In addition, although no structural damage would occur, pile driving would generate substantial vibration, affecting future occupants on the site for the Patrick Henry Specific Plan. Mitigation Measure NOI-3.1 would be implemented to minimize this cumulative impact as well as the Project impact; however, it cannot be determined whether vibration levels would be reduced to a level below the strongly perceptible threshold in all circumstances. For this reason, cumulative vibration impacts from construction would be significant and unavoidable with mitigation.

Mitigation Measure: Implement Mitigation Measure NOI-3.1.

V. Findings Regarding Alternatives

CEQA requires the lead agency to consider a reasonable range of alternatives, "which would feasibly attain most of the" project objectives but "substantially lessen" or "avoid" significant environmental impacts that would otherwise occur (State CEQA Guidelines Sections 15126.6). The concept of "feasibility" encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project (see *City of Del Mar, supra* , 133 Cal. App. 3d at 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]; and *CNPS, supra*, 177 Cal. App. 4th at 1001 ["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*], Section 17.30, p. 825); In re *Bay-Delta*, 43 Cal. 4th 1143, 1165-66 ("[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; *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*, Section 17.29, p. 824]; and *San Diego Citizenry Group v. County of San Diego* [2013]. 219 Cal. App. 4th 1, 17.)

A. Alternatives Considered and Rejected

The following alternatives were considered but rejected as infeasible during the scoping process:

- **Alternative Site Locations.** Other than the Project site, there are no comparable large areas of land within the city where the Project could be relocated so as to meet the Project's objectives. The Project site is uniquely located because it is in proximity to Levi's Stadium, the Santa Clara Convention Center, and Great America Amusement Park and well served by public transit. It is unlikely that relocating Project uses to a different site would avoid or substantially lessen any of the significant environmental impacts of the Project at its proposed location because the impacts associated with increased vehicle trips (e.g., air quality and GHG impacts) are likely to be similar anywhere in the Bay Area. Other sites could result in potentially more severe trip-related impacts if the sites are not in an areas that are well served by transit options like the Project site. Thus, an offsite alternative would be infeasible because it would not attain most of the basic Project objectives and would not substantially reduce the Project impacts. Therefore, because issues related to site suitability, economic viability, acquisition and control, and inconsistency with Project objectives, consideration of an alternative site for the Project has been rejected.

- **Proposed 2018 Project.** In 2018, the Project Sponsor proposed to construct a similar project on the Project site. In total, the Proposed 2018 Project would include up to 10.61 million gsf of uses. After extensive community outreach, the Project Sponsor voluntarily withdrew the Proposed 2018 Project as infeasible; therefore, this alternative has been rejected.

- **Alternative Development Scenario – Greater Reductions in Intensity.** Reductions greater than 30 percent in the development intensity of the Project were evaluated as an alternative and determined to be economically infeasible due to the baseline costs associated with developing the site, including land cost and infrastructure costs, as well as costs associated with providing the proposed community benefits. Therefore, alternatives with greater reductions in development intensity have been rejected.

- **Alternative Development Scenario – Residential and Open Space Only.** A Residential and Open Space Only Alternative (Residential-Only Alternative) would consist of development of residential and open space uses only on the Project site. Although the Residential-Only Alternative would reduce impacts related to commercial employees, this alternative would still require a similar amount of construction and, therefore, would not eliminate all of the significant and unavoidable impacts related to air quality and noise. In addition, the Residential-Only Alternative would not satisfy most of the basic Project objectives. Since the Residential-Only Alternative would not provide a variety of uses, the objective to reduce VMT through mixed-use development would not be met. This alternative would limit the site's economic potential and local and regional growth by not including a range of development, such as office and retail uses. The Residential-Only Alternative would be inconsistent with City policies related to mixed-use development, reduced transportation impacts, and commercial development. Therefore, because the Residential-Only Alternative would not significantly reduce potential impacts, would be inconsistent with existing zoning, and would not meet the majority of Project objectives, this alternative has been rejected.

B. Alternatives Studied in the EIR

Pursuant to the CEQA sections, Chapter 5 of the EIR identifies and evaluates the following alternatives to the Project:

- **No Project Alternative**: The No Project Alternative is provided in the EIR to compare the impacts of the Project with what would be reasonably expected to occur in the foreseeable future if the Project were not approved (State CEQA Guidelines Section 15126.6[e][1]). Under the No Project Alternative, no additional construction would occur at the Project site. The existing 142,050 gsf of light industrial buildings would be occupied with tenants permitted under the existing zoning. The onsite features associated with the buildings would also remain. The existing paved surface parking lot south of Democracy Way, with approximately 5,081 parking spaces, would continue to operate as it does currently (i.e., primarily temporary parking for events at Levi's Stadium, which uses 3,300 parking spaces; the rest of the parking spaces would continue to be used by Amazon as drivers' training grounds).

- **Code Compliant Alternative:** The Code Compliant Alternative, the second No Project Alternative, is based on what would be reasonably expected to occur in the foreseeable future if the Project were not approved and development continued to occur in accordance with the City's General Plan and Zoning Code consistent with available infrastructure and community services. Under the Code Complaint Alternative, the Project would be implemented subsequent to the City's Zoning Code update and would not include housing. After the City's Zoning Code update, the Project site would be designated as High-Intensity Office/R&D in the City's General Plan. This designation allows for "high-rise or campus-like developments for corporate headquarters, R&D, and supporting uses, with landscaped areas for employee activities." Permitted uses include offices and prototype R&D uses with a maximum floor area ratio (FAR) of 2.00. Therefore, the Project site could be developed with up to approximately 4.2 million gsf of office/R&D space. The City's Zoning Code currently designates the Project site as ML. However, with incorporation of the City's Zoning Code update, the Project site will be rezoned as High-Intensity Office/R&D (HO-RD).

- **Reduced Scale Alternative:** The Reduced Scale Alternative would reduce development on the Project site by 30 percent proportionately compared to the Project. This alternative would result in up to 3,440,000 gsf of new development, including approximately 1,260,000 gsf of residential uses (up to 1,260 units) and approximately 2,180,000 gsf of office/R&D space, along with neighborhood retail uses, facilities, and community space. In addition, the amount of publicly accessible open space and private open space would also be reduced by 30 percent, resulting in approximately 7 acres of public parkland, 4 acres of publicly accessible open space, and 7 acres of other private open space for residential and office uses. Likewise, the number of parking spaces included as part of this alternative would be reduced to 6,300 spaces.

- **Reduced Office/Increased Housing Alternative:** Under the Reduced Office/Increased Housing Alternative, the overall office square footage would be reduced and the overall number of housing units would increase. This would be accomplished by removing all 789,000 gsf of office/R&D space in Area C and replacing it with 800 multifamily housing units. The substation would be relocated to Area B. The retail uses, amenities, open space, and substation in Area C would all remain the same as under the Project. In addition, all other land use and development assumptions for Areas A, B, and D would remain the same as under the Project. Thus, the Reduced Office/Increased Housing Alternative would result in up to 4,913,000 gsf of new development, including up to 2,600 housing units, approximately 2,211,000 gsf of office/R&D space, approximately 100,000 gsf of

neighborhood retail uses, and approximately 10,000 gsf of childcare facilities, along with 3,000 gsf of community space.

- **Construction Sequence Alternatives:** The Construction Sequence Alternatives were developed to modify the order in which the four areas of the Project could be constructed. The Construction Sequence Alternatives include:
    - Simultaneous project construction,
    - No overlapping construction,
    - Residential uses constructed first, and
    - Residential uses constructed last.

    All other Project characteristics and assumptions would remain the same under each Construction Sequence Alternative as under the Project, including total development potential, types of land uses, parking, open space, access, and circulation.

C. Environmentally Superior Alternative

Public Resources Code Section 21002 requires lead agencies to adopt feasible mitigation measures or feasible alternatives to "avoid or substantially lessen" a project's significant adverse environmental effects, unless specific economic, social, or other conditions make such mitigation measures or alternatives infeasible. (See also CEQA Guidelines Sections 15091[a][3], [c] [requiring the lead agency to make findings identifying specific economic, legal, social, technological, or other consideratins that make adoption of identified alternatives infeasible]). CEQA also requires an environmentally superior alternative to be identified among the alternatives analyzed. In general, the environmentally superior alternative is the alternative that avoids or substantially lessens some or all of the significant and unavoidable impacts of a proposed project (State CEQA Guidelines Section 15126.6).

On the basis of comparing the extent to which the alternatives would reduce or avoid the significant impacts of the Project, the No Project Alternative would be the environmentally superior alternative. However, if the No Project Alternative is the environmentally superior alternative, CEQA requires the EIR to also specify which of the build alternatives would be environmentally superior (State CEQA Guidelines Section 15126.6[e][2]). The following factors 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.

The Reduced Scale Alternative is the environmentally superior alternative because the alternative would have fewer construction and operational impacts than the other alternatives. The Reduced Scale Alternative would have less gross square footage for development (3.44 million gsf) compared to the other alternatives as well as the Project, which would reduce the construction effort and overall construction-period impacts related to air quality, GHG emissions, noise, and energy. Compared to the Project, the Reduced Scale Alternative would result in 30 percent fewer residential uses (approximately 2,709 new residents in 1,260 units) and 30 percent fewer employees (approximately 8,796 net new employees at the Project site but 1,615 fewer employees compared to the assumptions in the General Plan). Therefore, operational impacts related to residents and employees, such as the demand related to public services and utilities, the jobs/housing imbalance, and population growth, would also be reduced. Although gross square footage would be less, construction-period disturbance impacts associated with

cultural resources, tribal cultural resources, erosion, and water quality would most likely be similar to those of the other alternatives and the Project. The Reduced Scale Alternative would result in fewer daily trips compared to the other alternatives and the Project and thus lower overall operational air quality, GHG, and traffic noise impacts. There are no resource areas for which the Reduced Scale Alternative would have greater impacts than the other alternatives or the Project. However, the Reduced Scale Alternative would generally result in the same impact conclusions (i.e., less than significant, less than significant with mitigation, significant and unavoidable) as the Project. Most notably, although the significant and unavoidable impacts of the Project would be slightly less under this alternative, none of these impacts would be reduced to less than significant under the Reduced Scale Alternative.

The Reduced Scale Alternative would reduce air quality impacts related to operational criteria air pollutant emissions, exposure of sensitive receptors to CO hot-spots, and construction and operational TAC emissions compared to the Project. However, the impact conclusions of the Reduced Scale Alternative would remain the same as the Project, significant and unavoidable with mitigation for operational criteria air pollutant emissions and construction and operational TAC emissions, and less than significant for exposure of sensitive receptors to CO hot-spots. Because it would have fewer construction and operational impacts than the other alternatives, the Reduced Scale Alternative is the environmentally superior alternative.

The Reduced Scale Alternative would also meet the majority of the Project objectives but to a lesser extent than the Project because of a reduction in floor area. As detailed above, the Reduced Scale Alternative would reduce the proposed development at the Project site by 30 percent but would still include a variety of uses, including residential, office/R&D, neighborhood retail, childcare, and community uses. Therefore, similar to the Project, the Reduced Scale Alternative would meet the primary objective of supporting the City's planning efforts by converting an underutilized single-use site to a high-intensity mixed-use development with a range of building types. Because mixed-use buildings would be constructed, the objective of providing a mix of residential, commercial, retail, and community uses would be met, although to a lesser extent than under the Project. The Reduced Scale Alternative would also provide housing at a similar ratio. Therefore, Santa Clara's housing supply would be broadened, and the City's Affordable Housing Ordinance and Inclusionary Zoning requirements would be met. Since the Reduced Scale Alternative would develop the site with a variety of uses, this alternative would facilitate ridership of multimodal transportation, minimize vehicular infrastructure, and provide sufficient and flexible parking for current and future demands. The Reduced Scale Alternative would also support local, regional, and State mobility and GHG reduction objectives to reduce VMT and infrastructure costs through infill and mixed-use development in an existing urbanized and transit-rich area. Under the Reduced Scale Alternative, the Project site would be developed with public and private open spaces and interconnected pedestrian pathways, similar to the Project, but at a proportionately reduced amount. Therefore, this alternative would meet the objective of promoting an active pedestrian realm with public and private open spaces, with flexible programming, but to a lesser extent than the Project. Community benefits, including public open space, childcare facilities, community space, and upgraded utility infrastructure, would be provided but to a lesser extent than the Project. The Reduced Scale Alternative would generate additional tax revenue for the City but to a lesser extent than the Project. This alternative is likely to allow flexibility, based on market demand, because the Reduced Scale Alternative could be built out in any order to respond to the market. The alternative would also create permanent and construction-related jobs, although to a lesser extent due to the reduction in development. In addition, Democracy Way would be privatized under this alternative to allow this street to be more utilized than under existing conditions, and utility infrastructure would be upgraded.

In light of the land cost, upfront cost from utility and infrastructure relocation and excavation for underground parking, and the reduced amount of revenue-generating development, it is unlikely that the Reduced Scale Alternative would be economically feasible. The Reduced Scale Alternative would result in a 43% increase in the land, utility, and infrastructure costs that each square foot of revenue generating development must bear, which materially reduces the already-constrained feasibility of the Project. Therefore, the Reduced Scale Alternative would meet some but not all of the basic Project objectives—many to a lesser extent.

Therefore, although the Reduced Scale 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 Scale Alternative is not feasible for the following specific economic, social, environmental, technological, legal or other considerations:

- The Reduced Scale Alternative would generally result in the same impact conclusions (i.e., less than significant, less than significant with mitigation, significant and unavoidable) as the Project and the significant and unavoidable impacts of the Project would be slightly less under this alternative, but none of the significant and unavoidable impacts would be reduced to less than significant under the Reduced Scale Alternative.
- The Reduced Scale Alternative would not meet all of the Project objectives because although the alternative would provide a mix of uses, the reduction in scale would impact the Project's ability to meet the City's objective to "Develop a model for urban growth that maximizes the Project site's economic, cultural, and ecological potential."
- The Reduced Scale Alternative would reduce the amount of potential housing in the Project, which would not further important state or City housing policies, including the City's Housing Element Goals and Policies.
- Based on current and reasonably foreseeable market conditions, the Reduced Scale Alternative not economically feasible in light of the significant baseline costs associated with redeveloping the site, including land cost, infrastructure costs (e.g. vacation of Democracy Way and related utility relocations), the high cost of site excavation and underground parking), as well as the costs associated with meeting the City's development fees and exactions, and providing the additional proposed community benefits (e.g. public park dedication, substation land and development, childcare, and circulation improvements).

D. Other Alternatives

While the Reduced Scale Alternative would be the Environmentally Superior Alternative, the other alternatives have been rejected as environmentally superior for the following reasons.

- **No Project Alternative.** The No Project Alternative would result in either no impacts or less-than-significant impacts due to the limited amount of construction and operation that would occur at the Project site. However, the No Project Alternative would not meet the primary objective of supporting the City's planning efforts by converting an underutilized single-use site to a vibrant pedestrian-oriented high-intensity mixed-use development. The No Project Alternative would not promote the objective of supporting local, regional, and State mobility and GHG reduction objectives through infill development in transit-rich areas. None of the Project

objectives would be met and, therefore, the No Project Alternative would not be the Environmentally Superior Alternative.

- **Code Compliant Alternative.** The Code Compliant Alternative would result in several impacts that would be greater than the Project. Conflicts with adopted City land use plans and policies regarding the job/housing ratio and cumulative land use impacts would be significant and unavoidable under the Code Compliant Alternative, compared to no impact and less than significant under the Project and all other alternatives. Impacts related to operational criteria air pollutant emissions would also be significant and unavoidable under the Code Compliant Alternative, to a greater extent than the significant and unavoidable impacts under the Project and the other alternatives. In addition, impacts related to population growth and cumulative population and housing impacts would be significant and unavoidable under the Code Compliant Alternative, compared to less than significant under the Project and the other alternatives. Therefore, the Code Compliant Alternative would not be the Environmentally Superior Alternative.

- **Reduced Office/Increased Housing Alternative.** The Reduced Office/Increased Housing Alternative would generally result in the same impact conclusions (i.e., less than significant, less than significant with mitigation, significant and unavoidable) as the Project. The significant and unavoidable impacts of the Project would be slightly less under this alternative, but none of the significant and unavoidable impacts would be reduced to less than significant under the Reduced Office/Increased Housing Alternative. The Reduced Office/Increased Housing would reduce air quality impacts related to operational criteria air pollutant emissions, exposure of sensitive receptors to CO hot-spots, and construction and operational TAC emissions compared to the Project. However, the impact conclusions of the Reduced Office/Increased Housing Alternative would remain the same as the Project, significant and unavoidable with mitigation for operational criteria air pollutant emissions and construction and operational TAC emissions, and less than significant for exposure of sensitive receptors to CO hot-spots. Although Reduced Office/Increased Housing Alternative would have fewer construction and operational impacts than the Project, the Reduced Scale Alternative would result in slightly fewer impacts than this alternative. Therefore, the Reduced Office/Increased Housing Alternative would not be the Environmentally Superior Alternative.

- **Construction Sequence Alternatives.** In general, the Construction Sequence Alternatives would result in similar impacts as the Project. However, the No Overlapping Construction Alternative would result in fewer construction criteria air pollutant emissions than the Project, but would require the same mitigation measures to reduce these impacts to less than significant. The other three Construction Sequence Alternatives (Simultaneous Project Construction Alternative, Residential Uses Constructed First Alternative, and Residential Uses Constructed Last Alternative) would result in greater construction criteria air pollutant emissions than the Project. While impacts would be less than significant with mitigation under the Project, these three Construction Sequence Alternatives would result in significant and unavoidable construction criteria air pollutant emissions impacts. All Construction Sequence Alternatives would result in construction and operational TAC emissions that would be similar or less than the Project. Regardless, the alternatives would not reduce the impact conclusions compared to the Project, also resulting in significant and unavoidable impacts. In addition, the significant and unavoidable construction noise under the Project would be greater under the Residential Uses Constructed First Alternative. All other impacts under the Construction Sequence Alternatives would be

similar to the Project. Therefore, the Construction Sequence Alternatives would not be the Environmentally Superior Alternative.

VI. Findings Regarding Growth-Inducing Impacts of the Project

Under State CEQA Guidelines Section 15126.2(d) a project is growth inducing if it could "foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment."

Growth can be induced in a number of ways, including through the elimination of obstacles to growth; through the stimulation of economic activity within the region, including the generation of significant employment opportunities; or through precedent-setting action. CEQA requires a discussion of how a project could increase the population, employment, or housing in areas surrounding a project as well as an analysis of the infrastructure and planning changes that would be necessary to implement the project.

The Project's projected office-/R&D-related jobs (and 3 million gsf of office/R&D space) were accounted for in the General Plan and, thus, factored into Plan Bay Area 2040. However, the proposed 100,000 gsf for neighborhood retail uses, 10,000 gsf for childcare facilities, and up to 1,800 new multifamily residential units were not accounted for in the General Plan or Plan Bay Area 2040. The Project's 1,800 residential units are also not accounted for in the General Plan Housing Element; the additional units would further offset demand for new housing in the city and region. It is not anticipated that the Project would induce further growth in the city or region that is not accounted for in the General Plan and/or Plan Bay Area.

An electric substation is proposed onsite to meet the anticipated energy demand of the Project. The substation would be located on the east side of the Project site. The substation is currently proposed to serve the Project site only, although it could include the capacity needed to serve adjacent planned developments as well if desired. If additional capacity were included, it could facilitate development in the immediate area; however, this growth would be in line with what is anticipated under the General Plan and Plan Bay Area. The additional capacity would have the potential to influence developers with respect to where they choose to develop, without affecting the overall amount of development within the city.

The Project is an infill development within an already-developed area of the city, and the employment growth under the Project is largely accounted for in the General Plan as well as regional growth plans, such as Association of Bay Area Governments (ABAG) projections. The Project would increase the supply of housing in the city by providing 1,800 new housing units. Although the Project would generate 544 employees beyond what was assumed for the site under the General Plan, the indirect regional housing demand generated by these additional employees would constitute approximately 0.07 percent of household growth expected in the Bay Area between 2025 and 2040, which is minimal. Because the Project would construct housing, anticipated housing demand in the city could be accommodated in the city, and the level on unanticipated housing demand in the region would be small. The Project, therefore, is not anticipated to induce further growth beyond than anticipated in the General Plan or Plan Bay Area.

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 State 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. (State Guidelines Section 15088.5.) 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." (State CEQA Guidelines § 15088.5(a).) "'Significant new information' requiring recirculation includes, for example, a disclosure showing that:

(1) A new significant environmental impact would result from a 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." (State CEQA Guidelines, Section 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." State CEQA Guidelines § 15088.5(b). 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 (Responses to Comments), some suggestions were not appropriate or feasible. 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). As the court stated in *Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn.*:

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 ([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 the discussion included in, the Final EIR involves "significant new information" that would trigger recirculation because the changes would not result in any new significant environmental effects, a 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 or amendments to the EIR 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 represents the kinds of common changes that occur and supplemental information that is received during the environmental review process as it works toward its conclusion. Under such circumstances, the City Council hereby finds that recirculation of the EIR is not required.

VIII. 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 the independent judgment of the lead agency.

IX. 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. CEQA Section 21081(b); State CEQA Guidelines Section 15093.

Section 15093 of the State CEQA Guidelines provides the following:

> CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental 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, including region-wide and statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

As discussed in detail in the EIR and summarized in Section IV, above, the Project would result in four significant unavoidable impacts related to air quality and noise, despite the City adopting and incorporating mitigation into the Project. Specifically, the Project would have significant and unavoidable impacts related to the following:

- Cumulatively Considerable Net Increase in Criteria Pollutants (project-level and cumulative)
- Substantial Pollutant Concentrations (project-level and cumulative)
- Construction Noise (project-level and cumulative)
- Ground-borne Vibration and Noise Levels (project-level and cumulative)

The City identified a potentially feasible alternative (the Reduced Scale Alternative) that would result in the reduction of some of the Project's impacts. The Reduced Scale Alternative would have less gross square footage for development (3.44 million gsf) compared to the other alternatives as well as the Project, which would reduce the construction effort and overall construction-period impacts related to air quality, GHG emissions, noise, and energy. Compared to the Project, the Reduced Scale

Alternative would result in 30 percent fewer residential uses (approximately 2,709 new residents in 1,260 units) and 30 percent fewer employees (approximately 8,796 net new employees at the Project site but 1,615 fewer employees compared to the assumptions in the General Plan). Therefore, operational impacts related to residents and employees, such as the demand related to public services and utilities, the jobs/housing imbalance, and population growth, would also be reduced. Although gross square footage would be less, construction-period disturbance impacts associated with cultural resources, tribal cultural resources, erosion, and water quality would most likely be similar to those of the other alternatives and the Project. The Reduced Scale Alternative would result in fewer daily trips compared to the other alternatives and the Project and thus lower overall operational air quality, GHG, and traffic noise impacts. There are no resource areas for which the Reduced Scale Alternative would have greater impacts than the other alternatives or the Project. However, the Reduced Scale Alternative would generally result in the same impact conclusions (i.e., less than significant, less than significant with mitigation, significant and unavoidable) as the Project. Most notably, although the significant and unavoidable impacts of the Project would be slightly less under this alternative, none of these impacts would be reduced to less than significant under the Reduced Scale Alternative.

Specifically, the Reduced Scale Alternative would reduce air quality impacts related to operational criteria air pollutant emissions, exposure of sensitive receptors to carbon monoxide (CO) hot-spots, construction and operational TAC emissions, and cumulative health risks, compared to the Project. However, the impact conclusions of the Reduced Scale Alternative would remain the same as the Project, significant and unavoidable with mitigation for operational criteria air pollutant emissions and construction and operational TAC emissions, and less than significant for exposure of sensitive receptors to CO hot-spots. In addition, the Reduced Scale Alternative would result in similar significant and unavoidable cumulative criteria pollutant impacts as the Project. The Reduced Scale Alternative would also result in similar significant and unavoidable noise impacts as the Project related to construction noise, ground-borne vibration and noise levels, and cumulative construction noise and cumulative vibration effects. Therefore, although impacts would be slightly reduced or similar to the Project, the impact conclusions under the Reduced Scale Alternative would remain the same.

Furthermore, although the Reduced Scale 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 Scale Alternative 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.

A. 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 Project. Those reasons are as follows:

- The City finds that each of the specific economic, legal, social, technological, environmental, and other considerations, as well as the benefits of the Project separately and

independently, outweighs the remaining significant adverse impacts that are unavoidable or not mitigated to below a level of significance after mitigation and is an overriding consideration independently warranting approval.

The remaining significant adverse impacts that are unavoidable or not mitigated to below a level of significance after mitigation identified above are acceptable in light of each of the benefits of the Project, as identified below. These benefits and considerations are based on the facts set forth in the Findings, the Final EIR (including, without limitation, the response to comments and appendices and attachments thereto), and the record of the proceedings for the Project. The City finds that substantial evidence in the record supports the determination made in this Statement of Overriding Considerations, that the facts stated are supported by substantial evidence in the record, including comments received at the Planning Commission and City Council hearings, the staff reports and presentations, and all materials in the project files. To the extent that other evidence was presented that is contrary to the determinations made in this Statement of Overriding Considerations or in the Findings, such evidence was considered, weighed, and determined to be insufficient in weight or credibility to detract from the determinations made herein or in the Findings such that the City reached these determinations after due consideration of all evidence presented to it. Each of these benefits and considerations is a separate and independent basis that justifies approval of the Project, so that if a court were to set aside the determination that any particular benefit or consideration will occur and justifies project approval, the City determines that it would stand by its determination that the remaining benefit(s) or consideration(s) is or are sufficient to warrant project approval.

Facts in Support of Statement of Overriding Considerations

Each benefit set forth below constitutes an overriding consideration warranting approval of the Project, independent of the other benefits, and the City determines that the adverse environmental impacts of the Project are "acceptable" if any one of these benefits will be realized. The Project will provide benefits to the City of Santa Clara as follows:

1. Provides Economic Benefits and Jobs to the City of Santa Clara.

The Project would develop a model for urban growth that maximizes the Project site's economic, cultural, and ecological potential; generates tax revenue for the City; and creates permanent and construction-related jobs. At buildout, the Project is expected to annually generate revenue to the City's General Fund from property taxes, sales and use taxes, franchise fees, permits and licenses, document transfer taxes, business license taxes, and other governmental revenues that more than offset the annual cost of re-occurring public services to the Project, representing an estimated annual net benefit to the General Fund of more than $4 million.[15]

Additionally, the Project is estimated to create permanent onsite jobs, related to the development of up to 3 million gross square feet ("gsf") of office/research and development space, 100,000 gsf of neighborhood retail space, and supportive jobs related to the operation and management of the up to 1,800 residential units. The Project is also expected to create approximately 400 onsite construction worker jobs, with many construction jobs extending over the project buildout period. The Development Agreement for the Project obligates persons and entities providing materials to be used in connection with the construction and development of the Project to designate the Property as the place of use of materials used in the construction of the Project and the place of sale of all fixtures installed in and/or furnished in order to

[15] Keyser Marston Associates. 2024. *Memorandum: Mission Point Project, Fiscal Impact Analysis Peer Review* ("KMA Applicant FIA Peer Review Memorandum"). September 18, 2024, at 2.

have the local portion of the sales and use tax distributed directly to the City instead of through the county-wide pool. This designation will result in significant additional revenue to the City generated throughout the Project's buildout with an estimated value of up to $10 million.[16]

2. Accommodates Regional Housing Needs

Over its projected buildout period, the Project proposes to construct up to 1,800 new dwelling units. The Project will provide fifteen percent (15%) of the residential units constructed as deed restricted affordable units with a maximum average Area Median Income ("AMI") of eighty percent (80%) to be maintained as the Project builds out (i.e. by sub-phase). The maximum rental qualifying income level is one hundred percent (100%) AMI and the maximum for-sale qualifying income level is one hundred twenty percent (120%) AMI. The Project's affordability will provide a deeper level of affordability than the City's inclusionary housing ordinance requires, which provides for a maximum average AMI of 100% for rental and ownership projects.[17] The Project will meet all requirements of the City's existing affordable housing ordinance with respect to general requirements for affordable units.[18] In addition to providing affordable housing and meeting the City's inclusionary and affordable housing fee requirements, which is valued at approximately $104 million, the Project's increased affordability is valued at up to $46 million.[19]

The Project would broaden the housing supply and business opportunities in North Santa Clara through development of a human-centric, interconnected urban neighborhood that provides a diverse and complementary mix of residential, commercial, retail, and community space. The City's Housing Element states that 11,632 new housing units are needed to meet the City's Regional Housing Needs Allocation ("RHNA") between 2023 and 2031.[20] The Project's addition of residential to an area that currently does not allow housing will help meet the City's RHNA and projected future housing needs. The Project proposes to convert an underutilized, single-use 48.6-acre site into a pedestrian-oriented, high-intensity and very high-density mixed-use development that is sustainable and inclusive by design, with a range of building types, enriching connections between people, places, and open space. The proposed housing would be accommodated onsite by developing the up to 3 million gsf of office/research and development uses that have already been assumed in the City's General Plan and RHNA assumptions on a smaller portion of the property, providing for multifamily housing (including affordable housing) that is unaccounted for in the City's Housing Element and RHNA, public and private parks and open space, neighborhood-serving services and retail, and community amenity space.

3. Enhances Public Access, Multimodal Transportation, and Recreational Opportunities.

The Project would promote and support local, regional, and state mobility and greenhouse gas emissions reduction objectives to reduce vehicle miles traveled ("VMT") through infill and mixed-use development in an existing urbanized and transit-rich area. Ridership of multimodal transportation would be facilitated through the Project's minimization of vehicular infrastructure, implementation of a transportation demand management plan, and promotion of an active pedestrian realm, while providing efficient access to sufficient and flexible parking that meets current and future demand. In addition, it is anticipated that

[16] Keyser Marston Associates. 2024. *Memorandum: Mission Point Project Community Benefits Valuation* ("KMA Community Benefits Memorandum"). September 19, 2024.
[17] City of Santa Clara Municipal Code ("SCMC") §§ 17.40.080(a), 17.40.090.
[18] SCMC § 17.40.050.
[19] KMA Community Benefits Memorandum, at 5, 14.
[20] City of Santa Clara, 2023-2031 Housing Element, (adopted May 7, 2024), at 13.4-27, https://www.santaclaraca.gov/home/showpublisheddocument/84098/638531119242400000.

onsite construction workers would most likely be drawn from the existing and future labor market in the city and county, limiting VMT as well as impacts to city services from the Project's construction workforce as the workers are included within the service population.

The Project's new public parkland and new multi-use trail would provide recreational and pedestrian oriented connectivity in an area planned for increased residential use that currently has little local public or private parkland. Because the Project site is zoned for commercial use, which does not include a requirement for parkland, the Project's proposed multi-use trail and public parkland would facilitate regional recreational connectivity that would otherwise not be provided. The Project would provide abundant and varied onsite recreational amenities, including continuous access to at-grade, podium-level, and rooftop public and private open space with flexible programming in accordance with the City's park ordinance. The Project has committed to maintain the public parkland and multi-use trail for 40 years, which is valued at up to $10.6 million.[21]

4. Promotes Community, Public Art and Education.

The Project includes childcare facilities valued at $1 million, a grocery store providing an estimated $6 million in community benefit, and up to $5 million of outward-facing arts and cultural programming or feature(s) within the public realm, with features located within parks and/or on private property visible to the public.[22] Examples of arts programming include sculpture, murals and art designed for screening, performing arts programming, exhibition or performance spaces, and functional art such as benches and bike racks. Programming of the funds is subject to review and approval by the Santa Clara Cultural Commission. The Project has also committed to provide up to $3 million toward improvements at the Mission College and Great America intersection.[23] An additional maximum payment of $3.5 million would be provided to the City for the purchase of a fire engine and a tractor drawn areal apparatus.[24] All together the Project would provide up to $88.7 million in community benefits, including the increased affordable housing plan and parkland maintenance agreement described in sections 2 and 3 above and the benefits described in this section.[25] In addition to these community benefits, residential units onsite would generate an approximately $12.4 million annual net fiscal benefit to the Santa Clara Unified School District, promoting educational services within the community.[26]

5. Provides Sustainable Infrastructure and Energy Improvements.

Compared to a lower-density project, the proposed density at the Project site would serve to reduce the physical footprint required for the same number of people to live, socialize, and work, thereby decreasing the land, water, and energy required per capita. By mixing residential, commercial, retail, and childcare, the Project would provide centralized amenities to reduce the time, distance, and environmental impacts associated with traveling to offsite locations. In addition, the Project site is adjacent to current and future transit lines and bicycle corridors, which are connected to the surrounding community, facilitating multimodal transportation. The Project would convert much of the current hardscape into open spaces, urban nature areas, recreation fields, gardens, plazas, and streetscapes that promote stormwater management and habitat restoration and use recycled water for irrigation and landscaping.

[21] KMA Community Benefits Memorandum, at 2, 6.
[22] *Id.*, at 2, 4, 9.
[23] KMA Community Benefits Memorandum, at 2-3.
[24] *Id.* at 2.
[25] *Id.*, at 2.
[26] KMA Applicant FIA Peer Review Memorandum, at 2.

In addition to an estimated total of $6.9 million in transportation impact fees, the Project will contribute a total sum of up to $6,467,159 in fair share traffic fees payable to the City for the Project's contributions to certain intersection improvements.[27] These improvements include upgrades to bicycle lanes and walkways for increased pedestrian connectivity. Development of the Project will entail vacation of Democracy Way with attendant sewer, stormwater, and power system upgrades, as well as sea level rise resiliency.

The Project's energy-efficient building design would utilize best-practice building designs, renewable energy procurement, and strategies for reducing energy use and carbon emissions, including parking spaces that are Level 2 Ready or capable, as well as onsite renewable energy generation with the use of rooftop solar panels. Water consumption onsite would be reduced through utilization of low-flow and low-flush plumbing fixtures and accessible water data (at the building or floor level) to inform occupants of water use. Landscaping would include native and drought-resistant plants, and tree canopies at parks, plazas, and along the trail.

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 pursuant to CEQA Section 21081(b) and State CEQA Guidelines Section 15093.

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. Furthermore, 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 found those impacts to be acceptable.

[27] KMA Community Benefits Memorandum, at 11, 16.