construction activities, including equipment movement, storage of materials, or temporary spoils stockpiling, shall be allowed within the fenced areas protecting wetlands.

- Where disturbance to jurisdictional wetlands or waters cannot be avoided, any temporarily affected jurisdictional wetlands or waters shall be restored to pre-construction conditions or better at the end of construction, in accordance with the requirements of USACE, San Francisco Bay Regional Water Quality Control Board, and/or CDFW permits. Compensation for permanent impacts on wetlands or waters shall be provided at a 1:1 ratio, or as agreed upon by CDFW, USACE, and the San Francisco Bay Regional Water Quality Control Board, as applicable. Compensation for loss of wetlands may be in the form of permanent on-site or off-site creation, restoration, enhancement, or preservation of habitat. At a minimum, the restoration or compensation sites shall meet the following performance standards by the fifth year after restoration:

  (1) Temporarily affected areas shall be returned to pre-project conditions or better, as determined by the Director of PBCE or USACE, RWQCB, or CDFW.

  (2) Wetlands restored or constructed as federal wetlands meet the applicable federal criteria for jurisdictional wetlands, and wetlands restored or constructed as state wetlands meet the state criteria for jurisdictional wetlands.

  (3) No more cover by invasive species shall be present than in the baseline/impact area pre-project.

Restoration and compensatory mitigation activities shall be described in the habitat mitigation and monitoring plan prescribed by Mitigation Measure BI-2a, Avoidance of Impacts on Riparian Habitat.

Finding: Implementing Mitigation Measures BI-1a, General Avoidance and Protection Measures; BI-2a, Avoidance of Impacts on Riparian Habitat; BI-2d, Avoidance and Protection of Creeping Wild Rye Habitat; and BI-3, Avoidance of Impacts on Wetlands and Waters, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.2 (page 3.2-77) of the Draft EIR, as amended, implementation of Mitigation Measures BI-1a, BI-2a, BI-2d, and BI-3 would ensure that appropriate preventative and protective measures, avoidance, and worker training would be undertaken in connection with project construction activities, thereby reducing potential adverse effects on wetlands. For the above reason, the impact on state or federally protected wetlands would be reduced to a less-than-significant level with mitigation.

Impact: **Impact BI-4:** The proposed project could interfere substantially with the movement of a native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

Mitigation: **Mitigation Measure BI-4: Avian Collision Avoidance Measures**

In addition to conforming to the bird safety standards and guidelines in the City's Downtown Design Guidelines, and the General Plan, the following mitigation measures shall be implemented:

Educating Tenants, Residents, and Occupants. Prior to issuance of any building permits, the project applicant shall develop educational materials for building tenants, occupants, and residents, encouraging them to minimize light transmission from windows, especially during peak spring and fall migratory periods, by turning off unnecessary lights and/or closing window coverings at night. The Director of Planning, Building and Code Enforcement or the Director's designee shall review and approve the educational materials before buildings are occupied. The project applicant shall also supply documentation (e.g., written statement) describing when and how the materials will be distributed (e.g., poster in building lobby, attachment to lease, new-tenant welcome packet). Documentation shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Antennae, Monopole Structures, and Rooftop Elements. Prior to issuance of any building permits, the project applicant shall provide documentation (e.g., construction drawings) that buildings minimize the number of and co-locate rooftop antennas and other rooftop equipment, and that monopole structures or antennas on buildings do not include guy wires. The documentation shall be reviewed and approved by a wildlife biologist before issuance of the site development permit for the project component (e.g., building) that poses a collision risk for birds. Documentation shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Finding: Implementing Mitigation Measure BI-4, Avian Collision Avoidance Measures, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.2 (page 3.2-81) of the Draft EIR, as amended, implementation of Mitigation Measure BI-4, along with compliance with bird-safe policies, would ensure that building occupants would be educated concerning reduction of night lighting impacts on birds, and minimizing the impacts of antennas, monopole structures, and rooftop elements that could pose bird collision hazards. For the above reason, the impact on native and resident special movement would be reduced to a less-than-significant level with mitigation.

Impact: **Impact BI-6:** The proposed 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.

Mitigation: **Mitigation Measure BI-1a: General Avoidance and Protection Measures** (refer to Impact BI-1)

Mitigation Measure BI-1b: In-Water Construction Schedule (refer to Impact BI-1)

Mitigation Measure BI-1c: Native Fish Capture and Relocation (refer to Impact BI-1)

Mitigation Measure BI-2a: Avoidance of Impacts on Riparian Habitat (refer to Impact BI-2)

Finding: Implementing Mitigation Measures BI-1a, General Avoidance and Protection Measures; BI-1b, In-Water Construction Schedule; BI-1c, Native Fish Capture and Relocation; and BI-2a, Avoidance of Impacts on Riparian Habitat, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.2 (page 3.2-81) of the Draft EIR, as amended, implementation of Mitigation Measure BI-1a through 1c and BI-2a would ensure that appropriate preventative and protective measures, avoidance, and relocation (if necessary) would be undertaken in connection with project construction activities and ongoing project operations, thereby reducing potential adverse effects on the Los Gatos Creek riparian corridor. For the above reason, the impact relative to conflict with the Santa Clara Valley Habitat Plan would be reduced to a less-than-significant level with mitigation.

Impact: **Impact C-BI-1:** The proposed project, in conjunction with other past, current, or foreseeable development in the project vicinity, could result in cumulative impacts on biological resources.

Mitigation: **Mitigation Measure BI-1a: General Avoidance and Protection Measures** (refer to Impact BI-1)

Mitigation Measure BI-1b: In-Water Construction Schedule (refer to Impact BI-1)

Mitigation Measure BI-1c: Native Fish Capture and Relocation (refer to Impact BI-1)

Mitigation Measure BI-1d: Western Pond Turtle Protection Measures (refer to Impact BI-1)

Mitigation Measure BI-1e: Avoidance of Impacts on Nesting Birds (refer to Impact BI-1)

Mitigation Measure BI-1f: Roosting Bat Surveys (refer to Impact BI-1)

Mitigation Measure BI-2a: Avoidance of Impacts on Riparian Habitat (refer to Impact BI-2)

Mitigation Measure BI-2b: Frac-Out Contingency Plan (refer to Impact BI-2)

Mitigation Measure BI-2c: Monitor Effects of Shading and Heat Island Effect on Riparian Vegetation and Stream Temperature (refer to Impact BI-2)

Mitigation Measure BI-2d: Avoidance and Protection of Creeping Wild Rye Habitat (refer to Impact BI-2)

Mitigation Measure BI-3: Avoidance of Impacts on Wetlands and Waters (refer to Impact BI-3)

Mitigation Measure BI-4: Avian Collision Avoidance Measures (refer to Impact BI-4)

Mitigation Measure HY-3b: Plan for Ongoing Creek Maintenance (refer to Section 3.8, *Hydrology and Water Quality*)

Mitigation Measure NO-1a: Operational Noise Performance Standard (refer to Section 3.10, *Noise and Vibration*)

Finding: Implementing Mitigation Measures BI-1a, General Avoidance and Protection Measures; BI-1b, In-Water Construction Schedule; BI-1c, Native Fish Capture and Relocation; BI-1d, Western Pond Turtle Protection Measures; BI-1e, Avoidance of Impacts on Nesting Birds; BI-1f, Roosting Bat Surveys; BI-2a, Avoidance of Impacts on Riparian Habitat; BI-2b, Frac-out Contingency Plan; BI-2c, Monitor Effects of Shading and Heat Island Effect on Riparian Vegetation and Stream Temperature; BI-2d, Avoidance and Protection of Creeping Wild Rye Habitat; BI-3, Avoidance of Impacts on Wetlands and Waters; BI-4, Avian Conflict Avoidance Measures; HY-3b, Plan for Ongoing Creek Maintenance; and NO-1a, Operational Noise Performance Standard, would reduce the project's contribution to cumulative impacts, resulting in a less-than-significant impact. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.2 (page 3.2-92) of the Draft EIR, as amended, implementation of Mitigation Measures BI-1a through BI-1f, BI-2a through BI-2d, BI-3, BI-4, HY-3b, and NO-1a would ensure that appropriate preventative and protective measures, surveys, avoidance, relocation (if necessary), monitoring, education, maintenance, and noise control would be undertaken in connection with project construction activities and ongoing project operations, thereby ensuring that the project would not make a considerable contribution to cumulative impacts on essential fish habitat, riparian habitat, creeping wild rye sensitive natural community, wetland, or native and resident species movement, or conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan, as described above under Impacts BI-1, BI-2, BI-3, BI-4, BI-5, and BI-6. For the above reason, the project's cumulative impact on biological resources would be reduced to a less-than-significant level with mitigation.

Cultural Resources and Tribal Cultural Resources

Impact: **Impact CU-2:** The proposed project would relocate, construct an addition to, and adaptively reuse the historic portions of 40 South Montgomery Street (Kearney Pattern Works and Foundry). This could result in a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5

Mitigation: **Mitigation Measure CU-2a: Relocation On-site**

Before the issuance of any building, grading, or demolition permit that would allow disturbance of the historic resource at 40 South Montgomery Street, the project applicant shall prepare a Relocation Implementation Plan that includes a detailed description of the proposed relocation methodology. At a minimum, this plan shall include detailed descriptions and drawings that indicate:

- The means and methods of securing and bracing the building through all stages of relocation;
- The proposed locations of cuts to facilitate relocation, with sections that are as large as feasible to limit damage to the historic fabric;
- Proposed siting and foundation details; and
- The approximate timetable for the completion of work, including major milestones.

All work shall be undertaken in consultation with an architect or professional who meets the *Secretary of the Interior's Historic Preservation Professional Qualifications Standards*. The Relocation Implementation Plan shall be subject to review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee.

Mitigation Measure CU-2b: Compliance with the Secretary of the Interior's Standards

Before the issuance of any building, grading, or demolition permit to move or modify or expand the building at 40 South Montgomery Street, the project applicant shall submit detailed designs prepared by a qualified historic preservation architect demonstrating that all proposed relocation methodologies, including satisfaction of the provisions of Mitigation Measure CU-2a, Relocation On-site, repairs, modifications, and additions, are consistent with the Secretary of the Interior's Standards for Rehabilitation.

The submitted designs shall be subject to review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee.

Finding: Implementing Mitigation Measure CU-2a, Relocation On-site; and Mitigation Measure CU-2b, Compliance with the Secretary of the Interior's Standards, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.3 (page 3.3-73) of the Draft EIR, as amended, Mitigation Measures CU-2a and CU-2b (relocation on-site and compliance with the Secretary of the Interior's Standards) would ensure that appropriate steps are taken to protect the historic Kearney Pattern Works and Foundry (40 South Montgomery Street) during relocation, preserve its character-defining features, and rehabilitate and reuse it in conformance with the Secretary of the Interior's Standards. For the above reasons, the impact on the Kearney Pattern Works and Foundry would be reduced to a less-than-significant level with mitigation.

Impact: **Impact CU-4:** The proposed project could result in significant impacts on historic resources resulting from construction-related vibrations.

Mitigation: **Mitigation Measure CU-4: Construction Vibration Operation Plan for Historic Structures**

As presented in General Plan Policy EC-3.2, building damage for sensitive historic structures is generally experienced when vibration levels exceed 0.08 in/sec PPV. Section 3.10, Table 3.10-13, *Vibration Levels for Construction Activity*, lists a number of construction activities with their estimated PPVs at various distances. At distances up to 170 feet, vibration levels can approach the 0.08 PPV recommended threshold. Therefore, before the issuance of any demolition, grading, or building permit (whichever comes first) for work within 170 feet of a historic resource, the project applicant shall submit a Construction Vibration Operation Plan prepared by an acoustical and/or structural engineer or other appropriate qualified professional to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval.

The Construction Vibration Operation Plan shall establish pre-construction baseline conditions and threshold levels of vibration that could damage the historic structures located within 170 feet of construction, regardless of

whether the historic structures are located on the project site or adjacent to it. The plan shall also include measures to limit operation of vibration-generating construction equipment near sensitive structures to the greatest extent feasible.

In addition, the Construction Vibration Operation Plan shall address the feasibility and potential implementation of the following measures during construction:

- Prohibit impact, sonic, or vibratory pile driving methods where feasible. Drilled piles cause lower vibration levels where geological conditions permit their use.
- Limit other vibration-inducing equipment to the extent feasible.
- Submit a list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams) to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.
- Where vibration-inducing equipment is deemed necessary for construction work within 170 feet of a historic resource, include details outlining implementation of continued vibration monitoring.

All construction contracts and approved plans shall include notes with reviewer-identified limitations and diagrams to avoid impacts on historic resources.

Mitigation Measure NO-2a: Master Construction Vibration Avoidance and Reduction Plan (refer to Section 3.10, *Noise and Vibration*)

Finding: Implementing Mitigation Measure CU-4, Construction Vibration Operation Plan for Historic Structures; and Mitigation Measure NO-2a, Master Construction Vibration Avoidance and Reduction Plan, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.3 (page 3.3-76) of the Draft EIR, as amended, implementation of Mitigation Measures NO-2a and CU-4,

along with Standard Condition of Approval CR-3 (Vibration Impacts to Adjacent and Nearby Historic Buildings) would ensure that vibration would be reduced or avoided near historic architectural resources and that required construction vibration monitoring is undertaken. For the above reason, the impact of construction vibration on historic architectural resources would be reduced to a less-than-significant level with mitigation.

Impact: **Impact CU-7:** The proposed project could result in significant impacts at 105 South Montgomery Street (Stephen's Meat Products sign), a historic resource, as a result of its removal, storage, and relocation within the project site.

Mitigation: **Mitigation Measure CU-7: Sign Relocation**

Before the issuance of the first permit for site preparation or construction on the site within 100 feet of the Stephen's Meat Product sign, the project applicant, in consultation with a qualified historic preservation professional, shall remove the sign from the site. If the sign is not immediately relocated to a receiver site, it shall be placed in secure storage. Storage shall be indoors, or otherwise protected from weather, impacts, and vandalism. The location of the storage facility shall be communicated to the Director of Planning, Building and Code Enforcement or the Director's designee.

During design development, a receiver site shall be identified on the project site with the following characteristics:

- The site shall be similar to the existing location along a public right-of-way.
- The sign shall be placed upon a single support pole of similar dimension.
- Views of the sign shall be permitted from a minimum of 150 feet along both directions of the public right-of-way.
- The sign shall be repaired, as needed, to return it to its current functional state.
- Interpretive signage indicating the sign's age, association, and original location shall be located at the base of the structural support.

The selected site shall be subject to approval by the Director of Planning, Building and Code Enforcement, or the Director's designee. Relocation of the sign shall be completed within no more than five years from the date of its removal, with the potential for an extension not to exceed an additional five years upon approval by the Director of Planning, Building and Code Enforcement or the Director's designee.

Finding: Implementing Mitigation Measure CU-7, Sign Relocation, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.3 (page 3.3-93) of the Draft EIR, as amended, implementation of Mitigation Measure CU-7 would ensure that the Stephen's Meat Products sign would maintain its historical and artistic integrity, and ensure its relocation to an appropriate nearby location visible to the public. For the above reason, the impact on the Stephen's Meat Products sign would be reduced to a less-than-significant level with mitigation.

Impact: **Impact CU-8:** The proposed project could cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5.

Mitigation: **Mitigation Measure CU-8a: Cultural Resources Awareness Training**

Before any ground-disturbing and/or construction activities, a Secretary of the Interior–qualified archaeologist shall conduct a training program for all construction and field personnel involved in site disturbance. On-site personnel shall attend a mandatory pre-project training that will outline the general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new project personnel before project work.

Mitigation Measure CU-8b: Archaeological Testing Plan

Before the issuance of any demolition or grading permits (whichever comes first) for each of the three construction phases, the project applicant shall be required to complete subsurface testing to determine the extent of possible cultural resources on-site. Subsurface testing shall be completed by a qualified archaeologist based on an approved Archaeological Testing Plan prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval. The Testing Plan shall include, at a minimum:

- Identification of the property types of the expected archaeological resource(s) that could be affected by construction;

- The testing method to be used (hand excavation, coring, and/or mechanical trenching);
- The locations recommended for testing; and
- A written report of the findings.

The purpose of the archaeological testing program shall be to determine the presence or absence of archaeological resources to the extent possible and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.

Mitigation Measure CU-8c: Archaeological Evaluation

Prior to the issuance of any demolition or grading permits, the project applicant shall ensure that all prehistoric and historic-era materials and features identified during testing are evaluated by a qualified archaeologist based on California Register of Historical Resources criteria and consistent with the approved Archaeological Testing Plan. Based on the findings of the subsurface testing, a qualified archaeologist shall prepare an Archaeological Resources Treatment Plan addressing archaeological resources, in accordance with Mitigation Measure CU8d, Archaeological Resources Treatment Plan.

Mitigation Measure CU-8d: Archaeological Resources Treatment Plan

The project applicant shall submit the Archaeological Resources Treatment Plan to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval before the issuance of any demolition and grading permits. The treatment plan shall contain the following elements, at a minimum:

- Identification of the scope of work and range of subsurface effects (with a location map and development plan), including requirements for preliminary field investigations;
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information);
- Detailed field strategy used to record, recover, or avoid the finds and address research goals;
- Analytical methods;
- Report structure and outline of document contents;
- Disposition of the artifacts; and

- Appendices: Site records, correspondence, and consultation with Native Americans and other interested parties.

The project applicant shall implement the approved Archaeological Treatment Plan before the issuance of any demolition or grading permits. After completion of the fieldwork, all artifacts shall be cataloged in accordance with 36 CFR Part 79, and the State of California's *Guidelines for the Curation of Archeological Collections*. The qualified archaeologist shall complete and submit the appropriate forms documenting the findings with the Northwest Information Center of the California Historical Resources Information System at Sonoma State University.

Finding: Implementing Mitigation Measures CU-8a, Cultural Resources Awareness Training; CU-8b, Archaeological Testing Plan; CU-8c, Archaeological Evaluation; and CU-8d, Archaeological Resources Treatment Plan, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.3 (page 3.3-94) of the Draft EIR, as amended, implementation of Mitigation Measures CU-8a through CU-8d would ensure that project ground-disturbing and construction activities would avoid impacts on unrecorded subsurface prehistoric and historic-era archaeological resources. For the above reason, the impact on archaeological resources would be reduced to a less-than-significant level with mitigation.

Impact: **Impact CU-9:** The proposed project would disturb human remains, including those interred outside of formal cemeteries.

Mitigation: **Mitigation Measure CU-8a: Cultural Resources Awareness Training** (refer to Impact CU 8)

Finding: Implementing Mitigation Measure CU-8a, Cultural Resources Awareness Training, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.3 (page 3.3-96) of the Draft EIR, as amended, implementation of Mitigation Measure CU-8a would ensure that construction personnel would receive cultural resources awareness training and that, in the event of an inadvertent discovery of human remains, the legal procedures are followed, including contacting the county coroner. For the above reasons, the impact relative to disturbance of human remains would be reduced to a less-than-significant level with mitigation.

Impact: **Impact CU-10:** The proposed project could cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074.

Mitigation: **Mitigation Measure CU-8a: Cultural Resources Awareness Training** (refer to Impact CU-8)

Mitigation Measure CU-8b: Archaeological Testing Plan (refer to Impact CU-8)

Mitigation Measure CU-8c: Archaeological Evaluation (refer to Impact CU-8)

Mitigation Measure CU-8d: Archaeological Treatment Plan (refer to Impact CU-8)

Finding: Implementing Mitigation Measures CU-8a, Cultural Resources Awareness Training; CU-8b, Archaeological Testing Plan; CU-8c, Archaeological Evaluation; and CU-8d, Archaeological Resources Treatment Plan, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.3 (page 3.3-97) of the Draft EIR, as amended, implementation of Mitigation Measures CU-8a through CU-8d would ensure that project ground-disturbing and construction activities would avoid impacts on tribal cultural resources. For the above reason, the impact on tribal cultural resources would be reduced to a less-than-significant level with mitigation.

Impact: **Impact C-CU4:** The proposed project would combine with other projects to result in significant cumulative effects on archaeological resources as defined in CEQA Guidelines Section 15064.5; human remains, including those interred outside of formal cemeteries; and tribal cultural resources as defined in Public Resources Code Section 21074.

Mitigation: **Mitigation Measure CU-8a: Cultural Resources Awareness Training** (refer to Impact CU-8)

Mitigation Measure CU-8b: Archaeological Testing Plan (refer to Impact CU-8)

Mitigation Measure CU-8c: Archaeological Evaluation (refer to Impact CU-8)

Mitigation Measure CU-8d: Archaeological Resources Treatment Plan (refer to Impact CU-8)

Finding: Implementing Mitigation Measures CU-8a, Cultural Resources Awareness Training; CU-8b, Archaeological Testing Plan; CU-8c, Archaeological Evaluation; and CU-8d, Archaeological Resources Treatment Plan, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.3 (page 3.3-104) of the Draft EIR, as amended, implementation of Mitigation Measures CU-8a through CU-8d would ensure that project ground-disturbing and construction activities would not make a considerable contribution to cumulative impacts on archaeological resources, undiscovered human remains, or tribal cultural resources by avoiding or minimizing any project-specific adverse impacts, as described above under Impacts CU-8, CU-9, and CU-10. For the above reason, cumulative impacts on archaeological resources, undiscovered human remains, and tribal cultural resources would be reduced to a less-than-significant level with mitigation.

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Geology/Soils/Paleontological Resources

Impact: **Impact GE-1:** The proposed project could directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking; or seismic-related ground failure, including liquefaction.

Mitigation: **Mitigation Measure GE-1: Seismic Damage and Seismic-Related Ground Failure, including Liquefaction**

Prior to the issuance of any grading or building permit for new building construction, the project applicant shall implement the following measures:

- To avoid or minimize potential damage from seismic shaking, use standard engineering and seismic safety design techniques for project construction. Complete building design and construction at the site in conformance with the recommendations of an approved geotechnical investigation. The geotechnical investigation report shall be reviewed and approved by the Director of the City of San José Department of Public Works as part of the building permit review and entitlement process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site, and designed to reduce the risk to life or property on-site and off-site to the extent feasible and in compliance with the Building Code.
- Construct the project in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. Obtain a grading permit from the Department of Public Works prior to the issuance of a Public Works Clearance. These standard practices will ensure that future buildings on the site are designed to properly account for soils-related hazards.

Finding: Implementing Mitigation Measure GE-1, Seismic Damage and Seismic-Related Ground Failure, including Liquefaction, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.5 (page 3.5-22) of the Draft EIR, as amended, implementation of Mitigation Measure GE-1 would reduce impacts from seismic ground shaking and seismic-related ground failure by

implementing standard engineering and seismic safety design techniques and requiring the completion of building design and construction in accordance with the recommendations of an approved geotechnical investigation. The buildings would also need to meet the requirements of applicable Building and Fire Code sections as adopted or updated by the City. For the above reason, the impact of the proposed project related to strong seismic ground shaking would be reduced to a less-than-significant level with mitigation.

Impact: **Impact GE3:** The proposed project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.

Mitigation: **Mitigation Measure GE-3: Geotechnical Report**

Prior to or coincident with the submittal of grading and drainage plans for each proposed building or other improvements, the project applicant for the improvements in question shall submit to the Director of Public Works or Director's designee for review and approval, in accordance with the California Building Code, a geotechnical report for the site under consideration. The project applicant for the improvements in question shall comply with the recommendations of the geotechnical report, as approved by the Director of Public Works or Director's designee.

Finding: Implementing Mitigation Measure GE-3, Geotechnical Report, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.5 (page 3.5-24) of the Draft EIR, as amended, implementation of Mitigation Measure GE-3 would require preparation of a site-specific geotechnical report that would include recommendations and design requirements to address any unstable soils identified on the project site in accordance with the California Building Code. For the above reason, the impact of the proposed project related to unstable soils and their associated hazards would be reduced to a less-than-significant level with mitigation.

Impact: **Impact GE5:** The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Mitigation: **Mitigation Measure GE-5a: Project Paleontologist**

The project applicant for specific construction work proposed shall retain a qualified professional paleontologist (qualified paleontologist) meeting the Society of Vertebrate Paleontology standards as set forth in the "Definitions" section of Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources (2010) prior to the approval of demolition or grading permits. The qualified paleontologist shall attend the project kickoff meeting and project progress meetings on a regular basis, shall report to the site in the event potential paleontological resources are encountered, and shall implement the duties outlined in Mitigation Measures GE-5b through GE-5d. Documentation of a paleontologist attending the project kickoff meeting and project progress meetings shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement, or the Director's designee.

Mitigation Measure GE-5b: Worker Training

Prior to the start of any ground-disturbing activity (including vegetation removal, grading, etc.), the qualified paleontologist shall prepare paleontological resources sensitivity training materials for use during the project-wide Worker Environmental Awareness Training (or equivalent). The paleontological resources sensitivity training shall be conducted by a qualified environmental trainer (often the Lead Environmental Inspector or equivalent position, like the qualified paleontologist). In the event construction crews are phased, additional trainings shall be conducted for new construction personnel. The training session shall focus on the recognition of the types of paleontological resources that could be encountered within the project site and the procedures to be followed if they are found, as outlined in the approved Paleontological Resources Monitoring and Mitigation Plan in Mitigation Measure GE-5c. The project applicant for specific construction work proposed and/or its contractor shall retain documentation demonstrating that all construction personnel attended the training prior to the start of work on the site, and shall provide the documentation to the Director of the City of San José Department of Planning, Building, and Code Enforcement, or the Director's designee.

Mitigation Measure GE-5c: Paleontological Monitoring

The qualified paleontologist shall prepare, and the project applicant for specific construction work proposed and/or its contractors shall implement, a Paleontological Resources Monitoring and Mitigation Plan (PRMMP). The

project applicant shall submit the plan to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval at least 30 days prior to the start of construction. This plan shall address the specifics of monitoring and mitigation and comply with the recommendations of the Society of Vertebrate Paleontology (SVP) (2010), as follows.

1. The qualified paleontologist shall identify, and the project applicant or its contractor(s) shall retain, qualified paleontological resource monitors (qualified monitors) meeting the SVP standards (2010).
2. The qualified paleontologist and/or the qualified monitors under the direction of the qualified paleontologist shall conduct full-time paleontological resources monitoring for all ground-disturbing activities in previously undisturbed sediments in the project site that have high paleontological sensitivity. This includes any excavation that exceeds 2 feet in depth in previously undisturbed areas. The PRMMP shall clearly map these portions of the proposed project based on final design provided by the project applicant and/or its contractor(s).
3. If pieces of heavy equipment (gross vehicle weight of 10,000 pounds or more) are in use simultaneously but at locations greater than 500 feet distant from one another, each location shall be individually monitored.
4. Monitors shall have the authority to temporarily halt or divert work away from exposed fossils in order to evaluate and recover the fossil specimens, establishing a 50-foot buffer.
5. If construction or other project personnel discover any potential fossils during construction, regardless of the depth of work or location and regardless of whether the site is being monitored, work at the discovery location shall cease in a 50-foot radius of the discovery until the qualified paleontologist has assessed the discovery and made recommendations as to the appropriate treatment.
6. The qualified paleontologist shall determine the significance of any fossils discovered, and shall determine the appropriate treatment for significant fossils in accordance with the SVP standards. The qualified paleontologist shall inform the project applicant of these determinations as soon as practicable. See Mitigation Measure GE-5d regarding significant fossil treatment.
7. Monitors shall prepare daily logs detailing the types of activities and soils observed, and any discoveries. The qualified paleontologist shall prepare a final monitoring and mitigation report to document the results of the monitoring effort and any curation of fossils. The project applicant shall provide the daily logs to the Director of the City of San José

Department of Planning, Building, and Code Enforcement, or the Director's designee, upon request, and shall provide the final report to the Director of the City of San José Department of Planning, Building, and Code Enforcement, or the Director's designee, upon completion.

Mitigation Measure GE-5d: Significant Fossil Treatment

If any find is deemed significant, as defined in the Society of Vertebrate Paleontology (SVP) (2010) standards and following the process outlined in Mitigation Measure GE-5c, the qualified paleontologist shall salvage and prepare the fossil for permanent curation with a certified repository with retrievable storage following the SVP standards, and plans for permanent curation shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement, or the Director's designee.

Finding: Implementing Mitigation Measures GE-5a, Project Paleontologist; GE-5b, Worker Training; GE-5c, Paleontological Monitoring; and GE-5d, Significant Fossil Treatment, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.5 (page 3.5-26) of the Draft EIR, as amended, implementation of Mitigation Measures GE-5a through 5d, along with Standard Condition of Approval GE-1 (Paleontological Resources) would reduce the potential for significant impacts on paleontological resources by providing paleontological resources sensitivity training for construction workers; implementing a monitoring and mitigation plan to ensure preservation of any paleontological resources encountered during construction; and salvaging and preparing significant fossil finds for curation. For the above reasons, the project's impact on paleontological resources would be reduced to a less-than-significant level with mitigation.

Impact: **Impact C-GE-1:** The proposed project, in combination with past, present, and reasonably foreseeable future projects, could result in significant cumulative impacts related to geology, soils, or paleontology.

Mitigation: **Mitigation Measure GE-5a: Project Paleontologist** (refer to Impact GE-5)

Mitigation Measure GE-5b: Worker Training (refer to Impact GE-5)

Mitigation Measure GE-5c: Paleontological Monitoring (refer to Impact GE-5)

Mitigation Measure GE-5d: Significant Fossil Treatment (refer to Impact GE-5)

Finding: Implementing Mitigation Measures GE-5a, Project Paleontologist; GE-5b, Worker Training; GE-5c, Paleontological Monitoring; and GE-5d, Significant Fossil Treatment, would reduce the project's contribution to cumulative impacts, resulting in a less-than-significant impact. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.5 (page 3.5-29) of the Draft EIR, as amended, implementation of Mitigation Measures GE-5a through 5d, along with Standard Condition of Approval GE-1 (Paleontological Resources) would ensure that project ground-disturbing and construction activities would not make a considerable contribution to cumulative impacts on paleontological resources by avoiding any project-specific adverse impacts, as described above under Impact GE-5. For the above reason, cumulative impacts on paleontological resources would be reduced to a less-than-significant level with mitigation.

Greenhouse Gas Emissions

Impact: **Impact GR-2:** The proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

Mitigation: **Mitigation Measure AQ-2a: Construction Emissions Minimization Plan** (refer to Impact AQ-2)

Mitigation Measure AQ-2b: Construction Equipment Maintenance and Tuning (refer to Impact AQ-2)

Mitigation Measure AQ-2c: Heavy-Duty Truck Model Year Requirement (refer to Impact AQ-2)

Mitigation Measure AQ-2e: Best Available Emissions Controls for Stationary Emergency Generators (refer to Impact AQ-2)

Mitigation Measure AQ-2f: Diesel Truck Emissions Reduction (refer to Impact AQ-2)

Mitigation Measure AQ-2g: Electric Vehicle Charging (refer to Impact AQ-2)

Mitigation Measure AQ-2h: Enhanced Transportation Demand Management Program (refer to Impact AQ-2)

Mitigation Measure GR-2: Compliance with AB 900

Prior to the City's first design Conformance Review for the first new construction building or buildings, the project applicant shall submit a plan documenting the project's proposed GHG emissions reductions and schedule for compliance with AB 900 to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall:

- Quantify project construction for all phases and operational GHG emissions for the life of the project (defined as 30 years of operation);
- Specify the project features and project-specific emission reduction strategies that shall be implemented during construction and operation of the project; and
- Contain the schedule of GHG offset purchases required as part of the AB 900 certification process to comply with the "no net additional" requirement of Public Resources Code Section 21183(c).

With funding from the project applicant, the City shall retain the services of a third-party expert who meets or exceeds the following level of experience and qualifications to assist with the City's annual review of the GHG plan: an expert GHG emissions verifier accredited by the ANSI National Accreditation Board (ANAB) Accreditation Program for Greenhouse Gas Validation/Verification Bodies or a Greenhouse Gas Emissions Lead Verifier accredited by CARB.

Emission Reductions: At a minimum, project features and project-specific emission reduction strategies shall include the following measures. These measures reflect commitments by the project applicant and specific mitigation measures incorporated to reduce air pollutant emissions as described in Section 3.1, *Air Quality*:

1. Achieve LEED ND Gold Certification and LEED Gold for all office buildings.
2. Implement a transportation demand management program to achieve a minimum non–single occupancy vehicle rate of 50 percent for office uses, assuming current transit service levels. The non–single occupancy vehicle rate shall increase to 60 percent for office uses following implementation of the Caltrain Business Plan and to 65 percent for office uses following the start of BART service.

3. Install EV charging equipment on 15 percent or more of all parking spaces at the project site.
4. Design and operate buildings with all-electric utilities (no on-site fossil fuels consumed to provide cooling, heating, cooking, water heating, etc.), with the exception of a total of 20,000 square feet of restaurant kitchens that may be equipped with natural gas for food preparation purposes.
5. Install and operate on-site a solar photovoltaic system generating at least 7.8 MW.
6. Use recycled water for all non-potable water demand.
7. Use electric off-road equipment for construction, including for all concrete/industrial saws, sweepers/scrubbers, aerial lifts, welders, air compressors, fixed cranes, forklifts, pumps, pressure washers, and 50 percent of all cement and mortar mixers. Power portable equipment by grid electricity instead of diesel generators.
8. Meet or exceed all applicable building code requirements and standards, including the CALGreen and San José Reach Codes, and meet or exceed ASHRAE 2019 energy efficiency standards.

GHG Offset Credits: The project applicant's plan shall describe the schedule for the purchase of GHG offset credits sufficient to offset the balance of the project's GHG emissions for the life of the project consistent with the CARB Determination dated December 19, 2019. As detailed in the CARB Determination, the project applicant's purchases of GHG offsets shall coincide with the phases defined in the AB 900 analysis:

AB 900 Phasing	Total GHG Emissions ($MTCO_2e$)		
	Construction	Net Operational	Net Combined
Phase 1	54,663	494,359	549,022
Phase 2	55,431	523,451	578,882
Phase 3	47,153	438,704	485,857
Total	**157,247**	**1,456,514**	**1,613,761**

SOURCE: CARB Executive Order G-19-154, *Downtown Mixed Use Plan AB 900 Application and Supporting Documentation*, Attachment 2, p. 10, Table 2 (construction), and Attachment 1, pp. 11–12, Table 4.

As documented in the CARB Determination, the project applicant shall purchase GHG offset credits necessary to offset construction-generated

emissions on a prorated basis before obtaining the first building permit in each phase of construction, for a total of three offset payments over three construction phases. The project applicant shall purchase GHG offset credits necessary to offset the cumulative net increase in operational emissions over the life of the project on a pro-rated basis before the City issues the final Certificate of Occupancy for the first building in each phase of construction, for a total of three offset payments over three construction phases.

To enable the City to monitor and enforce this requirement, the project applicant's plan shall identify the amount of construction and square footage of development associated with the GHG emissions anticipated for each phase. Any building that would cause emissions to exceed the projected 30-year net additional construction or operational emissions associated with a particular phase shall be considered to be in the next phase. At this point, the project applicant would have to purchase the next installment of AB 900 credits for the associated phase before the final Certificate of Occupancy is issued for this building (see below for more detail).

To account for potential future changes in phasing and project buildout, the project applicant shall purchase carbon credits for each of the three construction phases and three operational phases as follows.

- **Construction—Phase 1:** Before obtaining the first building permit for construction, the project applicant shall purchase the first installment of GHG offset credits for construction as presented in the table above and in the CARB Determination.
- **Construction—Phase 2:** Before obtaining the first building permit in Phase 2 of construction (i.e., the building permit for the first building that would cause construction emissions to exceed 54,663 $MTCO_2e$), the project applicant shall purchase GHG offset credits for construction as presented in the table above and in the CARB Determination.
- **Construction—Phase 3:** Before obtaining the first building permit in Phase 3 of construction (i.e., the building permit for the first building that would cause total construction emissions to exceed 110,094 $MTCO_2e$, which is the total of Phase 1 and Phase 2, as defined by the CARB Determination), the project applicant shall purchase the third installment of GHG offset credits for construction as presented in the table above.
- **Operations—Phase 1:** Before the City issues the final Certificate of Occupancy for the first building in Phase 1, the project applicant shall purchase the first installment of GHG offset credits for operations as presented in the table above and in the CARB Determination.

- **Operations—Phase 2:** Before the City issues the final Certificate of Occupancy for the first building in Phase 2 (i.e., the building permit for the first building that would cause projected 30-year net additional operational emissions to exceed 494,359 $MTCO_2e$), the project applicant shall purchase the second installment of GHG offset credits for operations as presented in the table above and in the CARB Determination.
- **Operations—Phase 3:** Before the City issues the final Certificate of Occupancy for the first building in Phase 3 (i.e., the building permit for the first building that would cause total projected 30-year net additional operational emissions to exceed 1,017,810 $MTCO_2e$, the total of Phase 1 and Phase 2 as defined by the CARB Determination), the project applicant shall purchase the third installment of GHG offset credits for operations as presented in the table above. The project applicant shall increase the GHG offset purchase if needed to offset additional GHG emissions from project-lifetime construction and operations beyond the total GHG offsets required at the time of CARB's Determination, as calculated in the plan.

As described in the CARB Determination, all GHG offset credits shall be purchased from the following CARB-accredited carbon registries: the American Climate Registry, Climate Action Reserve, and Verra (formerly Verified Carbon Standard). The GHG offset credits shall be verifiable by the City and enforceable in accordance with the registry's applicable standards, practices, or protocols. The GHG offsets must substantively satisfy all six of the statutory "environmental integrity" requirements applicable to the CARB Cap-and-Trade Program, generally as set forth in both subdivisions (d)(1) and (d)(2) of California Health and Safety Code §38562: real, additional, quantifiable, permanent, verifiable, and enforceable. To be eligible to be used to meet this Mitigation Measure, offset credits must be generated and verified in accordance with published protocols and other applicable standards which can demonstrate to the satisfaction of the City's verifier that all six of these environmental integrity requirements are substantively satisfied. All offset credits shall be verified by an independent verifier who meets stringent levels of professional qualification (i.e., ANAB Accreditation Program for Greenhouse Gas Validation/Verification Bodies or a Greenhouse Gas Emissions Lead Verifier accredited by CARB), or an expert with equivalent qualifications to the extent necessary to assist with the verification). Without limiting the generality of the foregoing, in the event that an approved registry becomes no longer accredited by CARB and the offset credits cannot be transferred to another accredited registry, the project applicant shall comply with the rules and procedures for retiring

and/or replacing offset credits in the manner specified by the applicable protocol or other applicable standards including (to the extent required) by purchasing an equivalent number of credits to recoup the loss.

The project applicant shall utilize the purchase and retirement of GHG offset credits generated from projects within the United States of America. In the unlikely event that an approved registry becomes no longer approved by CARB and the offset credits cannot be transferred to another CARB-approved registry, the project applicant shall comply with the rules and procedures for retiring and/or replacing offset credits in the manner specified by the applicable Protocol, Standard or Methodology, including (to the extent required) by purchasing an equivalent number of credits to recoup the loss.

Reporting and Enforcement: On an annual basis, by March 1 of each year, the project applicant shall submit a letter to the Director of Planning, Building and Code Enforcement or the Director's designee confirming implementation of the emission reduction strategies listed in the AB 900 compliance plan. The letter shall also identify any changes or additions to the plan, including any recalculation of project emissions based on new information, incorporation of additional strategies, or changes in technology. If changes or additions to the plan are proposed, these shall be subject to review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee, and the City's third-party expert as noted above, within 30 days.

In addition, before the City issues the final Certificate of Occupancy for the first building constructed in each phase, as the phases were defined at the time of CARB's certification and as laid out in the project applicant's plan, the project applicant shall provide copies of GHG offset contracts demonstrating required purchases to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, and to CARB and the Governor's Office of Planning and Research. This will serve as documentation to fully enforce the provision that the project result in no net additional GHG emissions for the life of the obligation.

Finding: Implementing Mitigation Measures GR-2, Compliance with AB 900; AQ-2a, Construction Emissions Minimization Plan; AQ-2b, Construction Equipment Maintenance and Tuning; AQ-2c, Heavy-Duty Truck Model Year Requirement; AQ-2e, Best Available Emissions Controls for Stationary Emergency Generators; AQ-2f, Diesel Truck Emissions Reduction; AQ-2g, Electric Vehicle Charging; and AQ-2h, Enhanced Transportation Demand Management Program, would reduce this impact to a less-than-significant

level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.6 (page 3.6-69) of the Draft EIR, as amended, implementation of mitigation measures GR-2 and AQ-2a, AQ-2b, AQ-2c, AQ-2e, AQ-2f, AQ-2g, and AQ-2h would ensure that the project would achieve the "no net additional" emissions standard established in Assembly Bill 900, effectively resulting in zero net additional emissions. This standard is defined as the project's construction emissions plus operational net new GHG emissions over 30 years. This is a clear, quantitative performance standard. Mitigation Measure GR-2 requires the project applicant to meet this standard through project features and project-specific emission reduction strategies, along with GHG offset credits purchased through a CARB-accredited carbon registry. For the above reason, the project's emissions of greenhouse gases would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases, and the impact would be reduced to a less-than-significant level with mitigation.

Hazards and Hazardous Materials

Impact: **Impact HA-2:** The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

Mitigation: **Mitigation Measure HA-3b: Health and Safety Plan** (refer to Impact HA-3)

Mitigation Measure HA-3c: Site Management Plan (refer to Impact HA-3)

Finding: Implementing Mitigation Measure HA-3b, Health and Safety Plan, and Mitigation Measure HA-3c, Site Management Plan, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.7 (page 3.7-81) of the Draft EIR, as amended, implementation of Mitigation Measures HA-3a and 3b, along with compliance existing regulations concerning hazardous materials, would ensure that any hazardous material or waste encountered during

project construction activities is containerized, handled, and transported safely and in accordance with all applicable federal, state, and local regulations. Moreover, haul routes from the project site would not pass by area schools. For the above reasons, project impacts with respect to handling of hazardous materials and waste in proximity to a school would be reduced to a less-than-significant level with mitigation.

Impact: **Impact HA-3:** The proposed project is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.

Mitigation: **Mitigation Measure HA-3a: Land Use Limitations**

Before construction activities on parcels with land use covenants, other regulatory land use restrictions, open remediation cases, or contamination identified as part of a Phase II investigation above regulatory environmental screening levels, the project applicant for the specific work proposed shall obtain regulatory oversight from the appropriate agency. The project applicant shall perform further environmental investigation or remediation as needed to ensure full protection of construction workers, the environment, and the public.

For properties with land use limitations, the limitations and restrictions may be reduced or removed entirely if the underlying contamination is removed or treated to below the regulatory screening levels for the proposed land use (residential, commercial, or industrial). The project applicant shall be required to prepare a remedial action plan describing the proposed cleanup actions, the target cleanup levels, and the proposed land use after cleanup. The remedial action plan shall be submitted to the regulatory agency enforcing the land use limitations for its review and approval. Upon regulatory agency approval, the project applicant shall implement the remedial action to clean up the site, followed by confirmation sampling and testing of soil, soil gas, and/or groundwater to verify that the cleanup achieved the target cleanup levels. The project applicant shall prepare a report documenting the cleanup activities, comparing the sample results to the target cleanup levels, and request that the land use limitations be modified or removed. The regulatory agency shall review the report and, if satisfied that the cleanup is sufficient, modify or remove the land use limitations. The report shall also be submitted to the Environmental Services Department's Municipal Environmental Compliance Officer.

For properties with land use covenants (LUCs) that have incomplete Phase II investigations or that need further investigation to inform changes or

removals of LUCs, Phase II investigations shall be performed before the start of any construction activities. If the Phase II investigations show soil, soil gas, and/or groundwater concentrations that exceed regulatory screening levels, the project applicant shall obtain regulatory oversight from the appropriate regulatory agency. The project applicant shall perform further environmental investigation and remediation if needed to ensure full protection of construction workers, the environment, and the public. Mitigation Measures HA-3b and HA-3c, described below, would be required and would describe the remediation measures to be implemented. Mitigation Measure HA-3d, described below, may also be implemented if appropriate to the particular site.

Mitigation Measure HA-3b: Health and Safety Plan

Before the start of ground-disturbing activities, including grading, trenching, or excavation, or structure demolition on parcels within the project site, the project applicant for the specific work proposed shall require that the construction contractor(s) retain a qualified professional to prepare a site-specific health and safety plan (HSP) in accordance with federal Occupational Safety and Health Administration regulations (29 CFR 1910.120) and California Occupational Safety and Health Administration regulations (8 CCR Section 5192).

The HSP shall be implemented by the construction contractor to protect construction workers, the public, and the environment during all ground-disturbing and structure demolition activities. HSPs shall be submitted to the Director of Planning, Building, and Code Enforcement, or the Director's designee, the Environmental Services Department Municipal Environmental Compliance Officer, and any applicable oversight regulatory agency (if regulatory oversight is required) for review before the start of demolition and construction activities and as a condition of the grading, construction, and/or demolition permit(s). The HSP shall include, but not be limited to, the following elements:

- Designation of a trained, experienced site safety and health supervisor who has the responsibility and authority to develop and implement the site HSP.
- A summary of all potential risks to demolition and construction workers and maximum exposure limits for all known and reasonably foreseeable site chemicals.
- Specified personal protective equipment and decontamination procedures, if needed.

- The requirement to prepare documentation showing that HSP measures have been implemented during construction (e.g., tailgate safety meeting notes with signup sheet for attendees).
- A requirement specifying that any site worker who identifies hazardous materials has the authority to stop work and notify the site safety and health supervisor.
- Emergency procedures, including the route to the nearest hospital.
- Procedures to follow if evidence of potential soil or groundwater contamination is encountered (such as soil staining, noxious odors, debris or buried storage containers). These procedures shall be followed in accordance with hazardous waste operations regulations and specifically include, but not be limited to, immediately stopping work in the vicinity of the unknown hazardous materials release; notifying the PBCE and the regulatory agency overseeing site cleanup, if any; and retaining a qualified environmental firm to perform sampling and remediation.

Mitigation Measure HA3c: Site Management Plan

In support of the health and safety plans described in Mitigation Measure HA-3b, the project applicant for the specific work proposed shall develop and require that its contractor(s) develop and implement site management plans (SMPs) for the management of soil, soil gas, and groundwater before any ground-disturbing activity for all parcels with land use limitations and all parcels with known or suspected contamination. SMPs may be prepared for the entire project site, for groups of parcels, or for individual parcels. In any case, all such parcels shall be covered by an SMP. Each SMP shall include the following, at a minimum:

- Site description, including the hazardous materials that may be encountered.
- Roles and responsibilities of on-site workers, supervisors, and the regulatory agency.
- Training for site workers focused on the recognition of and response to encountering hazardous materials.
- Protocols for the materials (soil and/or dewatering effluent) testing, handling, removing, transporting, and disposing of all excavated materials and dewatering effluent in a safe, appropriate, and lawful manner.

- Reporting requirement to the overseeing regulatory agency and the Planning, Building, and Code Enforcement (PBCE), documenting that site activities were conducted in accordance with the SMP.

SMPs for parcels with soil, soil gas, and/or groundwater above environmental screening levels for the proposed land use shall be submitted to the regulatory agency with jurisdiction (i.e., Department of Toxic Substances Control, the Regional Water Quality Control Board, or the SCCDEH), for review, and to the Director of Planning, Building, and Coded Enforcement or the Director's designee, and the Environmental Services Municipal Environmental Compliance Officer to inform their permit approval process before the start of demolition and construction activities and as a condition of the grading, construction, and/or demolition permit(s). The overseeing regulatory agency, if it accepts oversight, will require enrolment in its cleanup program and payment for oversight. The Contract specifications shall mandate full compliance with all applicable federal, state, and local regulations related to the identification, transportation, and disposal of hazardous materials.

For work at parcels that would encounter groundwater, as part of the SMPs, contractors shall include a groundwater dewatering control and disposal plan specifying how groundwater (dewatering effluent), if encountered, will be handled and disposed of in a safe, appropriate, and lawful manner. The groundwater portion of the SMPs shall include the following, at a minimum:

- The locations at which groundwater dewatering is likely to be required.
- Test methods to analyze groundwater for hazardous materials.
- Appropriate treatment and/or disposal methods.
- Discussion of discharge to a publicly owned treatment works or the stormwater system, in accordance with any regulatory requirements the treatment works may have, if this effluent disposal option is to be used.
- The groundwater dewatering control and disposal plan shall provide a detailed analysis of construction dewatering, including estimating dewatering volumes/durations and evaluating related impacts if volumes are expected to be significant. The dewatering system shall be designed such that the volume and duration of dewatering are minimized to the greatest extent possible.
- The geotechnical investigation for those parcels that may require dewatering shall identify the foundation design and waterproofing to minimize the need for permanent dewatering after construction is complete.

Mitigation Measure HA-3d: Vapor Mitigation

To mitigate exceedances of indoor air standards, the project applicant shall incorporate at least one or more of the vapor mitigation methods listed below on each parcel known to have soil gas concentrations above soil gas screening levels or identified to have concentrations above screening levels as a result of Phase II investigations included in Mitigation Measure HA-3c. The proposed work-specific vapor mitigation, if not in compliance with then-current guidance, must be pre-approved by the applicable regulatory oversight agency (e.g., DTSC, the Regional Water Quality Control Board, or the Santa Clara County Department of Environmental Health [SCCDEH]):

- Excavate and remove contaminated materials (soil and, if needed, groundwater), to levels where subsequent testing verifies that soil gas levels are below screening levels. This approach would remove the source of soil gas and would not require a physical barrier such as a high-density polyethylene vapor barrier to prevent vapor intrusion.
- Install a physical vapor barrier (e.g., liner) beneath the structure foundation that prevents soil gas from seeping into breathing spaces inside the structure.
- Install a passive or powered vapor mitigation system layer that draws soil gas out of the under-foundation base rock and directs that soil gas to a treatment system to prevent people from being exposed outdoors.

Upon completion, the project applicant shall prepare a report documenting the testing results and installed vapor mitigation method and submit the report to the regulatory agency with jurisdiction (i.e., DTSC, SCCDEH, or the Regional Water Quality Control Board). A copy of the report shall be provided to Director of Planning, Building and Code Enforcement, or the Director's designee, and the Environmental Services Department Municipal Environmental Compliance Officer to inform them of compliance with this requirement. The implemented mitigation measure shall result in indoor air concentrations that do not exceed the screening levels provided in the above-referenced DTSC HHRA Note 3.

Finding: Implementing Mitigation Measures HA-3a, Land Use Limitations; HA-3b, Health and Safety Plan; HA-3c, Site Management Plan; and HA-3d, Vapor Mitigation, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.7 (page 3.7-83) of the Draft EIR, as amended, implementation of Mitigation Measures HA-3a through 3d, along with compliance existing regulations concerning hazardous materials, would ensure that any hazardous material or waste encountered during project construction activities is containerized, handled, and transported safely and in accordance with all applicable federal, state, and local regulations. Moreover, haul routes from the project site would not pass by area schools. For the above reasons, the project impact with respect to the known presence of hazardous materials, based on Government Code Section 65962.5, would be reduced to a less-than-significant level with mitigation.

Impact: **Impact HA4:** The proposed project is located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, but would not result in a safety hazard or excessive noise for people residing or working in the project area.

Mitigation: **Mitigation Measure NO-3: Exposure to Airport Noise** (refer to Section 3.10, *Noise and Vibration*)

Finding: Implementing Mitigation Measure NO-3, Exposure to Airport Noise, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.7 (page 3.7-89) of the Draft EIR, as amended, implementation of Mitigation Measure NO-3 would reduce interior noise levels for residential uses within the 65 dBA CNEL noise contour to 45 dB CNEL or less. While the project could include outdoor residential areas located within the airport's 65 dB CNEL contour, as explained on Draft EIR page 3.7-87, with Mitigation Measure NO-3, exposure to aircraft noise on the project site would not result in adverse health or safety impacts, despite the policy conflict with the Norman Y. Mineta San José International Airport Comprehensive Land Use Plan. For the above reason, the impact of exposure of project residents to airport noise would be reduced to a less-than-significant level with mitigation.

Impact: **Impact C-HA1:** The proposed project would not combine with other projects to result in significant cumulative impacts related to hazardous materials.

Mitigation: **Mitigation Measure HA-3b: Health and Safety Plan** (refer to Impact HA-3)

Mitigation Measure HA-3c: Site Management Plan (refer to Impact HA-3)

Mitigation Measure HA-3d: Vapor Mitigation, as appropriate (refer to Impact HA-3)

Finding: Implementing Mitigation Measures HA-3b, Health and Safety Plan; HA-3c, Site Management Plan; and HA-3d, Vapor Mitigation, would reduce the project's contribution to cumulative impacts, resulting in a less-than-significant impact. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.7 (page 3.7-94) of the Draft EIR, as amended, implementation of Mitigation Measures HA-3b through 3d, along with compliance existing regulations concerning hazardous materials, would avoid or minimize project-specific impacts with respect to hazardous materials, as described above in Impacts HA-2 and HA-3. This would reduce the project's contribution to any potential cumulative impacts to less than cumulatively considerable. For the above reason, cumulative impacts related to hazardous materials would be reduced to a less-than-significant level with mitigation.

Impact: **Impact C-HA-2:** The proposed project would not combine with other projects to result in significant cumulative impacts related to proximity to airports.

Mitigation: **Mitigation Measure NO-3: Exposure to Airport Noise** (refer to Section 3.10, *Noise and Vibration*)

Finding: Implementing Mitigation Measure NO-3, Exposure to Airport Noise, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.7 (page 3.7-94) of the Draft EIR, as amended, implementation of Mitigation Measure NO-3, would avoid project-specific adverse health or safety impacts with respect to exposure to airport noise, as described above in Impact HA-4. Other projects would similarly be required to avoid such health or safety impacts. Accordingly, the project's contribution to any potential cumulative airport noise impacts would be less than cumulatively considerable. For the above reason, cumulative impacts related to health and safety impacts of airport noise would be reduced to a less-than-significant level with mitigation.

Hydrology and Water Quality

Impact: **Impact HY-1:** The proposed project could violate a water quality standard or waste discharge requirement or otherwise substantially degrade surface or groundwater quality.

Mitigation: **Mitigation Measure HY-1: Water Quality Best Management Practices during Construction Activities in and near Waterways**

To avoid and/or minimize potential impacts on water quality (and jurisdictional waters) for project activities that would be conducted in, over, or within 100 feet of waterways, the project applicant shall implement the following standard construction best management practices (BMPs), applicable to project construction activities in, near, or over waterways, to prevent releases of construction materials or hazardous materials and to avoid other potential environmental impacts:

- If the project includes activities such as debris removal or pier/pile demolition, the project applicant for the specific work proposed shall be required to submit a notice of intent to comply with waste discharge requirements and conditions identified by the San Francisco Bay Regional Water Quality Control Board. No debris, rubbish, soil, silt, sand, cement, concrete, or washings thereof, or other construction-related materials or wastes, oil, or petroleum products shall be allowed to enter jurisdictional waters, or shall be placed where it would be subject to erosion by rain, wind, or waves and enter into jurisdictional waters, except as permitted by the San Francisco Bay Regional Water Quality Control Board under an approved waste discharge requirement permit condition. Staged construction materials with the potential to be eroded/entrained during a rainfall event shall be covered every night and during any rainfall event (as applicable).
- In-stream construction shall be scheduled during the summer low-flow season to the extent feasible to minimize impacts on aquatic resources.

- To the maximum extent practicable, construction materials, wastes, debris, sediment, rubbish, trash, fencing, etc., shall be removed from the project site's riparian areas daily during construction, and thoroughly at the completion of the project. Debris shall be transported to a pre-designated upland disposal area.
- Protective measures shall be used to prevent accidental discharges of oils, gasoline, or other hazardous materials to jurisdictional waters during fueling, cleaning, and maintenance of equipment, as outlined in the project's soil and groundwater management plan. Well-maintained equipment shall be used to perform construction work, and except in the case of failure or breakdown, equipment maintenance shall be performed off-site, to the extent feasible. Crews shall check heavy equipment daily for leaks; if a leak is discovered, it shall be immediately contained and use of the equipment shall be suspended until repaired. The source of the leak shall be identified, material shall be cleaned up, and the cleaning materials shall be collected and properly disposed.
- Vehicles and equipment used during construction shall be serviced off-site, as feasible, or in a designated location a minimum of 100 feet from waterways. Fueling locations shall be inspected after fueling to document that no spills have occurred. Any spills shall be cleaned up immediately.
- The project applicant shall submit a copy of the BMPs to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to the issuance of any demolition or grading permits.

Mitigation Measure BI-1a: General Avoidance and Protection Measures (refer to Section 3.2, *Biological Resources*)

Mitigation Measure BI-2a: Avoidance of Impacts on Riparian Habitat (refer to Section 3.2, *Biological Resources*)

Mitigation Measure HA-3b: Health and Safety Plan (refer to Section 3.7, *Hazards and Hazardous Materials*)

Mitigation Measure HA-3c: Site Management Plan (refer to Section 3.7, *Hazards and Hazardous Materials*)

Finding: Implementing Mitigation Measures HY-1, Water Quality Best Management Practices during Construction Activities in and near Waterways; BI-1a, General Avoidance and Protection Measures; BI-2a, Avoidance of Impacts on Riparian Habitat; HA-3b, Health and Safety Plan; and HA-3c, Site

Management Plan, would reduce the project's impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.9 (pages 3.8-27–3.8-28) of the Draft EIR, as amended, implementation of Mitigation Measures HY-1, BI-1a, HA-3b, and HA-3c, along with compliance with applicable water quality regulations, would require specific water quality protection mitigation measure intended to limit the potential impacts of construction in or near waterways; minimize disturbance and protect the riparian corridor; and ensure that contaminants would not be released into groundwater during construction excavation. As stated on Draft EIR page 3.8-31, implementation of Mitigation Measures BI-2a and HA-3c would provide for re-vegetation and ongoing monitoring of the riparian corridor after construction to repair construction-related disturbance of the corridor and reduce site runoff, erosion, and potential contamination of surface waters, and would ensure that contaminants would not be released into groundwater during construction excavation. For the above reasons, project impacts with respect to potential violation of a water quality standard or waste discharge requirement or other substantial degradation of surface or groundwater quality would be reduced to a less-than-significant level with mitigation.

Impact: **Impact HY3:** The proposed project could substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.

Mitigation: **Mitigation Measure BI-1a: General Avoidance and Protection Measures** (refer to Section 3.2, *Biological Resources*)

Mitigation Measure HY-1: Water Quality Best Management Practices during Construction Activities in and near Waterways (refer to Impact HY-1)

Mitigation Measure HY-3a: Flood Risk Analysis and Modeling

Once the final design is complete and before the issuance of any building permit for any portion of the project potentially subject to flooding according

to the best available data from the City or Valley Water, the project applicant for the specific work proposed shall conduct a hydrologic analysis of the final project design to address flood risks.

The project applicant shall prepare a thorough hydrologic technical evaluation and demonstrate that the project poses minimal flood risk to occupants, residents, visitors, and surrounding properties. The project design shall be modified to minimize the impacts of the proposed development and shall be submitted to the City for review and approval. The design shall ensure that proposed new structures are elevated or flood-proofed above the 1 percent (100-year) base flood elevation, consistent with the City's adopted performance standards[7] that limit development within a special flood hazard area (Zone A) unless demonstrated that the cumulative effect of the proposed development would not increase the water surface elevation of the base flood more than 1 foot at any point within the City of San José.

The hydrologic technical evaluation shall demonstrate that after construction of the new structure(s), floodplain encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge for existing adjacent structures or, for those structures located in the 100-year floodplain under existing conditions, the project shall not result in increases in the base flood elevation of more than one foot, consistent with the City's adopted performance standard.

Final design measures shall be developed in consultation with Valley Water, subject to review and approval by the City Department of Public Works and Department of Planning, Building and Code Enforcement. Measures could include any of the following:

- Use in-stream and associated floodplain restoration strategies in the riparian corridor to expand a greenway along Los Gatos Creek and conduct associated floodplain restoration.
- Remove existing obstructions to flood conveyance, such as channel debris or existing structures within the floodway.
- Upgrade the City's storm drain network.

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[7] City of San José, *City of San José Code of Ordinances*, Title 17, Buildings and Construction; Chapter 17.08, Special Flood Hazard Areas; Part 5, Requirements; Section 17.08.640, New Developments. Available at https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT17BUCO_CH17.08SPFLHAARRE_PT5RESPFLHAAR_17.08.640NEDE. Accessed January 15, 2020.

- Install protective infrastructure for subsurface structures to reduce the risk of inundation.
- Raise the level of the project's structures to minimize risks to occupants and the surrounding community.
- Flood-proof project structures with, including but not limited to, permanent or removable standing barriers, garage flood gates, or automated flip-up barriers.

Mitigation Measure HY-3b: Plan for Ongoing Creek Maintenance

In the event that the project includes channel rehabilitation, prior to commencement of the initial restoration program within Los Gatos Creek, the project applicant shall submit a plan for ongoing maintenance of the affected reach of Los Gatos Creek to Valley Water and to the Director of Planning, Building, and Code Enforcement, or the Director's designee, for review and approval. The plan shall be consistent with the conditions in the existing permits for Valley Water's ongoing stream maintenance program and/or shall be subject to its own project-specific permitting regime, subject to jurisdictional agency review and approval.

Finding: Implementing Mitigation Measures HY-1, Water Quality Best Management Practices during Construction Activities in and near Waterways; HY-3a, Flood Risk Analysis and Modeling; HY-3b, Plan for Ongoing Creek Maintenance; and BI-1a, General Avoidance and Protection Measures, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.9 (page 3.8-32) of the Draft EIR, as amended, implementation of Mitigation Measures HY-1 and BI-1a, along with compliance with applicable flood regulations, would require implementation of best management practices and applicable development design standards and to protect waterways and would limit or minimize erosion, runoff, and/or siltation on-site or off-site. As stated on Draft EIR page 3.8-36, implementation of Mitigation Measures HY-3a and HY-3b would address the potential for an increase in volume of surface runoff resulting in increased flood risk associated with altered drainage patterns, and would ensure that stream maintenance activities would not conflict with the ongoing Valley Water stream maintenance program and are coordinated with the City, in consultation with the appropriate jurisdictional

agencies. For the above reasons, project impacts with respect to alteration of drainage patterns and increased runoff would be reduced to a less-than-significant level with mitigation.

Impact: **Impact HY-4:** The proposed project could create or contribute runoff water that could exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, or impede or redirect flood flows.

Mitigation: **Mitigation Measure HY-1: Water Quality Best Management Practices during Construction Activities in and near Waterways** (refer to Impact HY-1)

Mitigation Measure HY-3a: Flood Risk Analysis and Modeling (refer to Impact HY-3)

Mitigation Measure HY-3b: Plan for Ongoing Creek Maintenance (refer to Impact HY-3)

Finding: Implementing Mitigation Measures HY-1, Water Quality Best Management Practices during Construction Activities in and near Waterways; HY-3a, Flood Risk Analysis and Modeling; and HY-3b, Plan for Ongoing Creek Maintenance, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.9 (page 3.8-38) of the Draft EIR, as amended, implementation of Mitigation Measures HY-1, HY-3a, and HY-3b, along with compliance with existing regulations, would require specific water quality protection mitigation measure to limit impacts of construction in or near waterways, address the potential increased flood risk associated with altered drainage patterns, and ensure that stream maintenance activities would not conflict with Valley Water's stream maintenance program and would be coordinated with other agencies, thus ensuring that the project would create or contribute runoff water that could exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, or impede or redirect flood flows. For the above reasons, project impacts with respect to stormwater runoff would be reduced to a less-than-significant level with mitigation.

Impact: **Impact HY5:** The proposed project could risk release of pollutants in a flood hazard, tsunami, or seiche zone due to project inundation.

Mitigation: **Mitigation Measure HY-3a: Flood Risk Analysis and Modeling** (refer to Impact HY-3)

Mitigation Measure HY-3b: Plan for Ongoing Creek Maintenance (refer to Impact HY-3)

Finding: Implementing Mitigation Measure HY-3a, Flood Risk Analysis and Modeling, and Mitigation Measure HY-3b, Plan for Ongoing Creek Maintenance, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.9 (page 3.8-42) of the Draft EIR, as amended, implementation of Mitigation Measures HY-3a and HY-3b would address the potential for an increase in volume of surface runoff resulting in increased flood risk associated with altered drainage patterns, and would ensure that stream maintenance activities would not conflict with the ongoing Valley Water stream maintenance program and are coordinated with the City, in consultation with the appropriate jurisdictional agencies. For the above reasons, project impacts with respect to increasing flood hazards would be reduced to a less-than-significant level with mitigation.

Impact: **Impact HY6:** The proposed project could conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Mitigation: **Mitigation Measure HA-3b: Health and Safety Plan** (refer to Section 3.7, *Hazards and Hazardous Materials*)

Mitigation Measure HA-3c: Site Management Plan (refer to Section 3.7, *Hazards and Hazardous Materials*)

Finding: Implementing Mitigation Measure HA-3b, Health and Safety Plan, and Mitigation Measure HA-3c, Site Management Plan, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.9 (page 3.8-43–3.8-44) of the Draft EIR, as amended, implementation of Mitigation Measures HA-3b and HA-3c and compliance with applicable water quality regulations would prevent groundwater contamination during project construction and operation. For the above reasons, the project would not conflict with or obstruct implementation of the *Water Quality Control Plan for the San Francisco Bay Basin,* the applicable water quality control plan; additionally, the project would not conflict with the *2016 Groundwater Management Plan: Santa Clara and Llagas Subbasin*. For the above reasons, and this impact would be reduced to a less-than-significant level with mitigation.

Impact: **Impact C-HY-1:** The project, in combination with past, present, and reasonably foreseeable future projects in the site vicinity, could result in a considerable contribution to cumulative impacts on hydrology and water quality.

Mitigation: **Mitigation Measure HY-1: Water Quality Best Management Practices during Construction Activities in and near Water** (refer to Impact HY-1)

Mitigation Measure BI-1a: General Avoidance and Protection Measures (refer to Section 3.2, *Biological Resources*)

Mitigation Measure BI-2a: Avoidance of Impacts on Riparian Habitat (refer to Section 3.2, *Biological Resources*)

Mitigation Measure HA-3b: Health and Safety Plan (refer to Section 3.7, *Hazards and Hazardous Materials*)

Mitigation Measure HA-3c: Site Management Plan (refer to Section 3.7, *Hazards and Hazardous Materials*)

Finding: Implementing Mitigation Measures HY-1, Water Quality Best Management Practices during Construction Activities in and near Water; BI-1a, General Avoidance and Protection Measures; BI-2a, Avoidance of Impacts on Riparian Habitat; HA-3b, Health and Safety Plan; and HA-3c, Site Management Plan, would reduce the project's contribution to cumulative impacts, resulting in a less-than-significant impact. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.9 (page 3.8-46) of the Draft EIR, as amended, implementation of Mitigation Measures HY-1, BI-1a, BI-2a, HA-3b, and HA-3c would require specific water quality protection mitigation measure intended to limit the potential impacts of construction in or near waterways; minimize disturbance and protect the riparian corridor; ensure that contaminants would not be released into groundwater during construction excavation; provide for re-vegetation and ongoing monitoring of the riparian corridor after construction to repair construction-related disturbance of the corridor and reduce site runoff, erosion, and potential contamination of surface waters; and ensure that contaminants would not be released into groundwater during construction excavation. These measures would avoid or minimize project-specific impacts on hydrology and water quality, as described above in Impacts HY-1 and HY-5. This would reduce the project's contribution to any potential cumulative impacts to less than cumulatively considerable. For the above reasons, cumulative impacts with respect to hydrology and water quality would be reduced to a less-than-significant level with mitigation.

Impact: **Impact CHY3:** The proposed project, in combination with past, present, and reasonably foreseeable future projects in the site vicinity, could result in a considerable contribution to cumulative impacts related to flood hazards.

Mitigation: **Mitigation Measure HY-3a: Flood Risk Analysis and Modeling** (refer to Impact HY-3)

Mitigation Measure HY-3b: Plan for Ongoing Creek Maintenance (refer to Impact HY-3)

Finding: Implementing Mitigation Measure HY-3a, Flood Risk Analysis and Modeling, and Mitigation Measure HY-3b, Plan for Ongoing Creek Maintenance, would reduce the project's contribution to cumulative impacts, resulting in a less-than-significant impact. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.9 (page 3.8-47) of the Draft EIR, as amended, implementation of Mitigation Measures HY-3a and HY-3b would address the potential for an increase in volume of surface runoff resulting in increased flood risk associated with altered drainage patterns,

and would ensure that stream maintenance activities would not conflict with the ongoing Valley Water stream maintenance program and are coordinated with the City, in consultation with the appropriate jurisdictional agencies, as described above in Impact HY-3. These measures would avoid or minimize project-specific impacts on flooding, thereby reducing the project's contribution to any potential cumulative impacts to less than cumulatively considerable. For the above reasons, cumulative impacts with respect to flood hazards would be reduced to a less-than-significant level with mitigation.

Noise and Vibration

Impact: **Impact NO-1a:** Stationary sources associated with operation of the proposed project could result in generation of a permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Mitigation: **Mitigation Measure NO-1a: Operational Noise Performance Standard**

Prior to the issuance of any building permit, the project applicant shall ensure that all mechanical equipment is selected and designed to reduce impacts on surrounding uses by meeting the performance standards of Chapters 20.20 through 20.50 of the San José Municipal Code, limiting noise from stationary sources such as mechanical equipment, loading docks, and central utility plants to 55 dBA, 60 dBA, and 70 dBA at the property lines of residential, commercial, and industrial receivers, respectively. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance has been verified by the City. Methods of achieving these standards include using low-noise-emitting HVAC equipment, locating HVAC and other mechanical equipment within a rooftop mechanical penthouse, and using shields and parapets to reduce noise levels to adjacent land uses. For emergency generators, industrial-grade silencers can reduce exhaust noise by 12 to 18 dBA, and residential-grade silencers can reduce such noise by 18 to 25 dBA.[8] Acoustical screening can also be applied to exterior noise sources of the proposed central utility plants and can achieve up to 15 dBA of noise reduction.[9]

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[8] American Society of Heating, Refrigeration, and Air Conditioning Engineers, Technical Committee on Sound and Vibration, *Generator Noise Control—An Overview*, 2006.
[9] Environmental Noise Control, Product Specification Sheet, ENC STC-32 Sound Control Panel System, 2014.

An acoustical study shall be prepared by a qualified acoustical engineer during final building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary design measures to be incorporated to meet the City's standards. The study shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee for review and approval before the issuance of any building permit.

Finding: Implementing Mitigation Measure NO-1a, Operational Noise Performance Standard, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.10 (page 3.10-33) of the Draft EIR, as amended, implementation of Mitigation Measure NO-1a would establish a performance standard for operational noise from mechanical equipment. This measure would ensure that the impact of noise from stationary sources associated with operation of the proposed project would be reduced to a less-than-significant level with mitigation.

Impact: **Impact NO-2:** The proposed project could result in the generation of excessive groundborne vibration or groundborne noise levels.

Mitigation: **Mitigation Measure NO-2a: Master Construction Vibration Avoidance and Reduction Plan**

Prior to the issuance of the first building permit for the project, the project applicant shall prepare a Master Construction Vibration Avoidance and Reduction Plan. The plan shall be implemented by the project applicant as development occurs throughout the project site to address demolition and construction activity that involves impact or vibratory pile driving, or use of a tunnel boring machine within 75 feet of conventionally constructed buildings. The plan shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval before the issuance of the initial grading or building permit. The plan shall include, at a minimum, the following vibration avoidance and reduction measures:

- Neighbors within 500 feet of the construction site shall be notified of the construction schedule and that noticeable vibration levels could result from pile driving.

- Foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile.
- Piles shall be jetted[10] or partially jetted into place to minimize the number of impacts required to seat the piles.
- A construction vibration monitoring plan shall be implemented to document conditions before, during, and after pile driving and use of the tunnel boring machine. All plan tasks shall be undertaken under the direction of a Professional Structural Engineer licensed in the State of California, in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include the following tasks:
  - Identify the sensitivity of nearby structures to groundborne vibration. A vibration survey (generally described below) would need to be performed.
  - Perform a pre-construction photo survey, elevation survey, and crack monitoring survey for each of these structures. Surveys shall be performed before any pile driving activity, at regular intervals during pile driving, and after completion. The surveys shall include monitoring for internal and external cracks in structures, settlement, and distress, and shall document the condition of foundations, walls, and other structural elements in the interior and exterior of the structures.
  - Develop a vibration monitoring and construction contingency plan. The plan shall identify structures where monitoring is to be conducted, establish a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document conditions before and after pile driving.
  - Identify alternative construction methods for when vibration levels approach the limits stated in the General Plan, such as in Policy EC-2.3.
  - If vibration levels approach the limits, suspend construction and implement alternative construction methods to either lower vibration levels or secure the affected structures.

[10] "Pile jetting" is a technique that is frequently used in conjunction with, or separate from, pile driving equipment for pile placement. Pile jetting uses a carefully directed and pressurized flow of water to assist in pile placement. This greatly decreases the bearing capacity of the soils below the pile tip, causing the pile to descend toward its final tip elevation with much less soil resistance, largely under its own weight.

- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints have been received regarding damage. Where damage has resulted from construction activities, make appropriate repairs or provide compensation.
- Within one month after substantial completion of each phase identified in the project schedule, summarize the results of all vibration monitoring in a report and submit the report for review by the Director of Planning, Building and Code Enforcement or the Director's designee. The report shall describe measurement methods and equipment used, present calibration certificates, and include graphics as required to clearly identify the locations of vibration monitoring. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

Mitigation Measure NO-2b: Master Construction Vibration Avoidance from Compaction

The project applicant shall also prepare a Master Construction Vibration Avoidance and Reduction Plan for construction activities that will not involve impact or vibratory pile driving but will employ a vibratory roller as a method of compaction. The plan shall be implemented by the project applicant as development occurs throughout the project site to address construction activity occurring within 25 feet of conventionally constructed buildings. The plan shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee for review and approval before the issuance of the initial grading or building permit. The plan shall include, at a minimum, the following vibration avoidance and reduction measures:

- Contractors shall use nonvibratory, excavator mounted compaction wheels and small smooth drum rollers for final compaction of asphalt base and asphalt concrete, if within 50 feet of a historic structure or 25 feet of a conventionally constructed structure. If needed to meet compaction requirements, smaller vibratory rollers shall be used to minimize vibration levels during repaving activities where needed to meet vibration standards.
- The use of vibratory rollers and clam shovel drops near sensitive areas shall be avoided.

- Construction methods shall be modified, or alternative construction methods shall be identified, and designed to reduce vibration levels below the limits.

Mitigation Measure CU-4: Construction Vibration Operation Plan for Historic Structures (refer to Section 3.3, *Cultural Resources and Tribal Cultural Resources*)

Finding: Implementing Mitigation Measures NO-2a, Master Construction Vibration Avoidance and Reduction Plan; NO-2b, Master Construction Vibration Avoidance from Compaction; and CU-4, Construction Vibration Operation Plan for Historic Structures, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.10 (page 3.10-47) of the Draft EIR, as amended, implementation of Mitigation Measures NO-2a and NO-2b, along with Mitigation Measure CU-4, would ensure that construction-related vibration would be monitored and controlled so as to avoid damage to historic architectural resources and other vibration-sensitive structures. For this reason, the project's impact with respect to the generation of groundborne vibration or groundborne noise levels would be reduced to a less-than-significant level with mitigation.

Public Services and Recreation

Impact: **Impact PS7:** The proposed project would not include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

Mitigation: Refer to Section 3.1, *Air Quality*, for the following mitigation measures:

Mitigation Measure AQ-2a: Construction Emissions Minimization Plan

Mitigation Measure AQ-2b: Construction Equipment Maintenance and Tuning

Mitigation Measure AQ-2c: Heavy-Duty Truck Model Year Requirement

Refer to Section 3.2, *Biological Resources*, for the following mitigation measures:

Mitigation Measure BI-1a: General Avoidance and Protection Measures

Mitigation Measure BI-1b: In-Water Construction Schedule

Mitigation Measure BI-1c: Native Fish Capture and Relocation

Mitigation Measure BI-1d: Western Pond Turtle Protection Measures

Mitigation Measure BI-1e: Avoidance of Impacts on Nesting Birds

Mitigation Measure BI-1f: Roosting Bat Surveys

Mitigation Measure BI-2a: Avoidance of Impacts on Riparian Habitat

Mitigation Measure BI-2b: Frac-Out Contingency Plan

Mitigation Measure BI-2d: Avoidance and Protection of Creeping Wild Rye Habitat

Mitigation Measure BI-3: Avoidance of Impacts on Wetlands and Waters

Refer to Section 3.3, *Cultural Resources and Tribal Cultural Resources*, for the following mitigation measures:

Mitigation Measure CU-8a: Cultural Resources Awareness Training

Mitigation Measure CU-8b: Archaeological Testing Plan

Mitigation Measure CU-8c: Archaeological Evaluation

Mitigation Measure CU-8d: Archaeological Resources Treatment Plan

Refer to Section 3.5, *Geology, Soils, and Paleontological Resources*, for the following mitigation measures:

Mitigation Measure GE-5a: Project Paleontologist

Mitigation Measure GE-5b: Worker Training

Mitigation Measure GE-5c: Paleontological Monitoring

Mitigation Measure GE-5d: Significant Fossil Treatment

Refer to Section 3.6, *Greenhouse Gas Emissions*, for the following mitigation measure:

Mitigation Measure GR-2: Compliance with AB 900

Refer to Section 3.7, *Hazards and Hazardous Materials*, for the following mitigation measures:

Mitigation Measure HA-3a: Land Use Limitations

Mitigation Measure HA-3b: Health and Safety Plan

Mitigation Measure HA-3c: Site Management Plan

Refer to Section 3.8, *Hydrology and Water Quality*, for the following mitigation measures:

Mitigation Measure HY-1: Water Quality Best Management Practices during Construction Activities in and near Waterways

Mitigation Measure HY-3a: Flood Risk Analysis and Modeling

Refer to Section 3.10, *Noise and Vibration*, for the following mitigation measures:

Mitigation Measure NO-1c: Master Construction Noise Reduction Plan

Mitigation Measure NO-2a: Master Construction Vibration Avoidance and Reduction Plan

Mitigation Measure NO-2b: Master Construction Vibration Avoidance from Compaction

Finding: Implementing Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, GR-2, HA-3a, HA-3b, HA-3c, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.12 (paGE-3.12-45) of the Draft EIR, as amended, implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3,

CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, GR-2, HA-3a, HA-3b, HA-3c, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b, along with applicable standard conditions of approval, would avoid or substantially minimize impacts of park and recreational facility construction with respect to air quality, biological resources, cultural resources, geology and soils, greenhouse gases, hazardous materials, hydrology and water quality, and noise. As stated on page 3.12-47, although the proposed project as a whole would result in significant and unavoidable construction air quality and construction noise impacts, construction work involving parks and recreational space, which is included in the overall analysis, would be relatively minimal and would not, in itself, exceed any significance thresholds for air quality or noise. For the above reasons, project impacts with respect to construction or expansion of recreational facilities would be reduced to a less-than-significant level with mitigation.

Transportation

Impact: **Impact TR-7:** The proposed project would cause a decrease in average travel speed on a transit corridor below Year 2040 Cumulative No Project conditions in the 1-hour a.m. peak period when the average speed drops below 15 mph or decreases by 25 percent or more; OR when the average speed drops by 1 mph or more for a transit corridor with average speed below 15 mph.

Mitigation: **Mitigation Measure AQ-2h, Enhanced Transportation Demand Management Program** (refer to Section 3.1, *Air Quality*)

Finding: Implementing Mitigation Measure AQ-2h, Enhanced Transportation Demand Management Program, would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.13 (page 3.13-53) of the Draft EIR, as amended, and as further documented in the First Amendment to the Draft EIR (Section 3.2.4, *Master Response 4: TDM Program*, page 329) and in Draft EIR Appendix C4, *Fehr & Peers TDM Effectiveness Memorandum*, as revised, implementation of Mitigation Measure AQ2h would ensure that the project achieves a non-single-occupancy vehicle mode share of 65 percent, which is estimated to be equivalent to a 27-percent reduction in daily vehicle trips following completion of service

enhancement related to Caltrain electrification and BART service to Diridon Station by 2040. This would ensure adequate transit speeds along the Alum Rock Avenue corridor, thereby reducing the project impact on transit corridor travel speeds to a less-than-significant level with mitigation.

Impact: **Impact C-TR-1:** The proposed project would result in a cumulatively considerable contribution to a significant transportation impact.

Mitigation: **Mitigation Measure AQ-2h, Enhanced Transportation Demand Management Program** (refer to Section 3.1, *Air Quality*)

Finding: Implementing Mitigation Measure AQ-2h, Enhanced Transportation Demand Management Program, would reduce the project's contribution to cumulative impacts, resulting in a less-than-significant impact. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.13 (page 3.13-54) of the Draft EIR, as amended, and as further documented in the First Amendment to the Draft EIR (Section 3.2.4, *Master Response 4: TDM Program*, page 3-29) and in Draft EIR Appendix C4, *Fehr & Peers TDM Effectiveness Memorandum*, as revised, implementation of Mitigation Measure AQ-2h would ensure adequate transit travel along the Alum Rock Avenue corridor, thereby avoiding project-specific impacts on transit speeds, as stated above in Impact TR-7. As explained on Draft EIR page 3.13-54, this would result in the project's contribution to cumulative impacts, as modeled in the City's Travel Forecasting Model, being less than cumulatively considerable. For the above reason, the cumulative impact on transit corridor travel speeds would be reduced to a less-than-significant level with mitigation.

Utilities and Service Systems

Impact: **Impact UT-1:** The proposed project would not require or result in the relocation or construction of new or expanded water facilities, the construction or relocation of which could cause significant environmental effects.

Mitigation: Refer to Section 3.1, *Air Quality*, for the following mitigation measures:

Mitigation Measure AQ-2a: Construction Emissions Minimization Plan

Mitigation Measure AQ-2b: Construction Equipment Maintenance and Tuning

Mitigation Measure AQ-2c: Heavy-Duty Truck Model Year Requirement

Refer to Section 3.2, *Biological Resources*, for the following mitigation measures:

Mitigation Measure BI-1a: General Avoidance and Protection Measures

Mitigation Measure BI-1b: In-Water Construction Schedule

Mitigation Measure BI-1c: Native Fish Capture and Relocation

Mitigation Measure BI-1d: Western Pond Turtle Protection Measures

Mitigation Measure BI-1e: Avoidance of Impacts on Nesting Birds

Mitigation Measure BI-1f: Roosting Bat Surveys

Mitigation Measure BI-2a: Avoidance of Impacts on Riparian Habitat

Mitigation Measure BI-2b: Frac-Out Contingency Plan

Mitigation Measure BI-2d: Avoidance and Protection of Creeping Wild Rye Habitat

Mitigation Measure BI-3: Avoidance of Impacts on Wetlands and Waters

Refer to Section 3.3, *Cultural Resources and Tribal Cultural Resources*, for the following mitigation measures:

Mitigation Measure CU-8a: Cultural Resources Awareness Training

Mitigation Measure CU-8b: Archaeological Testing Plan

Mitigation Measure CU-8c: Archaeological Evaluation

Mitigation Measure CU-8d: Archaeological Resources Treatment Plan

Refer to Section 3.5, *Geology, Soils, and Paleontological Resources*, for the following mitigation measures:

Mitigation Measure GE-5a: Project Paleontologist

Mitigation Measure GE-5b: Worker Training

Mitigation Measure GE-5c: Paleontological Monitoring

Mitigation Measure GE-5d: Significant Fossil Treatment

Refer to Section 3.7, *Hazards and Hazardous Materials*, for the following mitigation measures:

Mitigation Measure HA-3a: Land Use Limitations

Mitigation Measure HA-3b: Health and Safety Plan

Mitigation Measure HA-3c: Site Management Plan

Mitigation Measure HA-3d: Vapor Mitigation

Refer to Section 3.8, *Hydrology and Water Quality*, for the following mitigation measure:

Mitigation Measure HY-1: Water Quality Best Management Practices during Construction Activities in and near Waterways

Mitigation Measure HY-3a: Flood Risk Analysis and Modeling

Refer to Section 3.10, *Noise and Vibration*, for the following mitigation measures:

Mitigation Measure NO-1c: Master Construction Noise Reduction Plan

Mitigation Measure NO-2a: Master Construction Vibration Avoidance and Reduction Plan

Mitigation Measure NO-2b: Master Construction Vibration Avoidance from Compaction

Finding: Implementing Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.14 (pages 3.14-11–3.14-12) of the Draft EIR, as amended, implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d,

BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b, along with applicable standard conditions of approval, would avoid or substantially minimize impacts of utility construction with respect to air quality, biological resources, cultural resources, geology and soils, greenhouse gases, hazardous materials, hydrology and water quality, and noise. As stated on pages 3.14-11 to 3.14-13 , although the proposed project as a whole would result in significant and unavoidable construction air quality and construction noise impacts, relocation or construction work of new or expanded water facilities , which is included in the overall analysis, would not, in itself, exceed any significance thresholds for air quality or noise. For the above reasons, project impacts with respect to construction of new or expanded water facilities would be reduced to a less-than-significant level with mitigation.

Impact: **Impact UT3:** The proposed project would not require or result in the relocation or construction of new or expanded wastewater treatment facilities, the construction or relocation of which could cause significant environmental effects.

Mitigation: Refer to the list of mitigation measures under Impact UT-1.

Finding: Implementing Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.14 (pages 3.14-11–3.14-12) of the Draft EIR, as amended, implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b, along with applicable standard conditions of approval, would avoid or substantially minimize impacts of utility construction with respect to air quality, biological resources, cultural resources, geology and soils, greenhouse gases, hazardous materials, hydrology and water quality, and noise. As stated on page 3.14-29 , although the proposed project as a whole would result in significant and unavoidable construction air quality and construction noise

impacts, construction work involving the relocation or construction of new or expanded wastewater treatment facilities , which is included in the overall analysis, would not, in itself, exceed any significance thresholds for air quality or noise. For the above reasons, project impacts with respect to construction of new or expanded wastewater treatment facilities would be reduced to a less-than-significant level with mitigation.

Impact: **Impact UT5:** The proposed project would not require or result in the relocation or construction of new or expanded stormwater drainage facilities, the construction or relocation of which could cause significant environmental effects.

Mitigation: Refer to the list of mitigation measures under Impact UT-1.

Finding: Implementing Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.14 (pages 3.14-11–3.14-12) of the Draft EIR, as amended, implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b, along with applicable standard conditions of approval, would avoid or substantially minimize impacts of utility construction with respect to air quality, biological resources, cultural resources, geology and soils, greenhouse gases, hazardous materials, hydrology and water quality, and noise. As stated on page 3.14-40 , although the proposed project as a whole would result in significant and unavoidable construction air quality and construction noise impacts, construction work involving relocation or construction of new or expanded stormwater drainage facilities , which is included in the overall analysis, would not, in itself, exceed any significance thresholds for air quality or noise. For the above reasons, project impacts with respect to construction of new or expanded stormwater drainage facilities would be reduced to a less-than-significant level with mitigation.

Impact: **Impact UT6:** The proposed project would not require or result in the relocation or construction of new or expanded electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

Mitigation: Refer to the list of mitigation measures under Impact UT-1.

Finding: Implementing Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b would reduce this impact to a less-than-significant level. Accordingly, with adoption of these mitigation measures, 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 FEIR, and this impact would be reduced to a less-than-significant level.

Facts in Support of Finding: As discussed in Section 3.14 (pages 3.14-11–3.14-12) of the Draft EIR, as amended, implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-2c, BI-1a, BI-1b, BI-1c, BI-1d, BI-1e, BI-1f, BI-2a, BI-2b, BI-2d, BI-3, CU-8a, CU-8b, CU-8c, CU-8d, GE-5a, GE-5b, GE-5c, GE-5d, HA-3a, HA-3b, HA-3c, HA-3d, HY-1, HY-3a, NO-1c, NO-2a, and NO-2b, along with applicable standard conditions of approval, would avoid or substantially minimize impacts of utility construction with respect to air quality, biological resources, cultural resources, geology and soils, greenhouse gases, hazardous materials, hydrology and water quality, and noise. As stated on pages 3.14-49 to 3.14-59 , although the proposed project as a whole would result in significant and unavoidable construction air quality and construction noise impacts, construction work involving relocation or construction of new or expanded electric power, natural gas, or telecommunications facilities , which is included in the overall analysis, would not, in itself, exceed any significance thresholds for air quality or noise. For the above reasons, project impacts with respect to construction of new or expanded electric power, natural gas, or telecommunications facilities would be reduced to a less-than-significant level with mitigation.

SECTION 3: FINDINGS CONCERNING ALTERNATIVES

In order to comply with the purposes of CEQA, alternatives must be identified that would reduce the significant impacts that are anticipated to occur if the project is implemented and to try to meet most of the project's basic objectives. The CEQA Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and the analysis should focus on alternatives that avoid or substantially lessen the significant impacts.

The alternatives analyzed in the FEIR were developed with the goal of being potentially feasible, given project objectives and site constraints, while avoiding or reducing the project's identified significant environmental effects. The following are evaluated as alternatives to the proposed Project:

Alternative 1: No Project/DSAP Development Alternative

Alternative 2A: Historic Preservation Alternative

Alternative 2B: Historic Preservation/San José International Airport Comprehensive Land Use Plan (CLUP) Noise Compliance Alternative

Alternative 3: 150 South Montgomery Street Preservation Alternative

Alternative 4: Reduced Office Alternative

Alternative 5: Reduced Intensity Alternative

Based upon consideration of substantial evidence in the record, including evidence of economic, legal, social, technological, and other considerations described in this section, in addition to those described in the Statement of Overriding Considerations below, which are hereby incorporated by reference, that make these alternatives infeasible, the City rejects the alternatives set forth in the FEIR and listed below. In making these determinations, the City is aware that CEQA defines "feasibility" 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." (CEQA Guidelines Sec. 15364.) Under CEQA case law, the concept of "feasibility" encompasses (i) whether a particular alternative promotes the underlying goals and objectives of a project; and (ii) whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

Alternative 1: No Project/DSAP Development Alternative

A. **Description of Alternative:** Under the No Project/DSAP Development Alternative, development on the site would continue to occur over time based on market demand and consistent with the existing DSAP. Lots A, B, and C would

remain as surface parking for the foreseeable future, and Block E (the former San Jos é Water Company site) would remain outside the DSAP boundary, where a previously approved development project would proceed unchanged, resulting in construction of approximately 1.04 million gsf of office and retail space and 325 residential units on Block E (included in the program for this alternative). Overall, under this alternative development on the project site would be less than under the proposed project, yielding up to an estimated 4.9 million gsf of office uses, 419 hotel rooms, 625 dwelling units, and 380,000 square feet of retail/restaurant uses in the 80-acre planning area. The overall intensity of development within the project site, measured by building floor area, would be reduced by approximately 56 percent compared to the proposed project. Given the reduced development program, this alternative would likely preserve one or more historical resources that would be adversely affected under the proposed project.

B. **Comparison of Environmental Impacts:** The No Project/DSAP Development Alternative would not result in as much new housing or office space as the proposed project and would generally have reduced impacts compared to the project because of the lesser intensity of uses proposed. However, this alternative would result in net new GHG emissions, unlike the project, and most of the project's significant and unavoidable impacts would still occur related to air quality, cultural resources, land use, noise and vibration, and population and housing, even with mitigation measures identified in the EIR.

C. **Basis for Finding:** The No Project/DSAP Development Alternative would partly address the City's goals with respect to buildout under the General Plan and the DSAP. (It is noted that the City is in the process of amending the DSAP.) However, this alternative would not address the stated objectives of either the project applicant or the City for the project site, as memorialized in the MOU dated December 4, 2018 and described here. This MOU called for creating a vibrant, welcoming, and accessible urban destination on the project site, and envisioned substantial new employment and housing, including affordable housing, with the City "collaborating with the project applicant to innovate in the development of an urban destination that will bring opportunity to the local community and create new models for urban and workplace design and development." Developing the project under the framework of the already adopted DSAP would to some extent prevent in-depth collaboration to create an innovative and cohesive plan. For example, the DSAP's road network would likely preclude the project's integration of development with a re-conceived road network, which creates more public open space while also meeting the project's objective of creating contiguous, horizontally connected office spaces.

In addition, with significantly reduced housing overall (625 units compared to the project's up to 5,900 units), affordable housing would also be expected to be

reduced. The increase in employment would be similarly reduced, to just over 20,000 jobs across the project site, from the project's approximately 30,550 new jobs. The MOU also calls for a range of community benefits, including affordable housing. With reduced development of office space, which generally supports the financial feasibility of community benefits, including affordable housing, the ability of the No Project/DSAP Development Alternative to meet the MOU objective of community benefits would also be reduced. This alternative also would not meet the project applicant's core objective to accommodate the long-term expansion of its workforce and business operations in a Bay Area location anchored by public transportation, or any of the project applicant's other objectives.

The No Project/DSAP Development Alternative would generally have lesser impacts than the project; however it would result in a net increase in GHG emissions unlike the project, and most of the project's significant and unavoidable impacts would still occur related to air quality, cultural resources, land use, noise and vibration, and population and housing, even with mitigation measures identified in the EIR. Moreover, while this alternative would partly address the City's goals with respect to buildout under the General Plan and the DSAP, it would not address the stated objectives of either the project applicant or the City for the project site, as memorialized in the MOU dated December 4, 2018. It is, therefore, not a feasible alternative.

D. **Finding:** Accordingly, these specific economic, legal, social, technological, or other considerations, make infeasible the No Project/DSAP Development Alternative. The City Council hereby finds that each of the reasons set forth above would be an independent ground for rejecting the No Project/DSAP Development Alternative, and by itself, independent of any other reason, would justify rejection of the No Project/DSAP Development Alternative.

Alternative 2A: Historic Preservation Alternative

A. **Description of Alternative:** The Historic Preservation Alternative would retain, adaptively reuse, and avoid adverse effects on all nine of the historical resources identified on the project site. This alternative would also reduce the sizes of buildings and increase setbacks proposed near retained historical resources on the project site. Overall, the Historic Preservation Alternative would include less development than the proposed project. Specifically, the number of residential dwelling units would be approximately up to 5,665 units (235 fewer than under the proposed project); the number of limited-term corporate accommodation units would be reduced by about 460, to a maximum of 340; and the maximum amount of office space would be reduced by about 1,610,000 gsf, to a maximum of 5,690,000 gsf. The floor area of active uses (e.g., commercial retail/restaurant, cultural, institutional, childcare, and education) and infrastructure-related buildings

would also be reduced approximately in proportion to the decrease in office uses. The number of hotel rooms would be unchanged from the proposed project, and event/conference space would be reduced by half, to 50,000 gsf. The overall intensity of development, measured by building floor area, would be reduced by approximately 17 percent as compared to the proposed project. This alternative would not include all of the project's proposed street network changes in the central portion of the site.

The Historic Preservation Alternative would respond to a number of policies in the General Plan, including Policy LU 13.2 (preservation of candidate or designated landmark buildings, structures and historic objects), and Policy LU 13.6 (modifications to candidate or designated landmarks to conform to the Secretary's Standards and/or appropriate State requirements). The alternative would also particularly address the project applicant's objective to "Preserve and adapt landmark historic resources and assets where feasible to foster a place authentic to San José and foster contemporary relations to San José's history."

B. **Comparison of Environmental Impacts:** The Historic Preservation Alternative would avoid all of the proposed project's significant unavoidable impacts on historic architectural resources. This alternative would not result in as much overall development as the proposed project and would have generally reduced impacts compared to the proposed project because of the lesser intensity of uses proposed. However, the relatively modest reduction in development program would not avoid any of the project's significant and unavoidable impacts in the areas of air quality, land use, noise and vibration, or population and housing, although the severity of impacts would be marginally reduced compared to those of the proposed project.

C. **Basis for Finding:** The Historic Preservation Alternative would resemble the project in most respects, and would therefore meet most of the project objectives, although to a lesser extent than the proposed project. However, this alternative would result in approximately 17 percent less overall development, including a 4 percent (235-unit) reduction in the number of housing units, which would also reduce the amount of affordable housing. In this way, it would not advance, to the same degree, the City's objectives to develop the site in a way that aligns with the General Plan, DSAP, and Downtown Strategy 2040 goals to encourage ambitious job creation in close proximity to transit, or to advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California.

The Historic Preservation Alternative would include a mixed-use program somewhat comparable to that of the proposed project, although the mix of uses would be different. However, the retention of a number of historic resources, and the resulting removal or significant reduction of certain new-construction buildings

in the Historic Preservation Alternative, as compared to the project, would result in less overall cohesion in the development plan. For example, the northern and southern ends of the project would likely be more isolated as a result of larger gaps in the development. Circulation improvements in the central area of the site would not be implemented, resulting in no southern extension of Cahill Street. Similarly, by retaining 145 South Montgomery Street, the proposed open space known as the Meander would not be built. With elimination of these features, the Alternative would fail to address the project applicant's objectives to improve connectivity and create a vibrant public realm to the same extent as the project. Economic growth and contribution to the City's tax base, an objective of the City and Google MOU, would be somewhat less compared to the proposed project, as the Historic Preservation Alternative would have a reduced office program compared to the proposed project, which is designed to realize the density gains encouraged by the City Council. Because office space generally supports the financial feasibility of community benefits, including affordable housing, the reduced office program would also limit or reduce the financial feasibility of delivering a range of community benefits, as sought by the MOU.

While office uses would also be generally grouped in order to achieve a balance of a vibrant mixed-use environment, the loss of certain office buildings under the Historic Preservation Alternative would reduce operational efficiencies, as well as the potential for future business operations to grow in place. The loss of office buildings at the northern and southern areas of the plan would reduce connectivity and the ability to share amenities. When compared to the proposed project, the alternative would eliminate some proposed large floorplate buildings, thereby reducing the project's ability to meet the objective of floorplates large enough to provide horizontally connected workplaces and groupings of offices to take advantage of operational efficiencies.

This alternative, therefore, would not fully achieve the project applicant's objective to develop a dense commercial center that is anchored by (and better leverages) public transit infrastructure. In addition, reduced development under the Historic Preservation Alternative could affect the layout and construction and reduce the efficiency of the project's proposed district infrastructure systems, potentially achieving less in the way of efficiency than the proposed project, and therefore addressing the project applicant's objective of a model of 21st century sustainable development to a lesser extent. Shared infrastructure systems developed at a scale appropriate to the proposed project and the Historic Preservation Alternative are expected to require generally fixed or similar costs. Therefore, reduced overall development in the Historic Preservation Alternative would result in both lower efficiency for district systems, while impacting economic efficacy.

Although the Historic Preservation Alternative would avoid all of the proposed project's significant unavoidable impacts on historic architectural resources, it would not avoid any of the project's significant and unavoidable impacts in the areas of air quality, land use, noise and vibration, or population and housing, although the severity of impacts would be marginally reduced compared to those of the project. Moreover, while the Historic Preservation Alternative would respond to a number of historic preservation policies in the General Plan, it would be less responsive to many of the City's project objectives and key goals and policies in the General Plan, DSAP, and Downtown Strategy, MOU and other documents regarding economic development, transit, and housing. It also would not fully achieve the project applicant's and the City's objective to develop a dense commercial center that is anchored by (and better leverages) public transit infrastructure, and for all of these reasons would be infeasible.

D. **Finding:** Accordingly, these specific economic, legal, social, technological, or other considerations, make infeasible the Historic Preservation Alternative. The City Council hereby finds that each of the reasons set forth above would be an independent ground for rejecting the Historic Preservation Alternative, and by itself, independent of any other reason, would justify rejection of the Historic Preservation Alternative.

Alternative 2B: Historic Preservation/San José International Airport Comprehensive Land Use Plan (CLUP) Noise Compliance Alternative

A. **Description of Alternative:** The Historic Preservation/San José International Airport Comprehensive Land Use Plan (CLUP) Noise Compliance Alternative would combine aspects of the Preservation Alternative and the proposed project to avoid significant impacts to all but one of the historical resources on the project site and would also avoid significant noise and land use effects related to non-compliance with the CLUP airport noise exposure policy. The Historic Preservation/San José International Airport Comprehensive Land Use Plan (CLUP) Noise Compliance Alternative would respond to a number of policies in the General Plan, including Policy LU-13.2 (preservation of candidate or designated landmark buildings, structures and historic objects), and Policy LU-13.6 (modifications to candidate or designated landmarks to conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State requirements). The alternative would also particularly address the project applicant's objective to "Preserve and adapt landmark historic resources and assets where feasible to foster a place authentic to San José and foster contemporary relations to San José's history."

This alternative would develop a maximum of 3,600 dwelling units, 2,300 fewer than the project, and 436,000 gsf of active uses, about 13 percent less active uses

than the project. No residential uses would be developed on several blocks proposed for residential development under the project. The change in location of residential units would avoid most development of new residential units within the 65 dBA CNEL airport noise contour, while the relatively small number residential units within the noise contour would not include outdoor space, thereby avoiding significant impacts relating to CLUP airport noise exposure policies for residential uses. This alternative would retain the project's proposed 7.3 million gsf of office space, 300 hotel rooms, 800 units of limited-term corporate accommodation, 100,000 gsf of conference/event space, and 230,000 gsf devoted to infrastructure and utilities. Total development would be about 14 percent less than the project. Like the Historic Preservation Alternative, this alternative would not make all of the street network changes in the central portion of the site.

B. **Comparison of Environmental Impacts:** The Historic Preservation/CLUP Noise Compliance Alternative would result in a similar level of development to the Historic Preservation Alternative and would have reduced impacts compared to the proposed project. It would avoid adverse effects to eight of the nine historical resources on the project site but would include the project's proposed additions and alterations to the former Hellwig Iron Works Building at 150 South Montgomery to create an architectural icon. Because this transformation would appear to alter the building form and affect its historic integrity, it would result in a significant and unavoidable impact, similar to the proposed project. Additionally, the relatively modest reduction in development program would not avoid all of the project's significant and unavoidable impacts in the areas of air quality, noise and vibration (other than airport noise policy consistency), or population and housing, although the severity of impacts would be marginally reduced compared to those of the proposed project. This alternative would, however, avoid land use and noise impacts related to airport noise.

Basis for Finding: The Historic Preservation/CLUP Noise Compliance Alternative would resemble the project in most respects, and would therefore meet most of the project objectives, although to a lesser extent than the proposed project. However, this alternative would result in approximately 14 percent less overall development, including a nearly 40 percent (2,300-unit) reduction in the number of housing units, which would also reduce the amount of affordable housing, a community benefit outlined in the City and Google MOU. The alternative would achieve the project applicant's objective to provide sufficient high-quality office space to accommodate the long-term expansion of its workforce and business operations in a Bay Area location that is anchored by public transportation, by allowing for up to 7.3 million gsf of office development. Retaining the office development under this alternative would also advance the key objective of providing economic vitality and an economically feasible project. Further, the alternative would achieve the City's policy objectives to promote development of

Downtown as a regional job center, to intensify employment activities on sites in close proximity to transit facilities, and increasing jobs and economic development Downtown. However, this alternative would not meet the City's and the project applicant's MOU objectives to develop housing, including affordable housing, to the same degree as the proposed project. The reduction in residential development also would not advance to the same degree as the proposed project the applicant's objective to develop housing at a sufficient density to maintain activity levels in the project site outside of normal business hours. This alternative would also reduce by about 13 percent the square footage of active uses developed on the project site, and thus would not advance, to the same degree, the City's objectives to develop the site in a way that aligns with the General Plan, DSAP, and Downtown Strategy 2040 goals to encourage ambitious job creation in close proximity to transit, or to advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California.

Similar to Alternative 2A, the Historic Preservation/CLUP Noise Compliance Alternative would include a mixed-use program somewhat comparable to that of the proposed project, although the mix of uses would be different. However, the retention of a number of historic resources, and the resulting removal or significant reduction of certain new-construction buildings in this alternative, as compared to the project, would result in less overall cohesion in the development plan. For example, the northern and southern ends of the project would likely be more isolated as a result of larger gaps in the development. Circulation improvements in the central area of the site would not be implemented, resulting in no southern extension of Cahill Street. Similarly, by retaining 145 South Montgomery Street, the proposed open space known as the Meander would not be built. With elimination of these features, the Alternative would fail to address the project applicant's objectives to improve connectivity and create a vibrant public realm to the same extent as the project. As with Alternative 2A, economic growth and contribution to the City's tax base, an objective of the City and Google MOU, would be somewhat less compared to the proposed project, as the Historic Preservation/CLUP Noise Compliance Alternative would have a reduced office program compared to the proposed project, which is designed to realize the density gains encouraged by the City Council.

Like Alternative 2A, the Historic Preservation/CLUP Noise Compliance Alternative would eliminate some proposed large floorplate buildings that would be developed under the proposed project, thereby reducing the project's ability to meet the objective of floorplates large enough to provide horizontally connected workplaces and grouping offices to take advantage of operational efficiencies. This alternative, therefore, would not fully achieve the project applicant's and the City's objective to develop a dense commercial center that is anchored by (and better leverages) public transit infrastructure. In addition, reduced development under the Historic

Preservation/CLUP Noise Compliance Alternative could affect the layout and construction and reduce the efficiency of the project's proposed district infrastructure systems, potentially achieving less in the way of efficiency than the proposed project and therefore addressing the project applicant's objective of a model of 21st century sustainable development to a lesser extent. Shared infrastructure systems developed at a scale appropriate to the proposed project and the Historic Preservation/CLUP Noise Compliance Alternative are expected to require generally fixed or similar costs. Therefore, reduced overall development in the Historic Preservation/CLUP Noise Compliance Alternative would result in both lesser efficiency for district systems, while impacting economic efficacy.

While the Historic Preservation/CLUP Noise Compliance Alternative would avoid most of the proposed project's significant unavoidable impacts on historic architectural resources, would avoid land use and noise impacts related to airport noise, and would meet many project objectives, this alternative would develop nearly 40 percent (2,300 units) less housing than the project, which would also reduce the amount of affordable housing, an objective of the City and Google MOU. This alternative also would not implement certain circulation and open space improvements that are intended to further multimodal transportation and connections to Downtown. The Historic Preservation/CLUP Noise Compliance Alternative is, therefore, not a feasible alternative.

C. **Finding:** Accordingly, these specific economic, legal, social, technological, or other considerations, make infeasible the Historic Preservation/CLUP Noise Compliance Alternative. The City Council hereby finds that each of the reasons set forth above would be an independent ground for rejecting the Historic Preservation/CLUP Noise Compliance Alternative, and by itself, independent of any other reason, would justify rejection of the Historic Preservation/CLUP Noise Compliance Alternative.

Alternative 3: 150 South Montgomery Street Preservation Alternative

A. **Description of Alternative:** The 150 South Montgomery Street Preservation Alternative would be identical to the proposed project except that it would not include the proposed project's alterations and additions to the building at 150 South Montgomery Street (historic Hellwig Ironworks) to accommodate new arts and cultural uses. Instead, the 150 South Montgomery Street building would be preserved and/or rehabilitated and adaptively reused in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Land use designations and height limits would be the same as under the proposed project, as would the proposed development program, because the program space identified for addition(s) to the 150 South Montgomery Street building

(approximately 8,500 square feet) would be developed elsewhere on the project site.

B. **Comparison of Environmental Impacts:** Impacts of the 150 South Montgomery Street Preservation Alternative would be virtually identical to those of the proposed project, with the exception of Impact CU-3 (additions and modifications to 150 South Montgomery Street). With the proposed project, this impact would be significant and unavoidable, but with this alternative, the impact would be less than significant with mitigation because the historic significance of the 150 South Montgomery Street building would not be adversely affected. No other impacts would be meaningfully different than those of the project. The level of construction activity would be virtually the same compared to that of the project, because the development associated with the proposed addition would be relocated elsewhere on the project site, and any minor decrease in construction activity, compared to that with the proposed project, would not measurably decrease air quality or noise impacts. Similarly, any minor redistribution of traffic would not measurably change transportation impacts.

C. **Basis for Finding:** The 150 South Montgomery Street Preservation Alternative would allow both the City and the project applicant to meet virtually all project objectives, except that the project would likely not include the "world-class, architecturally iconic civic/cultural center for the City of San José" due to the site's proposed "combination and juxtaposition of historic and contemporary design elements," as articulated in the project applicant's objectives. Under this alternative, the project applicant's objectives to build a place that is "of San José" through high-quality urban design, fostering contemporary connections to San José's history, and creating places that foster arts and cultural uses, would be achieved, although not to the same degree as with the proposed project. While arts and cultural uses would be anticipated elsewhere on the site, they would not be anticipated in an iconic, contemporary interpretation of a historic building. They also would not be as located centrally on the project site in a spot adjacent to a major new open space such as the Meander, reducing the ability of such uses to create an iconic architectural moment.

Although the 150 South Montgomery Street Preservation Alternative would eliminate the project's significant and unavoidable impact on the Hellwig Iron Works building (150 South Montgomery Street), other impacts of this alternative would be virtually identical to those of the proposed project, and the alternative would not avoid any of the project's other significant and unavoidable impacts. While this alternative would meet nearly all the project objectives, it would not attain the project applicant's goal of developing an architecturally iconic civic/cultural center as part of the project. The 150 South Montgomery Street Preservation Alternative is, therefore, not a feasible alternative.

D. **Finding:** Accordingly, these specific economic, legal, social, technological, or other considerations, make infeasible the 150 South Montgomery Street Preservation Alternative. The City Council hereby finds that each of the reasons set forth above would be an independent ground for rejecting the 150 South Montgomery Street Alternative, and by itself, independent of any other reason, would justify rejection of the 150 South Montgomery Street Alternative.

Alternative 4: Reduced Office Alternative

A. **Description of Alternative:** The Reduced Office Alternative would include the same amount of housing as the proposed project and a reduced amount of commercial office space, and is intended to reduce the project's contribution to the cumulative jobs/housing impact identified in this EIR (Section 3.11, Population and Housing). The Reduced Office Alternative would include less overall development than the proposed project. Specifically, this alternative would include a maximum of only 3 million gsf of office space (almost 60 percent less than the project). In addition, the number of limited-term corporate accommodation rooms would also be reduced by 60 percent, to a maximum of 320 rooms, while infrastructure-related building space would be reduced by approximately 30,000 gsf (13 percent). Active uses (e.g., commercial retail/restaurant, cultural, institutional, childcare and education) also would be reduced by approximately 275,000 gsf (55 percent), to a maximum of 225,000 gsf. The Reduced Office Alternative would provide up to 5,900 dwelling units and 300 hotel rooms, the same quantities as under the proposed project. The overall intensity of development, measured by building floor area, would be reduced by approximately 36 percent compared to the proposed project. Given the reduced development program, this alternative would likely allow for preservation of one or more historical resources that would be adversely affected under the proposed project.

B. **Comparison of Environmental Impacts:** This alternative would avoid the proposed project's cumulatively considerable contribution to the cumulative significant and unavoidable jobs/housing ratio impact projected to occur by 2040 under the General Plan, DSAP and Downtown Strategy 2040. With its smaller development program, this alternative would also have reduced impacts compared to the project, because of the lesser intensity of uses proposed. Despite the large reduction in development program, however, the Reduced Office Alternative would not avoid any of the proposed project's significant unavoidable impacts in the areas of air quality, cultural resources, land use, or noise and vibration, although the severity of impacts would be greatly reduced as compared to those of the proposed project. This alternative would also not meet the project's "no net additional" standard for GHG emissions.

C. **Basis for Finding:** The Reduced Office Alternative would resemble the project in some respects; however, it would substantially reduce the amount of office space proposed with the project, and would therefore only meet some of the project objectives. It would not do as much to further the City's goals, as expressed in the General Plan, the DSAP and Downtown Strategy 2040, of substantially increasing the ratio of jobs to housing in the Downtown area. It would also not advance, to the same degree, the City's objectives to develop the site in a way that aligns with the General Plan, DSAP, and Downtown Strategy 2040 goals to encourage ambitious job creation in close proximity to transit, or to advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California. In addition, with less than half of the office program as that of the proposed project, the Reduced Office Alternative would have a proportionally reduced community benefits program, as described in the MOU—including affordable housing, which would similarly be anticipated to be less than half of the amount to be delivered in the proposed project, and would provide reduced economic benefits and property tax revenue to the City.

With nearly 60 percent less office space than the proposed project, the alternative would not meet the project applicant's core objective to accommodate the long-term expansion of its workforce and business operations in a Bay Area location anchored by public transportation. The Reduced Office Alternative, like the Historic Preservation Alternative, would not include certain large floorplate office buildings, given the substantial reduction in office space compared to the project, especially to the extent that this alternative would preserve one or more of the historic resources proposed for demolition with the proposed project. This could result in lesser workplace flexibility, contiguity, and operational efficiencies than would the proposed project. This alternative could also reduce the environmental performance and economic viability of district infrastructure systems, compared to the proposed project, reducing this alternative's ability to meet the project objective to achieve outstanding environmental performance.

Although the Reduced Office Alternative would avoid the proposed project's significant unavoidable cumulative impact with respect to jobs/housing balance, it would not avoid any of the proposed project's significant unavoidable impacts in the areas of air quality, cultural resources, land use, or noise and vibration, although the severity of impacts would be greatly reduced as compared to those of the project. The Reduced Office Alternative would not achieve the project's "no net additional" standard for GHG emissions, and would do less than the project to further the City's goals, as expressed in the General Plan, DSAP and Downtown Strategy 2040, of substantially increasing the ratio of jobs to housing in the Downtown area. Nor would it advance, to the same degree as the project, the City's objectives to develop the site in a way that aligns with the General Plan, DSAP, and Downtown Strategy 2040 goals to encourage ambitious job creation in

close proximity to transit, or to advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California. It also would not meet the project applicant's core objective to accommodate the long-term expansion of its workforce and business operations in a Bay Area location anchored by public transportation, and it would generate lesser public benefits than would the proposed project. The Reduced Office Alternative is, therefore, not a feasible alternative.

D. **Finding:** Accordingly, these specific economic, legal, social, technological, or other considerations, make infeasible the Reduced Office Alternative. The City Council hereby finds that each of the reasons set forth above would be an independent ground for rejecting the Reduced Office Alternative, and by itself, independent of any other reason, would justify rejection of the Reduced Office Alternative.

Alternative 5: Reduced Intensity Alternative

A. **Description of Alternative:** Compared to the proposed project, the Reduced Intensity Alternative would include approximately 55 percent less overall development, measured by building floor area. Specifically, this alternative would include up to 3 million gsf of office space, up to 2,655 dwelling units, a maximum of 150,000 gsf of active uses (e.g., commercial retail/restaurant, cultural, institutional, child care, and education), up to 135 hotel rooms, up to 320 units of limited-term corporate accommodation, as much as 45,000 gsf of event/conference space, and a maximum 127,000 gsf of infrastructure-related building space. Overall development would be about 58 percent less than with the project. Given the reduced development program, this alternative would likely allow for preservation of one or more historical resources that would be adversely affected under the proposed project. The scale of the proposed project would need to be reduced by approximately 90 percent to avoid all of the project's significant and unavoidable impacts relating to operational emissions of criteria air pollutants; however, the Reduced Intensity Alternative was developed to meaningfully reduce criteria air pollutant emissions while maintaining a similar proportional mix of office, residential, and active uses as the proposed project.

B. **Comparison of Environmental Impacts:** With its substantially smaller development program, this alternative would have reduced impacts compared to the project because of the lesser intensity of uses proposed. In particular, the alternative would have less than significant impacts relating to operational emissions of PM2.5, unlike the proposed project. Despite the large reduction in development program, however, the Reduced Intensity Alternative would not avoid any of the project's other significant unavoidable impacts in the areas of air quality, cultural resources, land use, noise and vibration, or population and housing,

although the severity of air quality and noise and vibration impacts would be greatly reduced, compared to those of the proposed project. This alternative would, however, not meet the project's "no net additional" standard for GHG emissions. It is also likely that this alternative could be designed to avoid one or more historic resources, but in the absence of a detailed development plan and a historic preservation objective, it is assumed that these impacts would remain significant and unavoidable.

C. **Basis for Finding:** The Reduced Intensity Alternative would achieve many of the objectives for the project site, although to a lesser degree than the proposed project. It would not advance, to the same degree, the City's objectives to develop the site in a way that aligns with the General Plan, DSAP, and Downtown Strategy 2040 goals to encourage ambitious job creation in close proximity to transit, or to advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California. This alternative would not substantially address the stated objectives of either the project applicant or the City for the project site, as memorialized in the MOU dated December 4, 2018. This MOU called for creating a vibrant, welcoming, and accessible urban destination on the project site, and envisioned substantial new employment and housing, with the City "collaborating with the project applicant to innovate in the development of an urban destination that will bring opportunity to the local community and create new models for urban and workplace design and development." In addition, like the Historic Preservation Alternative and the Reduced Office Alternative, the Reduced Intensity Alternative would generate less in the way of community benefits, including affordable housing, and would provide reduced economic benefits and property tax revenue to the City than would the proposed project.

With nearly 60 percent less office space than the proposed project, the alternative would not meet the project applicant's core objective to accommodate the long-term expansion of its workforce and business operations in a Bay Area location anchored by public transportation. Similarly, it would reduce the project applicant's ability to create a dense commercial center and construct housing with sufficient density to maintain day and evening, weekday and weekend activity on the project site while offering a mix of unit types, sizes, and levels of affordability to accommodate a range of potential residents. The Reduced Intensity Alternative, like the Historic Preservation Alternative and Reduced Office Alternative, would remove certain large floorplate office buildings, thereby reducing the project's ability to meet the objective of floorplates large enough to provide horizontally connected workplaces and grouping offices to take advantage of operational efficiencies. This alternative could also reduce the environmental performance and economic viability of district infrastructure systems, compared to the proposed

project, reducing this alternative's ability to meet the project applicant's objective to provide a model of 21st century sustainable urban development.

Although the Reduced Intensity Alternative would have reduced impacts compared to the project, it would not avoid all of the project's significant unavoidable impacts in the areas of air quality (except for operational emissions of $PM_{2.5}$), cultural resources, land use, noise and vibration, or population and housing, although the severity of impacts would be greatly reduced, compared to those of the project. Like the Reduced Office Alternative, the Reduced Intensity Alternative would not achieve the project's "no net additional" standard for GHG emissions, and would do less than the project to further the City's goals, as expressed in the General Plan, DSAP and Downtown Strategy 2040, of substantially increasing the ratio of jobs to housing in the Downtown area, nor would it advance, to the same degree as the project, the City's objectives to develop the site in a way that aligns with the General Plan, DSAP, and Downtown Strategy 2040 goals to encourage ambitious job creation in close proximity to transit, or to advance the Diridon Station Area as a world-class transit hub and key transportation center for Northern California. The Reduced Intensity Alternative would not substantially address the stated objectives of either the project applicant or the City for the project site, as memorialized in the MOU dated December 4, 2018. It also would not meet the project applicant's core objective to accommodate the long-term expansion of its workforce and business operations in a Bay Area location anchored by public transportation, and it would generate lesser public benefits than would the proposed project. The Reduced Intensity Alternative is, therefore, not a feasible alternative.

D. **Finding:** Accordingly, these specific economic, legal, social, technological, or other considerations, make infeasible the Reduced Intensity Alternative. The City Council hereby finds that each of the reasons set forth above would be an independent ground for rejecting the Reduced Intensity Alternative, and by itself, independent of any other reason, would justify rejection of the Reduced Intensity Alternative.

Alternatives Considered for Inclusion in the Draft EIR and Rejected

As discussed in Section 5.4 of the Draft EIR, the following alternatives were considered for inclusion in the Draft EIR but were not analyzed in detail because they would not fulfill most of the basic objectives of the project, would not avoid or substantially lessen significant environmental impacts, and/or would be infeasible.

A. The Off-Site Location Alternative would locate the project's development program to another transit-accessible site in the City or the region. There are no sites in San José of similar size that are vacant or could be readily assembled and any such sites are not owned or controlled by the project applicant, and are therefore

infeasible. Also, an alternative location would not address the City's objective to advance goals and strategies for Downtown and the DSAP.

Finding: Accordingly, these specific economic, legal, social, technological, or other considerations, make the Off-Site Location Alternative infeasible.

B. The Additional Residential Development Alternative was based on comments received in the scoping period and would modify the project to include up to 17,750 dwelling units rather than up to 5,900 units while retaining the same amount of office space as the project. This alternative would reduce or eliminate the project's contribution to a significant impact related to jobs-housing balance, but would increase rather than reduce other significant impacts of the project. This alternative would require raising height limits beyond those proposed with the project and allowed near the airport, likely exceed allowable densities in the General Plan's Downtown designation, and would not be consistent with the City's goals as expressed in the General Plan, the DSAP, and Downtown Strategy 2040.

Finding: Accordingly, these specific economic, legal, social, technological, or other considerations, make the Additional Residential Development Alternative infeasible.

C. The Creek Setback Alternative would include 100-foot setbacks along Los Gatos Creek, reducing significant and mitigable biological impacts of the project. It would require more material modifications to the project than in other reduced density alternatives included in the EIR, reduce the amount of retail, cultural, arts, education, or other active uses in the project, and reduce the ability to meet project objectives such as activating commercial spaces, while failing to avoiding or substantially lessening any of the significant and unavoidable impacts of the project. Also, the City's riparian corridor policy expressly allows deviation from the 100-foot setback where impacts to riparian resources are mitigated to less than significant, as with the project.

Finding: Accordingly, these specific economic, legal, social, technological, or other considerations, make the Creek Setback Alternative infeasible.

D. The Substantially Reduced Project (Avoidance of Significant Criteria Air Pollutant Impacts) Alternative would reduce the size of the project by nearly 90 percent in order to avoid or reduce the significant and unavoidable impact of the project related to emissions of criteria air pollutants to less than significant. Development that would not occur on the site would likely occur elsewhere, potentially at a site or sites with less transit accessibility, and overall criteria pollutants in the region would still be expected to rise. This alternative would also be fundamentally different than the project and would not meet the project applicant's and the City's

objectives of developing new office space to support the long-term expansion of the project applicant's Bay Area operations and workforce, encouraging ambitious job creation and proposing development of Downtown as a regional job center, and delivering thousands of units of new, high quality housing.

Finding: Accordingly, these specific economic, legal, social, technological, or other considerations, make the Substantially Reduced Project (Avoidance of Significant Criteria Air Pollutant Impacts) Alternative infeasible.

E. The No Project (No Development Alternative) would assume no new development on the project site other than reuse of existing buildings and approved "pipeline" projects. The alternative would require the City to stop implementing its General Plan and would not accomplish any of the project applicants' and the City's objectives. It would also not be reasonable or consistent with CEQA Guidelines Section 15126.6(e), which requires a "no project" alternative that reflects the practical result of non-approval and not a set of artificial assumptions.

Finding: Accordingly, these specific economic, legal, social, technological, or other considerations, make the No Project (No Development) Alternative infeasible.

Alternatives Suggested in Comments on the Draft EIR

Comments on the Draft EIR (L.9, Y.1, Y.7, AA.11, DD.16, II.1) directly or indirectly recommended that additional reduced development and/or preservation alternatives be evaluated. Another comment (F.6) requested that additional housing units be included in the proposed project, and one comment (Z.27) requested an alternative relating to parking for the SAP Center. These comments are fully responded to in the First Amendment to the Draft EIR. The City Council finds that the FEIR's analysis of alternatives meets the requirement for analysis of a "range of reasonable alternatives" in CEQA Guidelines Section 15126.6.

Environmentally Superior Alternative

The CEQA Guidelines (Section 15126.6) state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the Reduced Intensity Alternative because it would substantially reduce the project's significant air quality impacts (Impacts AQ-2, AQ-3, C-AQ-1, and C-AQ-2) and would substantially reduce noise impacts (Impacts NO-1b, NO-1c, C-NO-1, and C-NO-2). In addition, the Reduced Intensity Alternative would most likely reduce, and could potentially avoid, the project's significant unavoidable impacts due to demolition and substantial alteration of cultural resources (Impacts CU-1, CU-3, and C-CU-1). On the whole, due to the overall reduced scale of development, this alternative was found to

provide a greater decrease in significant environmental impacts, compared to those of the proposed project, than the other alternatives considered. It should be noted, however, that to the extent that the demand for additional developed space that would otherwise be built pursuant to the proposed project would be met elsewhere in the Bay Area, employees in and residents of such development could potentially generate greater impacts on transportation systems (including vehicle miles traveled), air quality, and greenhouse gases than would be the case for development on the more compact and better-served-by-transit project site. This would be particularly likely for development in more outlying parts of the region where fewer services and lesser transit access are provided. While it would be speculative to attempt to quantify or specify the location where such development would occur and the subsequent impacts thereof, it is acknowledged that the Reduced Intensity Alternative would incrementally reduce local impacts in and around the project site and in Downtown San José, while potentially increasing regional emissions of criteria air pollutants and greenhouse gases, as well as regional traffic congestion. Per capita GHG emissions could also be higher under the Reduced Intensity Alternative because it would not be subject to the "no net additional" GHG emissions commitment of AB 900, as the proposed project is; however, overall GHG emissions relating to the project would be substantially lower and the impact would be less than significant due to the still relatively high density of this alternative and the availability of transit. This alternative could also incrementally increase impacts related to "greenfield" development on previously undeveloped locations in the Bay Area and, possibly, beyond.

SECTION 4: MITIGATION MONITORING AND REPORTING PROGRAM

Attached to this Resolution as Exhibit "A" and incorporated and adopted herein is the Mitigation Monitoring and Reporting Program ("MMRP") for the project, as required under Section 21081.6 of the Public Resources Code (CEQA statute) and Sections 15091(d) and 15097(b) of the CEQA Guidelines. The MMRP identifies impacts of the project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

SECTION 5: STATEMENT OF OVERRIDING CONSIDERATIONS

A. **Significant Unavoidable Impacts**. With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the project would result in significant unmitigated or unavoidable impacts, as set forth above, associated with project-specific and cumulative emissions of criteria air pollutants; project-specific and cumulative effects related to health risks from toxic air contaminants and fine particulate matter; project-specific and cumulative effects on cultural (historic architectural) resources associated with

demolition of historic buildings; a project-specific impact due to incompatible alterations to the historic Hellwig Ironworks Building at 150 South Montgomery Street; project-specific and cumulative land use effects associated with a conflict with airport noise policies in the Comprehensive Land Use Plan for Mineta San José International Airport; project-specific and cumulative construction noise impacts; project-specific and cumulative impacts resulting from increases in operational traffic noise; project-specific and cumulative effects associated with exposure of persons to airport noise; and a cumulative impact associated with a contribution to the jobs/housing imbalance identified in the 2040 General Plan EIR.

B. **Overriding Considerations**. The City Council specifically adopts and makes this Statement of Overriding Considerations that this project has avoided, eliminated, or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the project are acceptable in light of the economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the project outweigh its significant adverse environmental impact. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the project outweigh its significant adverse environmental impacts, and each is an overriding consideration warranting approval of the project. These matters are supported by evidence in the record that includes, but is not limited to, the policy determinations of the City Council, as set forth in the Envision San José 2040 General Plan, the Diridon Station Area Plan, and Downtown Strategy 2040.

C. **Benefits of the Project**. The City Council has considered the public record of proceedings on the proposed project as well as oral and written testimony at all public hearings related to the project, and does hereby determine that implementation of the project as specifically provided in the project documents would result in the following substantial public benefits:

1) **Provision of Housing in an Identified Growth Area.** Development of the project would result in a net increase of up to about 4,000 residential units, or up to about 5,900 residential units as analyzed in the FEIR, within the Diridon Station Area, advancing Major Strategy No. 3 (Focused Growth) in the Envision San José 2040 General Plan. Provision of increased density in an identified growth area would advance General Plan policies to encourage infill development.

2) **Support of 25 percent affordable housing in the Diridon Station Area.** The project will deliver, cause to be delivered, or dedicate land in service of the delivery of 1,000 units of affordable housing, or 25% affordable housing

in the Diridon Station Area (measured against the anticipated 4,000 units to be delivered as part of the project), a high watermark for a private project in San José and a critical goal to meet in light of a regional housing, and affordable housing, shortage.

3) **Development along High-Frequency Transit Services.** The project supports goals of the Envision San José 2040 General Plan to focus jobs and high-density housing within proximity to existing high-frequency transit (Caltrain and VTA bus routes 22, 23, 64A, 64B, 68, 500, 522, and 523) and the approved BART-Silicon Valley Phase II extension, as well as proposed California High-Speed Rail. The development supports increased ridership and use of these bus lines by placing more destinations and potential users within a half-mile of existing transit stops, and through implementation of a project-specific Transportation Demand Management Plan.

4) **Jobs/Housing Balance and Fiscal Health.** The project would produce more jobs (net increase of approximately 30,550) than employed residents (net increase of approximately 8,850); therefore, it would assist the City in implementing its adopted General Plan major strategy of growing as a regional job center and help to achieve the jobs-to-employed-residents ratio of 1.1 citywide, from a current ratio of 0.81:1, based on the 2020 General Plan Annual Performance Review. As discussed in the General Plan, this is critical to improving the City's ongoing fiscal health through the expansion of tax revenue on a per capita basis, especially in comparison to other cities in Santa Clara Valley, to which San José has historically exported workers.

5) **Access to Jobs.** Construction of the project will include a 30 percent local hire goal for on-site building construction, and all on-site construction workers will be paid state prevailing wages. Ten percent (or over $300 million) of commercial office building design and construction contracts will be awarded to businesses that qualify as a Local Business Enterprise (LBE), Disadvantaged Business Enterprise (DBE), Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), LGBT Business Enterprise (LGBTBE), Disability Owned Business Enterprise (DOBE), and/or Service-Disabled/Veteran Owned Business (SD/VOB). The project applicant will additionally promote and provide career exploration and skill development opportunities, such as onsite field trips, career days, and computer science workshops, to students from underserved communities and who have an interest in technology and technology-based careers.

6) **Community Stabilization and Opportunity Pathways.** The project's community benefits package includes a first-of-its-kind Community

Stabilization and Opportunity Pathways Fund of over $150 million, spanning the interdependence between housing, education and job access, with a focus on social equity and serving underserved and historically underrepresented students, families, and adults. The fund will support programs like affordable housing preservation, homeless prevention, and homeless services, as well as education, workforce development, small business resilience and entrepreneurship, and is structured to involve community participation in the grantmaking process. The fund will support the long-term stability and social and economic health of San José's most underserved communities and will be a pioneering and critical tool for more inclusive economic recovery.

7) **Provision of Open Space.** The project would provide 15 acres of new open space, both publicly and privately owned and all accessible to the public. Approximately 4.8 acres of the total space would be dedicated to the City for public parks and trails, and approximately 10.2 acres would be owned by the project applicant. The 4.8 acres of City-dedicated parkland and trails would include about 0.55 acres of land for the Los Gatos Creek Multi-Use Trail within the project's Los Gatos Creek East and Los Gatos Creek Park, while the remaining 4.25 acres would be located in Northend Park (approximately 0.9 acres); St. John Triangle (about 1.5 acres); the Social Heart (about 0.6 acres); Los Gatos Creek Park (about 0.4 acres); and the Los Gatos Creek Connector (about 0.9 acres) The 10.2 acres of project applicant-owed open space consists of approximately 4.17 acres of privately-owned public parks, approximately 1.82 acres of semi-public open space (which are publicly accessible but may have different hours and/or access conditions than the City-dedicated open space), approximately 1.37 acres of mid-block passages, approximately 2.5 acres of riparian setback and approximately 0.4 acres of riparian corridor within the project site. Of the 10.2 acres of project applicant-owned open space, approximately 7 acres would be subject to a recorded restrictive covenant requiring that these spaces be maintained as publicly-accessible open spaces.

8) **Complete Communities.** The project will advance Envision San José 2040 General Plan policies to create complete communities. The project will complement existing and proposed development in the Diridon Station Area Plan area by locating new workers and residents on the site within a mixed-use community with high-quality urban design including office, retail, and entertainment uses and within walking distance to nearby transit, shops, restaurants, and existing neighborhoods. Placing complimentary land uses like residential and commercial/retail uses near each other will help reduce the number of single-occupancy automobile trips and vehicle-miles traveled

compared with the equivalent amount of development in a more suburban location where uses are separated and require the use of an automobile, contributing to an increase in vehicle miles traveled and GHG emissions.

9) **No Net GHG Emissions and Sustainability.** The project will comply with requirements of the Jobs and Economic Improvement through Leadership Act of 2011 (AB 900) and result in no net new GHG emissions, as well as complying with state requirements for commercial and organic waste recycling. The project will achieve Leadership in Energy and Environmental Design (LEED) ND Gold certification, including optimization of building energy performance and include on-site solar PV panels sufficient to generate at least 7.8 megawatts. The project will achieve LEED Gold Certification for all office building and will use electricity rather than natural gas for space heating and cooling.

10) **Provision of Significant Infrastructure Improvements.** The project will expedite phasing and funding of district infrastructure with no public subsidy. Improvements will include enhanced right of way improvements, utility upgrades and relocation, undergrounded overhead power and communication lines, replacement of the West San Fernando Bridge Street (restoring an aging asset and reducing flood risk in Los Gatos Creek), district systems offering increased environmental performance with the provision of sustainable thermal energy, electricity, waste water treatment and recycled water. Incorporation of district systems and provision of other associated infrastructure improvements will support: increased environmental resiliency and outcomes, lower burden on existing citywide systems, and better public health and social outcomes, consistent with goals articulated in Envision San José 2040 General Plan and Climate Smart San José.

11) **Attainment of City Goals in MOU.** The project will achieve or help achieve the shared goals set forth in the Memorandum of Understanding between the City and Google, dated December 4, 2018. Among these, in summary form, are the following:

- Balance and address objectives of the City, Google and the community in creating a vibrant urban destination advancing economic opportunity, social equity, and environmental sustainability with a financially-viable private development.
- Capitalize on transit availability in the Diridon Station Area with new urban development, expanded transit service, and a planned new intermodal station.

- Achieve sufficient density to create a complementary mix of uses in a vibrant, transit-oriented urban neighborhood.
- Contribute funding to develop and preserve housing in the City to help address rising housing costs and displacement.
- Create good job opportunities for San José residents of all skill and educational levels and backgrounds.
- Develop the Diridon Station Area with intent to minimize negative impacts on people and place and maximize job opportunities for local youth and adults.
- Design buildings and spaces at a human scale to support an active street life and accessibility for people of all abilities.
- Develop robust, publicly accessible amenities, including parks, open space, plazas, and trails, and create attractive, vibrant, and safe experiences for pedestrians and bicyclists, as well as public art and cultural and historical preservation, with multi-modal connections to the Guadalupe River, Los Gatos Creek, and other public spaces.
- Pursue excellence in design that is appropriately open to the public and well-integrated with the surrounding community.
- Maximize use of public transit and minimize parking.
- Collaborate with transit agencies to enhance transit access and operations.
- Advance the City's sustainability goals as outlined in the City's "Climate Smart San José" Plan, including reducing greenhouse gas emissions.
- Ensure that all projects in the Diridon Station Area and adjacent areas contribute their fair share of investment to support amenities, infrastructure, improvements, and mitigations that benefit all properties.
- The Developer, Contractors, and Subcontractors should pay construction workers a prevailing hourly wage and benefit rate for office and research and development construction.
- Prioritize community engagement in the drafting of a Community Benefits Plan.

The City Council has weighed each of the above benefits of the proposed project against its unavoidable environmental risks and adverse environmental effects identified in the Final Environmental Impact Report and hereby determines that each of the benefits outweigh the risks and adverse environmental effects of the project and, therefore, further

determines that these risks and adverse environmental effects are acceptable and overridden.

SECTION 6: LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the project are located at the City's Department of Planning, Building and Code Enforcement, San José City Hall, 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and are also located on the internet at https://downtownwestadminrecord.com/. The City Council hereby designates the City's Director of Planning, Building, and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

ADOPTED this ___ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

_____
SAM LICCARDO
Mayor

ATTEST:

_____
TONI J. TABER, CMC
City Clerk