

# FINDINGS OF FACT FOR THE MARIPOSA INDUSTRIAL PARK PROJECT

REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT  
(Public Resources Code, § 21000 et seq.)

CITY OF STOCKTON  
NOVEMBER 22, 2022

## 1.0 INTRODUCTION

### 1.1 BACKGROUND INFORMATION

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The California Environmental Quality Act (CEQA) requires that a Lead Agency prepare an Environmental Impact Report (EIR) when a proposed project may involve significant environmental effects, as defined by CEQA. Prior to approval of the project, the Lead Agency is required to certify that the EIR was completed in compliance with CEQA and that the Lead Agency reviewed and considered the information in the EIR before approving the project. If the EIR identifies significant or potentially significant environmental effects, CEQA requires that the Lead Agency include feasible mitigation measures in the project and that the Lead Agency make specified written findings regarding disposition of significant environmental effects prior to project approval.

If the Lead Agency intends to approve a project but finds that mitigation measures are not feasible for one or more of the significant environmental effects of the project, it must also adopt a Statement of Overriding Consideration that identifies economic, social, technical, and other benefits of the Project that override any significant unavoidable impacts that would result from the Project. The Mariposa Industrial Park project involves several potentially significant environmental effects, some of which do not have feasible mitigation measures that will substantially reduce the impact or reduce it to a less than significant level. The proposed Statement of Overriding Considerations for the Mariposa Industrial Park project is shown in Section 4.0 of this document.

If an EIR identifies significant or potentially significant environmental effects, the Lead Agency must also adopt a Mitigation Monitoring Reporting Program (MMRP) that lists all of the mitigation measures identified in the EIR and identifies responsibility for their implementation and/or monitoring. The proposed MMRP for the Mariposa Industrial Park is shown in the separate document cited below.

Mitigation Monitoring/Reporting Program for the Mariposa Industrial Park. City of Stockton November 15, 2022.

This document sets forth the findings of the City of Stockton (the “City”), the Lead Agency for the Mariposa Industrial Park project, as required by CEQA Guidelines sections 15091-15093. The primary source document for the findings is the *Environmental Impact Report for the Mariposa Industrial Park Project* (SCH# 2020120283) (the “EIR”). When referenced as such, the EIR includes the Public Review Draft EIR (the DEIR) dated August 24, 2021 and the Revised Final EIR (the FEIR) dated November 15, 2022, as well as documents that are incorporated into the DEIR and Revised FEIR by reference.

The proposed project that is the subject of these findings, the environmental review process, the environmental documentation prepared for the project, and the findings that the City must make to fulfill the requirements of CEQA, are discussed below. The City’s findings with respect to the Mariposa Industrial Park project are described in subsequent sections of this document.

The proposed Findings and Statement of Overriding Considerations contained in this document are presented for adoption by the City Council as the City’s findings required under CEQA and the CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of this City Council regarding the Project’s environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations, which in this City Council’s view, justify approval of the Project, despite the Project’s significant and unavoidable environmental impacts.

## 1.2 PROJECT DESCRIPTION

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The Mariposa Industrial Park project proposes annexation, pre-zoning and other approvals needed to allow industrial development of the 203.48-acre project site. Planned industrial land uses consist primarily of large warehousing and distribution facilities known as “high-cube” warehouses. The conceptual site plan for the project includes seven buildings with a planned height of 36 feet and floor area totaling 3.6 million square feet, including ancillary office space. The proposed Development Agreement for the project would allow the maximum height limit specified in the proposed zoning district to be exceeded; potential building heights of up to 100 feet were evaluated in the EIR.

Access to the developed site would be from two new driveways extending south from Mariposa Road in the northeastern portion of the project site. The southernmost driveway would provide the main access to the project site and most of the proposed buildings. The project would include improvements along the site’s Mariposa Road frontage to accommodate turn pockets and acceleration/deceleration lanes. Utility service for the project site, including sewer and water would be provided by the City of Stockton from existing trunk lines adjacent to the site. Storm drainage from the site would be directed to a new on-site storm drainage system; the storm drainage system would include on-site collection lines and a detention basin that would discharge accumulated storm flows to North Littlejohns Creek, when capacity is available, while also improving the quality of storm discharged storm waters.

## 1.3 THE CEQA PROCESS FOR THE MARIPOSA INDUSTRIAL PARK PROJECT

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The potential environmental effects of the project, mitigation measures necessary to address significant effects and alternatives to the project are discussed in detail in the project EIR prepared by the City of Stockton. In addition to preparing the EIR, the City conducted the EIR process as required by CEQA. Steps in the EIR process included preparation and public review of a Notice of Preparation, conducting a scoping meeting, publication and distribution of a Draft EIR for a 45-day public review period, preparation of a Final EIR addressing comments received during the public review period, and preparation of this CEQA Findings document and the associated MMRP that are intended to be adopted by the Stockton City Council prior to taking action on the project.

### Notice of Preparation Public Circulation

The City issued a Notice of Preparation (NOP) of the EIR on December 16, 2020; the NOP was circulated for agency review for a 30-day period as required by CEQA. Detailed information on the content, circulation and comments received by the City on the Notice of Preparation is contained in DEIR Appendix A; comments submitted on the NOP, listed below, were considered during the preparation of the DEIR and were incorporated into the DEIR by reference.

- Department of Conservation's Division of Land Resource Protection, January 12, 2021
- Central Valley Regional Water Quality Control Board, January 8, 2021
- Native American Heritage Commission, December 20, 2020
- San Joaquin Valley Air Pollution Control District, January 7, 2021
- Gale Tolentino, January 12, 2021

The City also held a virtual public scoping meeting for the project on January 5, 2021. Public notice of the meeting was provided by the City in accordance with its standard noticing procedures. Verbal comments during the meeting were provided by local residents Roy Harper and John Lott. No written comments were submitted to the City during or after the scoping meeting.

### Draft EIR Public Circulation

The Public Review Draft EIR (DEIR) was prepared by consultants, independently reviewed by the City and distributed for agency and public comment during a 45-day period extending from August 24, 2021 to October 7, 2021.

The DEIR contained a description of the project, a description of the environmental setting, identification of project impacts, and discussion of feasible mitigation measures for environmental impacts found to be potentially significant, as well as an analysis of project alternatives, identification of significant irreversible environmental changes, growth-

inducing impacts, and cumulative impacts. The DEIR also identifies areas of environmental concern determined to involve no impact or a less than significant impact.

The public notification and distribution process for the DEIR is outlined below.

The DEIR was available for viewing and download on the City's web site during the public review period.

A Notice of Availability was filed with the San Joaquin County Clerk, published in The Record, a newspaper of regional circulation, and uploaded to the State Clearinghouse. The Notice of Availability distributed to a list of agencies and interested parties as shown in Appendix J of the FEIR.

A Notice of Completion, the DEIR and the State Clearinghouse Summary were posted to the State Clearinghouse CEQAnet web site for review by State agencies.

The City received six written comments on the DEIR during and shortly after the public review period.

1. California Air Resources Board, October 8, 2021
2. San Joaquin Valley Air Pollution Control District, October 7, 2021
3. California Department of Justice, October 7, 2021
4. Montezuma Fire District, January 7, 2022
5. San Joaquin County Community Development Department, January 7, 2022
6. Sierra Club, January 17, 2022

The City considered the above-listed comment letters and made specific responses to each of the comments. These comments and the City's responses are shown in Chapter 22.0 of the Revised Final EIR.

## Final EIR

The City prepared an initial version of the FEIR (February 28, 2022) in advance of a planned meeting of the Stockton Planning Commission scheduled for March 10, 2022. As required by CEQA, the City's responses to comments were provided to each of the commenters 10 days ahead of the Planning Commission meeting. The Planning Commission reviewed the February 28, 2022 FEIR and recommended that the Stockton City Council certify the Final EIR.

During the Planning Commission meeting, additional comments addressing EIR concerns were submitted to the City and the Planning Commission. Additional comments were submitted to the City prior to the planned City Council meeting scheduled for April 18, 2022.

7. San Joaquin County Community Development Department, March 10, 2022
8. Matt Holmes, March 10, 2022
9. Jan Warren, March 10, 2022
10. Sierra Club, March 10, 2022

11. Public Health Advocates, March 10, 2022
12. Alicia Valenzuela, April 18, 2022
13. California Department of Justice, April 18, 2022
14. San Joaquin County Environmental Health Department, April 19, 2022
15. Smith, Mihaly & Weinberger/Sierra Club, April 19, 2022

City Council consideration of the project was postponed to a later date. Subsequently, the City considered the additional comment letters in depth. Since the receipt of these comments, the City, the project applicant and three of the agency commenters discussed the various comments and what project changes and/or additional mitigation measures could or should be adopted and implemented to address the concerns raised in the comments. As a result of this process, and reflecting the various agreements reached with the commenting entities, the City has made its responses to the comments in Chapter 22.0 of this Revised Final EIR.

### Recirculation Requirements

The City of Stockton received a total of 15 comment letters on Mariposa Industrial Park EIR. In accordance with CEQA Guidelines Section 15088, this Revised Final EIR responds to all of the comments received. Based on a comprehensive review of the comments and reconsideration of the EIR, the City has determined that the responses to comments and edits to the Draft EIR do not reveal any new significant impacts or “significant new information” that would require recirculation of the EIR pursuant to CEQA Guidelines Section 15088.5.

A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term “information” can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) *that the project’s proponents have declined to implement*. The City of Stockton has instead provided meaningful opportunities for the public to comment through the 2021 45-day public review period and then again by making the February 28, 2022 version of the Final EIR available for review prior to the March 10, 2022 Stockton Planning Commission meeting. The City has engaged in detailed discussion with the EIR commenters and the project proponents to define additional feasible mitigation measures for the project’s significant environmental effects that address the commenters’ concerns. The results of these discussions, in the form of additional mitigation measures, are shown in this Revised FEIR.

The Revised FEIR for the Mariposa Industrial Park project does include substantial additional information, but this information is entirely related to an interagency effort to identify additional measures that would further reduce the air quality impacts of the project.

The Revised Final EIR does not identify any new environmental impacts or impacts that are substantially more severe than were identified in the Draft EIR that would result either from the project or from new mitigation measures, or from more stringent measures identified in the Revised Final EIR. No feasible new project alternative or mitigation measure have been identified that are considerably different from others previously analyzed and that would clearly lessen the environmental impacts of the project, nor have the project's proponents declined to adopt any alternatives or feasible mitigation measures. It has not been suggested the DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

### Record of Proceedings and Custodian of Record:

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's findings and determinations consists of the following documents and testimony, at a minimum:

1. The NOP, comments received on the NOP, and all other public notices issued by the City in relation to the Project (e.g., NOA and State Clearinghouse Notice of Completion).
2. The Draft EIR, the initial version of the Final EIR dated February 28, 2022 and the Revised Final EIR, dated November 15, 2022, including comment letters, and technical materials cited in the documents.
3. All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants in relation to the EIR.
4. Minutes and transcripts of the discussions regarding the Project and/or Project components at public hearings held by the City.
5. Staff reports associated with City Council meetings on the Project.
6. Those categories of materials identified in Public Resources Code § 21167.6.

The Stockton City Clerk is the custodian of the administrative record for this project. The documents and materials that constitute the administrative record are available for review at the Stockton Permit Center, 345 N. El Dorado Street, Stockton, CA 95202.

## 2.0 FINDINGS REQUIRED UNDER CEQA

Public Resources Code § 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” Further, the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” (*Id.*) Section 21002 also provides that “in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.” The mandate and principles established by the Legislature in Public Resources Code § 21002 are implemented, in part, through the requirement in Public Resources Code § 21081 that agencies must adopt findings before approving projects for which an EIR is required. The CEQA Guidelines §15091 provides specific direction regarding findings required under CEQA:

15091. No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- c) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

As described in the EIR and shown in the Revised FEIR Summary Table 2-1, the project would involve a range of potential environmental effects; these effects include numerous potential effects that are identified as Less than Significant or that would have no effect on the environment. An additional several environmental effects are identified as potentially significant or significant; the EIR prescribes feasible mitigation measures for these effects that would avoid or reduce most of the identified effects to a less than significant level.

The Revised FEIR, however, describes six potentially significant environmental effects that are, after the inclusion of all feasible mitigation measures, considered unavoidable:

Impact AG-1: Conversion of Farmland

Impact AIR-2: Air Quality Plans and Standards-Operational Emissions

Impact AIR-3: Exposure of Sensitive Receptors to Criteria Pollutants

Impact GHG-1: Project GHG Construction Emissions and Consistency with Applicable Plans and Policies

Impact NOISE-1: Increase in Noise Levels in Excess of Standards - Traffic

Impact TRANS-6: Consistency with CEQA Guidelines Section 150645.3(b).

Provided that the City wishes to approve the project, it must adopt Statement of Overriding Considerations.

The proposed CEQA findings for the Mariposa Industrial Park project are described in the following sections. The proposed Statement of Overriding Considerations is described in Section 4.0. The proposed findings are based upon substantial evidence, comprised primarily of the information, analysis and mitigation measures described in the DEIR and the Revised FEIR, the responses to public comments shown in Chapter 22.0 of the Revised FEIR and any other information incorporated into these documents by reference. Specific references to supporting information are provided in conjunction with the City's finding for each potentially significant effect of the project.

## **2.1 GENERAL FINDINGS BY THE CITY OF STOCKTON**

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### **CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT**

In adopting these Findings, this City Council finds that the Revised FEIR was presented to this City Council, the decision-making body of the lead agency, which reviewed and considered the information in the Revised FEIR prior to approving the Project. By these findings, this City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Revised FEIR. The City Council finds that the Revised FEIR was completed in compliance with CEQA and that the Revised FEIR represents the independent judgment of the City.

### **MITIGATION MONITORING/REPORTING PROGRAM**

A Mitigation Monitoring/Reporting Program (MMRP) has been prepared for the Project in a separate document and has been adopted concurrently with these Findings. The City will



use the MMRP to document the Project's compliance with the mitigation measures described in the certified EIR.

## SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

## 2.2 FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

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As noted above, the Revised FEIR describes six potentially significant environmental effects that, as described in the EIR, are considered unavoidable:

Impact AG-1: Conversion of Farmland

Impact AIR-2: Air Quality Plans and Standards-Operational Emissions

Impact AIR-3: Exposure of Sensitive Receptors to Criteria Pollutants

Impact GHG-1: Project GHG Construction Emissions and Consistency with Applicable Plans and Policies

Impact NOISE-1: Increase in Noise Levels in Excess of Standards - Traffic

Impact TRANS-6: Consistency with CEQA Guidelines Section 150645.3(b).

The CEQA Guidelines provide in Section 15021 that if significant impacts cannot be feasibly avoided or substantially lessened with mitigation measures, a public agency may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the project's benefits outweigh its significant unavoidable adverse environmental effects.

Whether mitigation measures or alternatives are considered feasible is central to CEQA findings related to significant and unavoidable effects. As defined by CEQA, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. Moreover, "'feasibility' under CEQA encompasses 'desirability' to the extent that overall desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors."

The specific provisions of the CEQA Guidelines §15093 regarding statements of overriding considerations are central to the City's findings related to significant and unavoidable effects.

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

b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to § 15091.

The findings for the Mariposa Industrial Park project described in this section, and in other findings described in this throughout this document are based upon substantial evidence, comprised primarily of the information, analysis and mitigation measures described in the EIR and any other information incorporated into the EIR by reference. Specific references to supporting information are provided in conjunction with the City's finding for each potentially significant effect of the project.

In order to address the projects significant and unavoidable effects, findings related to alternatives and a Statement of Overriding Consideration for the project are required. These subjects are addressed in Sections 3.0 and 4.0 of the document.

### IMPACT AG-1: Conversion of Farmland

#### (a) Potential Impact:

Industrial development of the 203-acre project site would convert 106 acres of Farmland of Statewide Importance as designated on the California Department of Conservation Important Farmland Maps and 74 acres of other lands comprised of Stockton clay soils, which are considered prime agricultural land, when irrigated, under the Cortese-Knox-Hertzberg Act, to non-agricultural uses. Farmland conversion is considered a significant environmental effect under CEQA. This effect is described in pages 5-5 to 5-6 of the Final EIR.

(b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the adopted MMRP:

Mitigation Measure AG-1: The project shall participate in and comply with the City's Agricultural Lands Mitigation Program, under which developers of the property shall contribute agricultural mitigation land or shall pay the required Agricultural Land Mitigation Fee to the City.

No other feasible mitigation measures for this impact were identified.

(c) Findings:

Based on the EIR and the entire record before this City Council, the City Council finds that:

(1) Effects of Mitigation and Remaining Impacts. The Project would result in the permanent conversion of 106 acres of Farmland of Statewide Importance under the California Department of Conservation Farmland Mapping Program and 74 acres of Prime Agricultural land under the Cortese-Knox-Hertzberg Act to non-agricultural use. These losses are considered a potentially significant environmental impact.

Mitigation Measure AG-1 requires the project to participate in the City's Agricultural Lands Mitigation Program (ALMP), which requires that projects provide "agricultural mitigation land" - land encumbered by an agricultural conservation easement - on a 1:1 basis for each acre of important agricultural land converted by the project, or alternatively, projects must pay the City's established Agricultural Land Mitigation Fee, which is used to acquire agricultural mitigation land or easements, or administer the program.

The City of Stockton is also a signatory to the San Joaquin County Multi-Species Habitat and Open Space Plan (SJMSCP). Under the SJMSCP, Agricultural land conversion will pay the annually adjusted habitat fee per acre. Fees are used to purchase conservation easements over agricultural land that provide habitat values

While the proposed Project will contribute fees toward the purchase of conservation easements on agricultural lands through the City's ALMP and the SJMSCP, the resulting agricultural land conservation easements would not result in the creation of sufficient new farmland to offset the loss that would occur with Project implementation. There are no other known mitigation measures for agricultural land conversion. As such, the conversion of agricultural land is considered a significant and unavoidable impact.

The Stockton General Plan 2040 and the certified General Plan EIR (GPEIR) considered potential conversion of agricultural land in conjunction with planned urban development mapped in the, which included industrial development of the project site and surrounding industrially designated lands. The agricultural land

conversion impact was identified in the GPEIR as significant and unavoidable. The GPEIR concluded that no additional mitigation was available that would reduce this impact to a level that would be less than significant. The Stockton City Council adopted a Statement of Overriding Considerations for agricultural land conversion impacts when it adopted the General Plan 2040.

(2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with impacts to farmlands, as more fully stated in the Statement of Overriding Considerations in Section 4.0, below. A corresponding Statement of Overriding Considerations was adopted at the time of adoption of the Stockton General Plan 2040.

### IMPACT AIR-2: Air Quality Plans and Standards-Operational Emissions

#### (a) Potential Impact:

Operation of planned industrial development on the project site would result in new emissions of criteria air pollutants. Existing air pollution control program, such as the San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Rule, would result in substantial reductions in criteria air pollutant emissions to levels below established significance thresholds, except for oxides of nitrogen (NO<sub>x</sub>). The Revised FEIR defines numerous other air quality mitigation measures, but the overall effectiveness of these measures in reducing project impacts cannot be confidently quantified. NO<sub>x</sub> emissions are therefore considered a significant environmental effect under CEQA. This effect is described in pages 6-14- to 6-16 of the Revised Final EIR.

#### (b) Mitigation Measures:

The following mitigation measures are hereby adopted and will be implemented as provided by the adopted MMRP:

AIR-8: The project shall comply with the emission reduction requirements of SJVAPCD Rule 9510 for project operations.

AIR-9: Prior to building occupancy, employers with 100 or more eligible employees shall submit an Employer Trip Reduction Implementation Plan (ETRIP) to the City for review and approval, as required by SJVAPCD Rule 9410. A copy of the ETRIP shall be provided to the SJVAPCD. Employers shall facilitate participation in the implementation of the ETRIP by providing information to its employees explaining methods for participation in the Plan and the purpose, requirements, and applicability of Rule 9410

AIR-10: The project shall comply with SJVAPCD Rule 4101, which prohibits emissions of visible air contaminants to the atmosphere and applies to any source operation that emits or may emit air contaminants.

AIR-11: The project shall comply with SJVAPCD Rule 4601, which limits emissions of volatile organic compounds from architectural coatings by specifying

storage, clean up and labeling requirements. (The project has agreed to abide by more stringent VOC emissions requirements.

AIR-12: Solar Power: Owners, operators or tenants shall include with the building permit application, sufficient solar panels to provide power for the operation's base power use at the start of operations and as base power use demand increases. Project sponsor shall include analysis of (a) projected power requirements at the start of operations and as base power demand increases corresponding to the implementation of the "clean fleet" requirements, and (b) generating capacity of the solar installation.

AIR -12 (continued): CDD shall verify the size and scope of the solar project based upon the analysis of the projected power requirements and generating capacity as well as the available solar panel installation space. The photovoltaic system shall include a battery storage system to serve the facility in the event of a power outage to the extent required by the 2022 or later California Building Standards Code.

AIR -12 (continued): In the event sufficient space is not available on the subject lot to accommodate the needed number of solar panels to produce the operation's base or anticipated power use, the applicant shall demonstrate how all available space has been maximized (e.g., roof, parking areas, etc.). Areas which provide truck movement may be excluded from these calculations unless otherwise deemed acceptable by the supplied reports.

AIR-12 (continued): The developer or tenant, or qualified solar provider engaged by the developer or tenant shall timely order all equipment and shall install the system when the City has approved building permits and the necessary equipment has arrived. The developer or tenant shall commence operation of the system when it has received permission to operate from the utility. The photovoltaic system owner shall be responsible for maintaining the system(s) at not less than 80% of the rated power for 20 years. At the end of the 20-year period, the building owner shall install a new photovoltaic system meeting the capacity and operational requirements of this measure, or continue to maintain the existing system, for the life of the project.

AIR-13: Emission Standards for Heavy-Duty Trucks: The following mitigation measures shall be implemented during all on-going business operations and shall be included as part of contractual lease agreement language to ensure the tenants/lessees are informed of all on-going operational responsibilities.

AIR-13 (continued): The property owner/tenant/lessee shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025 or when commercially available for the intended application, whichever date is later.

AIR-13 (continued). A zero-emission vehicle shall ordinarily be considered commercially available if the vehicle is capable of serving the intended purpose and is included in California's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project, <https://californiahvip.org/> or listed as available in the US on the Global Commercial Vehicle Drive to Zero inventory, <https://globaldrivetozero.org/>. The City shall be responsible for the final determination of commercial availability, based on all the facts and circumstances at the time the determination is made, and may (but is not required to) consult with the California Air Resources Board before making such final determination. In order for the City to make a determination that such vehicles are commercially unavailable, the operator must submit documentation from a minimum of three (3) EV dealers identified on the [californiahvip.org](https://californiahvip.org/) website demonstrating the inability to obtain the required EVs or equipment needed within 6 months

AIR-13 (continued): "Domiciled at the project site shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70% of the calendar year or (ii) dedicated to the project site (defined as more than 70% of the truck routes (during the calendar year) that start at the project site even if parked or kept elsewhere)

AIR-13 (continued): Zero-emission heavy-duty trucks which require service can be temporarily replaced with model year 2014 or later trucks. Replacement trucks shall be used for only the minimum time required for servicing fleet trucks.

AIR-14: Zero Emission Vehicles: The property owner/tenant/lessee shall utilize a "clean fleet" of vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations as follows: For any vehicle (Class 2 through 6) domiciled at the project site, the following "clean fleet" requirements apply: (i) 33% of the fleet will be zero emission vehicles at start of operations, (ii) 65% of the fleet will be zero emission vehicles by December 31, 2023, (iii) 80% of the fleet will be zero emission vehicles by December 31, 2025, and (iv) 100% of the fleet will be zero emission vehicles by December 31, 2027.

AIR-14 (continued): "Domiciled at the project site" shall mean the vehicle is either (i) parked or kept overnight at the project site more than 70% of the calendar year or (ii) dedicated to the project site (defined as more than 70% of the truck routes (during the calendar year) that start at the project site even if parked or kept elsewhere).

AIR-14 (continued): Zero-emission vehicles which require service can be temporarily replaced with alternate vehicles. Replacement vehicles shall be used for only the minimum time required for servicing fleet vehicles.

AIR-14 (continued): The property owner/tenant/lessee shall not be responsible to meet "clean fleet" requirements for vehicles used by common carriers operating under their own authority that provide delivery services to or from the project site.

AIR-15: Demonstrate Compliance with Clean Fleet Requirements: The applicant, property owner, tenant, lessee, or other party operating the facility (the "Operator") shall procure the zero emission vehicles/trucks required to meet the "clean fleet" requirements in AIR-13 (for Class 7 and 8 vehicles) and AIR-14 (for Class 2 through 6 vehicles) above. Within 30-days of occupancy, the Operator shall demonstrate to the satisfaction of CDD staff, that the applicable clean fleet requirements are being met.

AIR-15 (continued): In the event that sufficient vehicles/trucks are not commercially available for the intended application, the "clean fleet requirements" may be adjusted as minimally as possible by the CDD to accommodate unavailability of commercially available vehicles/trucks.

AIR-15 (continued): The City shall quantify the air pollution and GHG emissions resulting from any modification of this condition. Within 12 months of failing to meet a "clean fleet" requirement the property owner/tenant/lessee shall implement a Voluntary Emissions Reduction Agreement (VERA) providing pound for pound mitigation of the criteria pollutant, toxic air contaminants, and GHG emissions quantified by the City through a process that develops, funds, and implements emission reduction projects, with the Air District serving a role of administrator of the emission reduction projects and verifier of the successful mitigation effort. The VERA shall prioritize projects in the South Stockton and surrounding area. Property owner/tenant/lessee shall continue to fund the VERA each year in an amount necessary to achieve pound for pound mitigation of emissions resulting from not meeting the clean fleet requirements until the owner/tenant/lessee fully complies.

AIR-15 (continued): The Operator shall implement the proposed measures after CDD review and approval. Any extension of time granted to implement this condition shall be limited to the shortest period of time necessary to allow for 100% electrification under the clean fleet requirements. The CDD staff may seek the recommendation of the California Air Resources Board in determining whether there has been a manufacturing disruption or insufficient vehicles/trucks commercially available for the intended application.

AIR-16: Condition of Approved Compliance Report: The Operator shall submit a condition of approval compliance report within 30 days of, but not later than, the following dates: December 31, 2023, December 31, 2025, and December 31, 2027. The report shall outline clean fleet requirements applicable at each report interval and include documentation demonstrating compliance with each requirement. The City shall consider each report at a noticed public hearing and determine whether the Operator has complied with the applicable clean fleet requirements. If the Operator has not met each 100% clean fleet requirement by December 31, 2027, then the Operator shall submit subsequent reports every year until the 100% clean fleet requirement is implemented. The City shall consider each subsequent report at a noticed public hearing and determine whether the Operator has complied with the clean fleet requirements, including any minimal

adjustments to the requirements by the CDD to accommodate the manufacturing disruption or unavailability of commercially available vehicles/trucks, as described in the previous paragraph. Notice of the above hearings shall be provided to all properties located within 1,000 feet of the project site and through the ASK Stockton list serve.

AIR-16 (continued): After the 100% clean fleet requirement has been implemented and confirmed by the CDD, the Operator shall submit to the CDD an on-going compliance report every three years containing all necessary documentation to verify that the Operator is meeting the clean fleet requirements. At the time it confirms that the 100% clean fleet requirement has been implemented, the CDD will establish the due date for the first on-going compliance report. Each subsequent on-going compliance report shall be due within 30 days of, but not later than, the three-year anniversary of the preceding due date. The on-going compliance reports and accompanying documentation shall be made available to the public upon request.

AIR-17: Zero Emission Forklifts, Yard trucks and Yard Equipment: Owners, operators or tenants shall require all forklifts, yard trucks, and other equipment used for on-site movement of trucks, trailers and warehoused goods, as well as landscaping maintenance equipment used on the site, to be electrically powered or zero-emission. The owner, operator or tenant shall provide on-site electrical charging facilities to adequately service electric vehicles and equipment.

AIR-18: Truck Idling Restrictions: Owners, operators or tenants shall be required to make their best effort to restrict truck idling onsite to a maximum of three minutes, subject to exceptions defined by CARB in the document: commercial\_vehicle\_idling\_requirements\_July\_2016. Idling restrictions shall be enforced by highly visible posting at the site entry, posting at other on-site locations frequented by truck drivers, conspicuous inclusion in employee training and guidance material and owner, operator or tenant direct action as required.

AIR-19: Electric Truck Charging: Owners, operators or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site.

AIR-20: Project Operations, Food Service: Owners, operators or tenants shall establish locations for food or catering truck service and cooperate with food service providers to provide consistent food service to operations employees.

AIR-21: Project Operations, Employee Trip Reduction: Owners, operators or tenants shall provide employees transit route and schedule information on systems serving the project area and coordinate ridesharing amongst employees.

AIR-22: Yard Sweeping: Owners, operators or tenants shall provide periodic yard and parking area sweeping to minimize dust generation.



AIR-23: Diesel Generators: Owners, operators or tenants shall prohibit the use of diesel generators, except in emergency situations, in which case such generators shall have Best Available Control Technology (BACT) that meets CARB's Tier 4 emission standards.

AIR-24: Truck Emission Control: Owners, operators or tenants shall ensure that trucks or truck fleets domiciled at the project site be model year 2014 or later, and maintained consistent with current CARB emission control regulations

AIR-25: SmartWay: Owners, operators or tenants shall enroll and participate the in SmartWay program for eligible businesses

AIR-26: Designated Smoking Areas: Owners, operators or tenants shall ensure that any outdoor areas allowing smoking are at least 25 feet from the nearest property line.

AIR-27: Project construction shall be subject to all adopted City building codes, including the adopted Green Building Standards Code, version July 2022 or later. Prior to the issuance of building permits, the applicant/developer shall demonstrate (e.g., provide building plans) that the proposed buildings are designed and will be built to, at a minimum, meet the Nonresidential Voluntary Measures of the California Green Building Standards code, Divisions A5.1, 5.2 and 5.5, including but not limited to the Tier 2 standards in those Divisions, where applicable, such as the Tier 2 advanced energy efficiency requirements as outlined under Section A5.203.1.2.

AIR-28: All tenant lease agreements for the project site shall include a provision requiring the tenant/lessee to comply with all applicable requirements of the MMRP, a copy of which shall be attached to each tenant/lease agreement.

(c) Findings:

(1) Effects of Mitigation and Remaining Impacts. The Project would result in emissions of oxides of nitrogen that may exceed SJVAPCD significance thresholds. These emissions are considered a potentially significant environmental impact.

Lengthy discussions with EIR commenters during preparation of the Revised FEIR regarding the Project's air quality impacts and potentially feasible mitigation measures resulted in the set of mitigation measures listed above and in Revised FEIR Chapter 6.0. For the purposes of the proposed project, these are considered all of the feasible mitigation measures for the air quality impacts of the project. These measures are expected to substantially reduce the projects air emissions. There is, however, uncertainty as to quantification of the effectiveness of the air quality mitigation measures, and more specifically as to whether the mitigation measures would reduce the Project's NOx emissions impact to a less than significant level. As such, the Project's NOx emissions are considered a significant and unavoidable impact.

The Stockton General Plan 2040 and the certified General Plan EIR (GPEIR) considered potential air quality impacts associated with planned urban development, which included industrial development of the project site and surrounding industrially designated lands. These air quality impacts, including NOx emissions, were identified in the GPEIR as significant and unavoidable. The GPEIR assigned several mitigations to reduction of air quality impacts, which are included in the above-listed measures but concluded that no other feasible mitigation measures were available that would reduce this impact to a level that would be less than significant. The Stockton City Council adopted a Statement of Overriding Considerations for these impacts when it adopted the General Plan 2040.

(2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with NOx emissions and air quality impacts, as more fully stated in the Statement of Overriding Considerations in Section 4.0, below. A corresponding Statement of Overriding Considerations was adopted at the time of adoption of the Stockton General Plan 2040.

### IMPACT AIR-3: Exposure of Sensitive Receptors to Criteria Pollutants

#### (a) Potential Impact:

The project site is within an area identified as the Mariposa Road Disadvantaged Unincorporated Community (DUC). The air quality impacts described for Impact AIR-2 above have the potential for adverse air quality impacts on the DUC. The project would implement the range of additional air quality mitigation measures prescribed for Impact AIR-2 above, and these measures would reduce the potential for adverse air quality impacts. As discussed above, the resulting reduction in health impacts cannot be precisely determined. As such, the potential health impacts are considered significant and unavoidable for CEQA purposes. This effect is described in pages 6-16 to 6-19 of the Revised Final EIR.

Health concerns within the DUC were a concern expressed by the San Joaquin County Community Development Department in its comments on the DEIR and initial version of the FEIR. Discussions between the County and the applicant resulted in incorporation of protective measures in the project Development Agreement; these measures, which include restrictions on truck use near the DUC boundary and building setbacks, are described in Chapter 3.0 of the as follows.

Section 8.3.2 of the DA requires that construction plans shall include a 10-foot by 65-foot landscaped berm along the 623-lineal foot and 493-lineal foot portions of the west line of the site, located north and south of Marfargoa Road, as shown in Development Agreement Exhibit B. Landscaping of the berm shall include fast-growing evergreen trees to provide maximum visual screening, as determined by a qualified landscape architect. Construction plans shall also include a 10-foot wall along the 881 -lineal foot and 1,316-lineal foot portions of the west line of the site,

located north and south of Clark Drive, as shown on DA Exhibit B. Construction plans shall also identify a 60-foot “no truck” zone along the entire length of the west line of the site, as shown on Exhibit B. Construction plans shall also identify and prohibit building construction within a setback area located a minimum of 300 feet from the property line of residential properties along Marfargoa Road and Clark Drive, as shown on Exhibit B. Notwithstanding the foregoing, the stairwells of ancillary/accessory buildings may encroach into the 300-foot setback area.

(b) Mitigation Measures:

The following mitigation measures are hereby adopted and will be implemented as provided by the adopted MMRP:

AIR-1: The project applicant, to reduce carbon monoxide concentrations to an acceptable level, shall contribute fair-share costs to an improvement on the Mariposa Road and Carpenter Road intersection that would widen the northeast-bound Carpenter Road approach to include an exclusive northeast-bound-to-northwest-bound left-turn lane, and a combined through/right-turn lane.

Implement all mitigation measures for Impact AIR-2 as listed above

(c) Findings:

(1) Effects of Mitigation and Remaining Impacts. As noted under Impact AIR-2, the Project would result in air emissions of oxides of nitrogen that may result in health effects on the adjacent DUC. This is considered a potentially significant environmental impact.

As noted, lengthy discussions with EIR commenters resulted in a set of feasible mitigation measures listed above for Impact AIR-2 and in Revised FEIR Chapter 6.0. There is, however, uncertainty as to whether the mitigation measures would reduce the Project’s health effects on the DUC to a less than significant level.

(2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with air quality impacts on the DUC, as more fully stated in the Statement of Overriding Considerations in Section 4.0, below. A corresponding Statement of Overriding Considerations was adopted at the time of adoption of the Stockton General Plan 2040.

IMPACT GHG-1: Project GHG Construction Emissions and Consistency with Applicable Plans and Policies

(a) Potential Impact:

The project would involve substantial GHG emissions that are inconsistent with State and local GHG reduction plans, as documented in Chapter 10.0 of the Revised FEIR. This is considered a significant environmental effect.

## (b) Mitigation Measures:

The following mitigation measures are hereby adopted and will be implemented as provided by the adopted MMRP:

GHG-1: The project shall implement the Off-Road Vehicles Best Management Practices specified in the Stockton Climate Action Plan. At least three (3) percent of the construction vehicle and equipment fleet shall be powered by electricity. Construction equipment and vehicles shall not idle their engines for longer than three (3) minutes.

GHG-2: The project applicant shall comply, as applicable, with the provisions of the California Air Resources Board's Regulation for In-Use Off-Road Diesel Fueled Fleets, which applies to all self-propelled off-road diesel vehicles 25 horsepower or greater used in California and most two-engine vehicles (except on-road two-engine sweepers). These provisions include imposing limits on idling and requiring a written idling policy. It also requires fleets to reduce their emissions by retiring, replacing, or repowering older engines, or by installing Verified Diesel Emission Control Strategies (i.e., exhaust retrofits).

Implement all mitigation measures for Impact AIR-1 Construction Emissions, which are summarized below for brevity. The complete text of these measures is shown in Chapter 6.0 Air Quality.

- AIR-1: SJVAPCD Rule 9510 for project construction.
- AIR-2: SJVAPCD Regulation VIII, dust emissions, during project construction.
- AIR-3: Architectural Coatings, VOC content of <10 g/L.
- AIR-4: SJVAPCD Regulation VIII Compliance. Repeats AIR-2
- AIR 5: Construction Worker Trip Reduction
- AIR 6: Construction Meal Destinations
- AIR-7: Cleanest Available Off-Road Construction Equipment

## (c) Findings:

(1) Effects of Mitigation and Remaining Impacts. As noted under Impact GHG-1, the Project would result in potentially significant emissions of GHGs. This is considered a potentially significant environmental impact.

As discussed for Impact AIR-2, lengthy discussions with EIR commenters resulted in a set of feasible air quality and GHG mitigation measures for project construction and operation as listed above for Impacts AIR-1 and AIR-2 and in Revised FEIR Chapters 6.0 and 10.0. There is, however, uncertainty as to whether the mitigation measures would reduce the Project's GHG emissions to a less than significant level.

(2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with air quality impacts on the DUC, as more fully stated in the Statement of Overriding Considerations in Section 4.0, below. A corresponding Statement of Overriding Considerations was adopted at the time of adoption of the Stockton General Plan 2040.

### IMPACT NOISE-1: Increase in Noise Levels in Excess of Standards -Traffic

#### (a) Potential Impact:

The project will result in changes in traffic noise levels varying from 0 dB to an increase of 4 dB  $L_{dn}$  along Mariposa Road, which exceeds the 3-dB impact significance threshold set in the City of Stockton Noise Element. Because of this, project impacts on traffic noise levels are considered potentially significant, as discussed on pages 14-9 and 14-10 of the Revised Final EIR.

#### (b) Mitigation Measures:

The following mitigation measures are hereby adopted and will be implemented as provided by the adopted MMRP:

NOISE-1: The applicant, the City of Stockton and other project developers impacting Mariposa Road traffic shall consider the use of noise-reducing pavement and utilize it where feasible in planned widening projects for Mariposa Road.

#### (c) Findings:

(1) Effects of Mitigation and Remaining Impacts. The Project would result in potentially significant traffic noise in outdoor areas of residences along affected sections of Mariposa Road. This is considered a potentially significant environmental impact.

The DEIR found that no feasible mitigation measures were available to reduce noise effects in outdoor areas. The Revised FEIR includes an additional measure NOISE-1, shown above, that will identify options for reducing interior noise effects and a funding mechanism for making improvements at the option of the residence owners. These options have the potential to improve interior noise conditions resulting from the project. However, there are no other known feasible mitigation measures that would reduce the project's effects on exterior noise levels to a less than significant level with mitigation.

(2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with air quality impacts on the DUC, as more fully stated in the Statement of Overriding Considerations in Section 4.0, below. A corresponding Statement of Overriding Considerations was adopted at the time of adoption of the Stockton General Plan 2040.

IMPACT TRANS-6: Consistency with CEQA Guidelines Section 15064.3

## (a) Potential Impact:

The Project would generate substantial increases in vehicles miles traveled (VMT). Despite mitigation measures described in the Revised FEIR, the Revised FEIR estimates that reductions in project GHG emissions would amount to 13.5% from “unmitigated” conditions, which falls short of the applicable significance threshold of a 15% reduction in VMT. As a result, the Revised FEIR considers this impact to be significant and unavoidable, as discussed on pages 16-24 to 16-26 of the Revised Final EIR.

## (b) Mitigation Measures:

The following mitigation measures are hereby adopted and will be implemented as provided by the adopted MMRP:

TRANS-1: The project shall provide "end-of-trip" facilities for bicycle riders to encourage the use of bicycling as a viable form of travel to destinations, especially to work. End-of-trip facilities shall include showers, secure bicycle lockers, and changing spaces.

TRANS-2: The project shall implement an employer-sponsored vanpool or shuttle. A vanpool will usually service employees' commute to work, while a shuttle will service nearby transit stations and surrounding commercial centers. Employer-sponsored vanpool programs entail an employer purchasing or leasing vans for employee use, and often subsidizing the cost of at least program administration. Scheduling is within the employer's purview, and rider charges shall be set on the basis of vehicle and operating cost.

TRANS-3: The project shall implement SJVAPCD Rule 9410. Rule 9410, which requires employers with at least 100 employees to implement a trip reduction/transportation demand management program, or ETRIP. [See Air Quality section above.] ETRIP requirements are consistent with a Commute Trip Reduction program recommended by the traffic impact study as a mitigation measure. See also Revised EIR Mitigation Measures TRANS-1 and TRANS-2, which require "end-of-trip" facilities and an employer-sponsored vanpool or shuttle.

Implement mitigation measures for impact AIR-2 as discussed in the Findings Section.

## (c) Findings:

(1) Effects of Mitigation and Remaining Impacts. As noted under Impact TRANS-6, the Project would result in a substantial increase in VMT. This is considered a potentially significant environmental impact.

As noted, discussions between the applicant, City and EIR commenters with air quality concerns resulted in a set of additional feasible mitigation measures listed

above for Impact AIR-2; some of these would have the potential to result in VMT reductions, including the following.

Construction Worker Trip Reduction.

Construction Meal Destinations.

Employer Trip Reduction Implementation Plan (ETRIP).

Project Operations, Worker Food Service.

Project Operations, Employee Trip Reduction.

The effectiveness of these measures, specifically their quantification with respect to the project, is uncertain. As a result, the project's effects on VMT are considered potentially significant.

(2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with air quality impacts on the DUC, as more fully stated in the Statement of Overriding Considerations in Section 4.0, below. A corresponding Statement of Overriding Considerations was adopted at the time of adoption of the Stockton General Plan 2040.

## 2.3 FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS WHICH ARE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

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The environmental effects that were found by the Revised FEIR to be significant and/or potentially significant prior to the application of mitigation measures include the effects listed below. As required by CEQA, the City must make specific findings with respect to each of these significant effects; the City's findings are discussed in more detail below. All of the following environmental effects would be reduced to a less than significant level with incorporation of the mitigation measures prescribed in the Revised FEIR into the project.

Impact BIO-1: Special-Status Species and Habitats

Impact BIO-3: Waters of the U.S. and Wetlands

Impact BIO-4: Fish and Wildlife Migration

Impact BIO-5: Local Biological Requirements

Impact BIO-6: Habitat Conservation Plans

Impact CULT-2: Archaeological and Tribal Cultural Resources

Impact CULT-3: Human Burials

Impact GEO-5: Paleontological Resources and Unique Geological Features

Impact NOISE-2: Increase in Noise Levels in excess of Standards-Other Project Noise

Impact NOISE-3: Increase in Noise Levels in Excess of Standards-Construction

IMPACT BIO-1: Special-Status Species and Habitats.

(a) Potential Impact:

Project development would involve the potential for impacts on foraging habitat for Swainson's hawk and burrowing owl and some potential for nesting impacts. Seasonal wetlands may support vernal pool fairy shrimp. The potential for the project to result in impacts on special-status species is discussed on pages 7-10 and 7-11 and on pages 7-16 and 7-17 of the Revised FEIR.

(b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

BIO-1: The developer shall apply to the San Joaquin Council of Governments (SJCOG) for coverage under the San Joaquin County Multi-Species Open Space and Habitat Conservation Plan (SJMSCP). The project site shall be inspected by the SJMSCP biologist, who will recommend which Incidental Take Minimization Measures (ITMMs) set forth in the SJMSCP should be implemented. The project applicant shall pay the required SJMSCP fee, if any, and be responsible for the implementation of the specified ITMMs.

(c) Findings:

Project development would involve the potential for impacts on foraging habitat for Swainson's hawk and burrowing owl and some potential for nesting impacts. Seasonal wetlands may support vernal pool fairy shrimp. The potential for the project to result in impacts on special-status species is discussed on pages 7-10 and 7-11 and on pages 7-16 and 7-17 of the Revised FEIR.

Project mitigation would require the project to participate in the SJMSCP. The SJMSCP is a comprehensive program, adopted by the City of Stockton and other jurisdictions in San Joaquin County, that assesses and mitigates the biological impacts of converting open space or biologically sensitive lands to urban development. In addition to fee payments, the SJMSCP the applicants to abide by Incidental Take Minimization Measures (ITMMs), which are protection measures that avoid direct impacts of development on special-status species. ITMMs have been developed for all special-status species that may be affected by the project. The participating local agencies, including the City of Stockton, consider a



project that complies with the SJMSCP to result in biological resource impacts that are less than significant, especially with implementation of the ITMMs.

In accordance with Public Resources Code § 21081, Mitigation Measure BIO-1 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Revised FEIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on special-status species will be mitigated to a less-than-significant level.

### IMPACT BIO-3: State and Federally Protected Wetlands

(a) Potential Impact: The project may directly affect potential Waters of the U.S or State wetlands, including North Littlejohns Creek, a ditch, and five seasonal wetlands. The potential for the project to result in impacts on State and federally protected wetlands is discussed on pages 7-17 through 7-19 of the Revised FEIR.

(b) Mitigation Measures:

The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP:

BIO-2: Prior to the start of construction work in the area where seasonal wetlands have been identified, the project developer shall conduct a wetland delineation identifying jurisdictional Waters of the U.S. and wetlands. The delineation shall be verified by the U.S. Army Corps of Engineers (Corps). The delineation shall be used to determine if any project work will encroach upon any jurisdictional water, thereby necessitating an appropriate permit. For any development work that may affect a delineated jurisdictional Water, the project developer shall obtain any necessary permits from the U.S. Army Corps of Engineers prior to the start of development work within these locations. Depending on the Corps permit issued, the project applicant shall also apply for a Section 401 Water Quality Certification from the Central Valley Regional Water Quality Control Board. If the seasonal wetlands are avoided or if phased development occurs in areas where no wetlands have been identified, then this mitigation measure does not apply.

BIO-3: Prior to the start of construction work in North Littlejohns Creek, the project developer shall obtain any necessary permits from the California Department of Fish and Wildlife and the Central Valley Flood Protection Board. The project developer shall comply with all conditions attached to any required permit.

BIO-4: Prior to the start of construction work in the area where seasonal wetlands have been identified, the project developer shall obtain any necessary Waste Discharge Requirements from the Central Valley Regional Water Quality Control Board. Pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, the filling of seasonal wetlands containing vernal pool invertebrates shall be delayed until the wetlands are dry and SJCOG biologists can collect the surface soils from the wetlands, to store them for future use on off-site

seasonal wetland creation on SJCOG preserve lands. If the seasonal wetlands are avoided, then this mitigation measure does not apply.

(c) Findings:

Based upon the Revised EIR and the entire record before this City Council, this City Council finds that:

The federal Clean Water Act is the primary federal law regulating water quality. The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Waters of the U.S., including wetlands. North Littlejohns Creek, a ditch, and five seasonal wetlands have been identified as potential Waters of the U.S.

Activities that may affect Waters of the U.S. are subject to the Clean Water Act Section 404 permitting process, the primary responsibility for which is by the U.S. Army Corps of Engineers. Additionally, the work in North Littlejohns Creek would be required to obtain a Streambed Alteration Agreement from the California Department of Fish and Wildlife, a Section 401 Water Quality Certification from the Regional Water Quality Control Board, and a permit from the Central Valley Flood Protection Board. The mitigation measures described above would require the project to obtain all necessary permits prior to starting any work that may affect North Littlejohns Creek, the ditch, and the seasonal wetlands. These permits contain conditions designed to minimize biological resource impacts on affected waters by project construction and operation.

In accordance with Public Resources Code § 21081, Mitigation Measures BIO-2, BIO-3, and BIO-4 are appropriate changes or alterations that have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Revised FEIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on State and federally protected wetlands will be mitigated to a less-than-significant level.

IMPACT BIO-4: Migratory Fish and Wildlife Habitats.

(a) Potential Impact:

Nesting raptors and other protected bird species, including migratory species, may be disturbed by project construction. The potential for the project to result in impacts on migratory fish and wildlife habitats is discussed on page 7-19 of the Draft EIR.

(b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

BIO-1: The developer shall apply to the San Joaquin Council of Governments (SJCOG) for coverage under the San Joaquin County Multi-Species Open Space

and Habitat Conservation Plan (SJMSCP). The project site shall be inspected by the SJMSCP biologist, who will recommend which Incidental Take Minimization Measures (ITMMs) set forth in the SJMSCP should be implemented. The project applicant shall pay the required SJMSCP fee, if any, and be responsible for the implementation of the specified ITMMs.

(c) Findings:

Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that:

A biological assessment conducted for the project noted that there are several trees in the project vicinity that are suitable for nesting raptors and other bird species protected by the Migratory Bird Treaty Act. As noted, the SJMSCP identifies and requires the applicants to abide by Incidental Take Minimization Measures (ITMMs), which are protection measures that avoid direct impacts of development on special-status species, including migratory bird species. The participating local agencies, including the City of Stockton, consider a project that complies with the SJMSCP to result in biological resource impacts that are less than significant, especially with implementation of the ITMMs.

In accordance with Public Resources Code § 21081, Mitigation Measure BIO-1 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Revised FEIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on migratory fish and wildlife habitats will be mitigated to a less-than-significant level.

### IMPACT BIO 5: Local Biological Requirements

(a) Potential Impact:

Valley oaks, a species protected by City's Heritage Tree Ordinance, may be impacted by the project. The potential for the project to result in impacts on Valley oak is discussed on pages 7-19 and 7-20 of the Draft EIR.

(b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

BIO-5: If removal of any oak tree on the project site is required, a certified arborist shall survey the oak trees proposed for removal to determine if they are Heritage Trees as defined in Stockton Municipal Code Chapter 16.130. The arborist report with its findings shall be submitted to the City's Community Development Department. If Heritage Trees are determined to exist on the property, removal of

any such tree shall require a permit to be issued by the City in accordance with Stockton Municipal Code Chapter 16.130. The permittee shall comply with all permit conditions, including tree replacement at specified ratios.

(c) Findings:

Based upon the Revised EIR and the entire record before this City Council, this City Council finds that:

Stockton Municipal Code Chapter 16.130 addresses Heritage Trees, which are any valley oak, coast live oak, and interior live oak tree which has a trunk diameter of 16 inches or more, measured at 24 inches above actual grade. For trees with multiple trunks, the combined total trunk diameter shall be used for all trunks measuring 6 inches or greater measured at 24 inches above actual grade. Removal of any Heritage Tree requires a City permit, regardless of location on a property or condition of the tree, except where the condition of a Heritage Tree poses an imminent threat to public health, safety, or welfare. Heritage Trees that are removed or effectively removed must be replaced on a three-for-one basis at the discretion of the City's Community Development Director. The size of the replacement trees shall be determined by the Director based on the size of the tree that was removed, but replacements are required to be at least 15-gallon container stock and planted on the same parcel as the tree that was removed, if possible.

Valley oak was identified along North Littlejohns Creek by the biological assessment for the project, but the assessment did not identify which of these oak trees were Heritage Trees covered by the Stockton Municipal Code. Oak trees may need to be removed for project development, particularly in the ditch area. Mitigation Measure BIO-5 would require a survey of any oak trees proposed for removal to determine if the tree would be subject to the Heritage Tree provisions of the Municipal Code and would require the project to obtain the necessary permit for Heritage Oak Tree removal. Should a permit be required, a condition of the permit would be to replace any Heritage Trees that are removed. Implementation of the mitigation measure would minimize the impacts of the removal of any Heritage Trees.

In accordance with Public Resources Code § 21081, Mitigation Measure BIO-5 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects related to local biological requirements will be mitigated to a less-than-significant level.

IMPACT BIO 6: Habitat and Conservation Plans

(a) Potential Impact:

Project may conflict with the conservation objectives of the San Joaquin County Multi-Species Open Space and Habitat Conservation Plan (SJMSCP). The potential for the project to result in the conversion of Farmland to nonagricultural uses is discussed on page 7-20 of the Draft EIR.

(b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

BIO-1: The developer shall apply to the San Joaquin Council of Governments (SJCOG) for coverage under the San Joaquin County Multi-Species Open Space and Habitat Conservation Plan (SJMSCP). The project site shall be inspected by the SJMSCP biologist, who will recommend which Incidental Take Minimization Measures (ITMMs) set forth in the SJMSCP should be implemented. The project applicant shall pay the required SJMSCP fee, if any, and be responsible for the implementation of the specified ITMMs.

(c) Findings:

Based upon the Revised EIR and the entire record before this City Council, this City Council finds that:

Project impacts on biological resources may conflict with the conservation goals of the SJMSCP, which applies to San Joaquin County and incorporated cities within the County, including the City of Stockton. The project would be required to participate in the SJMSCP under Mitigation Measure BIO-1. With participation in the SJMSCP, the project would be required to observe all applicable provisions, thereby ensuring consistency of project development with the SJMSCP conservation goals.

In accordance with Public Resources Code §21081, Mitigation Measure BIO-1 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects related to habitat conservation plans will be mitigated to a less-than-significant level.

IMPACT CULT-2: Archaeological and Tribal Cultural Resources.

(a) Potential Impact:

A Sacred Land to a Native American tribe has been recorded nearby, and it is possible that unknown cultural resources may be encountered during project construction. The potential for the project to result in impacts on archaeological and tribal cultural resources is discussed on pages 8-6 and 8-7 of the Draft EIR.

(b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

CULT-1: If any subsurface archaeological resources, including human burials and associated funerary objects, are encountered during construction, all construction activities within a 50-foot radius of the encounter shall be immediately halted until a qualified archaeologist can examine these materials and evaluate their significance. The City shall be immediately notified in the event of a discovery. If burial resources or tribal cultural resources are discovered, the City shall notify the appropriate tribal representative, who may examine the materials with the archaeologist and advise the City as to their significance.

The archaeologist, in consultation with the tribal representative if contacted, shall recommend mitigation measures needed to reduce potential cultural resource effects to a level that is less than significant in a written report to the City, with a copy to the tribal representative. The City shall be responsible for implementing the report recommendations. Avoidance is the preferred means of disposition of tribal cultural resources. The contractor shall be responsible for retaining qualified professionals, implementing recommended mitigation measures, and documenting mitigation efforts in written reports to the City.

(c) Findings:

Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that:

A cultural resource study conducted for the project did not identify any prehistoric resources on the project site, either in extant records or during a field survey. The study concluded that the site is of “low” archaeological sensitivity and that it is unlikely that presently undocumented buried archaeological remains would be encountered within the project site. However, a search by the Native American Heritage Commission of its Sacred Lands File indicated the potential presence of a Sacred Land on or near the project site. Also, even though the project site has been extensively disturbed by past agricultural activities, it is conceivable that archaeological resources could be encountered during project construction activities. Disturbance or damage to such resources would be a potentially significant impact.

Mitigation Measure CULT-1 sets forth procedures to be observed by the project should any archaeological resources be encountered during project construction. An important part of this mitigation is for project work to stop within 50 feet of the find and to not resume until an archaeologist can examine the find and make recommendations on its disposition. If the find contains resources of importance to a Native American tribe, then a Native American representative shall be contacted and consulted on the disposition of the find. The mitigation would address the concerns of the Northern Valley Yokuts, as it is based upon measures that have been approved by the tribal representative for other projects.

In accordance with Public Resources Code § 21081, Mitigation Measure CULT-1 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on archaeological and tribal cultural resources will be mitigated to a less-than-significant level.

### IMPACT CULT-3: Human Burials.

#### (a) Potential Impact:

It is possible that unknown human burials, including Native American burials, may be encountered during project construction. The potential for the project to impact Native American burials is discussed on pages 8-7 and 8-8 of the Draft EIR.

#### (b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

CULT-2: If project construction encounters evidence of human burial or scattered human remains, the contractor shall immediately notify the County Coroner and the City, which shall in turn notify the appropriate tribal representative. The City shall notify other federal and State agencies as required. The City will be responsible for compliance with the requirements of California Health and Safety Code Section 7050.5 and with any direction provided by the County Coroner.

If the human remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission, which will notify and appoint a Most Likely Descendant. The Most Likely Descendant will work with the archaeologist to decide the proper treatment of the human remains and any associated funerary objects in accordance with California Public Resources Code Sections 5097.98 and 5097.991. Avoidance is the preferred means of disposition of the burial resources.

#### (c) Findings:

Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that:

The cultural resource study did not indicate the presence of any human burials on the project site. Discoveries of remains are considered unlikely, given the negative results of the research, survey, and Native American community outreach. However, it is conceivable that human remains, including Native American burials, could be encountered during project construction activities. Also, a representative

of the Northern Valley Yokuts indicated that Native American burials have occurred in the project vicinity.

Mitigation Measure CULT-2 sets forth procedures to be observed by the project should any human burials be encountered during project construction. If the burial is determined to be Native American in origin, then the Native American Heritage Commission would be contacted. The Commission, in turn, would identify a Most Likely Descendant to be consulted on the disposition of the burial. This would ensure that the Native American burial would be treated with appropriate dignity.

In accordance with Public Resources Code § 21081, Mitigation Measure CULT-2 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on human burials will be mitigated to a less-than-significant level.

### IMPACT GEO-5: Paleontological Resources and Unique Geological Features

#### (a) Potential Impact:

Project construction could unearth previously unknown paleontological materials of significance. The potential for project impact paleontological resources is discussed on pages 9-9 and 9-10 of the Draft EIR.

#### (b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

GEO-2: If any subsurface paleontological resources are encountered during construction, all construction activities within a 50-foot radius of the encounter shall be immediately halted until a qualified paleontologist can examine these materials, initially evaluate their significance and, if potentially significant, recommend measures on the disposition of the resource. The City shall be immediately notified in the event of a discovery. The contractor shall be responsible for retaining qualified professionals, implementing recommended mitigation measures, and documenting mitigation efforts in written reports to the City.



## (c) Findings:

Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that:

San Joaquin County has more than 800 documented fossil localities. However, only a handful of specimens have been recorded within the Stockton General Plan Planning Area, and these specimens were identified as relatively recent. No paleontological resources within the project site have been recorded. Nevertheless, it is conceivable that excavation associated with project development could unearth paleontological materials. The Modesto Formation, which underlies the project site, has been identified as a potential source of paleontological resources.

Mitigation Measure GEO-2 sets forth procedures to be observed by the project should any archaeological resources be encountered during project construction. An important part of this mitigation is for project work to stop within 50 feet of the find and to not resume until a paleontologist can examine the find and make recommendations on its disposition.

In accordance with Public Resources Code § 21081, Mitigation Measure GEO-2 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on paleontological resources will be mitigated to a less than significant level.

### IMPACT NOISE-2: Increase in Noise Levels in Excess of Standards - Other Project Noise.

#### (a) Potential Impact:

Noise from trailer parking and truck loading/unloading could affect nearby sensitive land uses, mainly residences. The potential for project construction to result in the generation of other project noise in excess of standards is discussed on pages 14-10 and 14-11 of the Draft EIR.

#### (b) Mitigation Measures:

The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

NOISE-1: Sound walls 10 feet in height shall be required where existing residential uses or residentially zoned areas are located adjacent to the project site. Figure 3 of the project noise study (Figure 14-2 of this EIR) shows the locations of the recommended sound walls based on the proposed conceptual plan. Site plan modifications, and/or additional noise analysis by a qualified acoustical consultant

may warrant changes to these requirements, assuming that compliance with City noise standards is maintained.

(c) Findings:

Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that:

Operation of proposed warehousing uses would generate new noise. Noise generated by loading dock activities includes truck arrivals and departures from the unloading area, trucks backing into the docks (including backup beepers), air brakes, and other related unloading noise. A noise study conducted for the project assessed loading dock activity noise impacts at the nearest potentially affected noise-sensitive land uses, which are residences. The resulting noise levels would be 54 decibels (dB) Leq and 74 dB Lmax. The noise levels would comply with the City's daytime noise level standards of 55 dB Leq and 75 dB Lmax; however, they would not comply with the nighttime noise level standards of 45 dB Leq and 65 dB Lmax.

The noise study recommends sound walls 10 feet in height be placed at specific locations along the project site boundary where residences are close to potential activity areas. The sound walls are expected to provide a 10-dB reduction in noise levels, which would reduce nighttime noise to levels below the maximum allowed by City noise standards.

In accordance with Public Resources Code § 21081, Mitigation Measure NOISE-1 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects related to noise from other project sources will be mitigated to a less-than-significant level.

IMPACT NOISE 3: Increase in Noise Levels in Excess of Standards – Construction

(a) Potential Impact:

Construction activities may potentially increase ambient noise above City standards at nearby residences. The potential for project construction to result in the generation of noise in excess of standards is discussed on pages 14-11 and 14-12 of the Draft EIR.

(b) Mitigation Measures: The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP:

NOISE-2: Construction activities associated with the project shall adhere to the requirements of the City of Stockton Municipal Code with respect to hours of operation. The applicant shall ordinarily limit construction activities to the hours of

7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction shall occur on Sundays or national holidays without a written permit from the City. All construction equipment shall be in good working order and shall be fitted with factory-equipped mufflers.

(c) Findings:

Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that:

Noise from project construction activities would temporarily add to the noise environment in the project vicinity during the construction period. Activities involved in construction would generate maximum noise levels ranging from 76 to 90 dB at a distance of 50 feet. Noise would also be generated during the construction phase by increased truck traffic on area roadways, associated with transport of heavy materials and equipment to and from construction sites. Construction activities would be temporary in nature and are anticipated to occur during normal daytime working hours; noise during daytime is allowed by the Stockton Municipal Code. The truck traffic noise increase would be of short duration and would likely occur primarily during daytime hours. Nevertheless, given the proximity of residences, construction noise impacts are considered potentially significant.

Mitigation Measure NOISE-2 requires project construction activities to adhere to the requirements of the City of Stockton Municipal Code with respect to hours of operation. The applicant shall ordinarily limit construction activities to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction shall occur on Sundays or national holidays without a written permit from the City. This avoids construction activities during hours and days that nearby residences may be especially sensitive to noise. In addition, all construction equipment shall be in good working order and shall be fitted with factory-equipped mufflers, which would reduce noise from equipment operations.

In accordance with Public Resources Code § 21081, Mitigation Measure NOISE-2 is an appropriate change or alteration that has been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the Revised FEIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects related to noise from construction activities will be mitigated to a less-than-significant level.

## 2.4 FINDINGS AND RECOMMENDATIONS REGARDING IMPACTS THAT ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

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Among the potentially significant environmental effects analyzed and described in the EIR, including potential cumulative impacts, numerous potential impacts were found to be less than significant or to have no substantial effect on the environment. Specific impacts within the following categories of environmental effects were found to be less than significant as described in more detail in the Revised Final EIR (FEIR).

**Chapter 4.0 Aesthetics and Visual Resources:** The following specific aesthetic and visual resource impacts were found to be less than significant:

- Impact AES-1: Scenic Vistas, FEIR pages 4-6,7
- Impact AES-2: Scenic Resources, FEIR page 4-7
- Impact AES-3: Visual Character and Quality, FEIR pages 4-8,9
- Impact AES-4: Light and Glare, FEIR pages 4-9,10,11

**Chapter 5.0 Agricultural Resources:** The following specific agricultural resource impacts were found to be less than significant:

- Impact AG-2: Agricultural Zoning and Williamson Act, FEIR pages 5-6, 7
- Impact AG-3: Indirect Conversion of Agricultural Lands, FEIR pages 5-7, 8

**Chapter 6.0 Air Quality:** The following specific air quality impacts were found to be less than significant:

- Impact AIR-1: Air Quality Plans and Standards–Construction Emissions, FEIR pages 6-14,15,16
- Impact AIR-4: Exposure of Sensitive Receptors to Toxic Air Contaminants, FEIR pages 6-28, 29
- Impact AIR-5: Odors and Other Emissions, FEIR pages 6-29,30

**Chapter 7.0 Biological Resources:** The following specific biological resource impacts were found to be less than significant:

- Impact BIO-2: Riparian and Other Sensitive Habitats, FEIR page 7-17

**Chapter 8.0 Cultural Resources:** The following specific cultural resource impacts were found to be less than significant:

- Impact CULT-1: Historical Resources, FEIR page 8-6

**Chapter 9.0 Geology and Soils:** The following specific geology and soil impacts were found to be less than significant:

- Impact GEO-1: Faulting and Seismicity, FEIR pages 9-8,9
- Impact GEO-2: Other Geologic Hazards, FEIR page 9-9
- Impact GEO-3: Soil Erosion, FEIR pages 9-9,10
- Impact GEO-4: Expansive Soils, FEIR pages 9-10,11
- Impact GEO-6: Access to Mineral Resources, FEIR page 9-11

**Chapter 10.0 Greenhouse Gas Emissions:** The following specific greenhouse gas emission impacts were found to be less than significant:

- Impact GHG-2: Project GHG Operational Emissions and Consistency with Applicable Plans and Policies, FEIR pages 10-12,13,14,15

**Chapter 11.0 Hazards and Hazardous Materials:** The following specific hazard and hazardous material impacts were found to be less than significant:

- Impact HAZ-1: Hazardous Material Transportation and Storage, FEIR pages 1-8,9
- Impact HAZ-2: Hazardous Material Releases, FEIR pages 11-9,10
- Impact HAZ-3: Hazardous Material Sites, FEIR pages 11-10, 11
- Impact HAZ-4: Airport Hazards, FEIR page 11-11
- Impact HAZ-5: Interference with Emergency Vehicle Access and Evacuations, FEIR page 11-12
- Impact HAZ-6: Wildfire Hazards, FEIR page 11-12

**Chapter 12.0 Hydrology and Water Quality:** The following specific hydrology and water quality impacts were found to be less than significant:

- Impact HYDRO-1: Surface Water Resources and Quality, FEIR pages 12-9,10
- Impact HYDRO-2: Groundwater Resources and Quality, FEIR pages 12-10,11
- Impact HYDRO-3: Drainage Patterns and Runoff, FEIR pages 12-11, 12
- Impact HYDRO-4: Release of Pollutants in Flood, Tsunami, and Seiche Zones, FEIR 12-12
- Impact HYDRO-5: Consistency with Water Quality and Groundwater Management Plans, FEIR pages 12-12,13

**Chapter 13.0 Land Use, Population and Housing:** The following specific land use, population and housing impacts were found to be less than significant:

- Impact LUP-1: Division of Communities, FEIR page 13-9
- Impact LUP-2: Conflict with Applicable Plans, Policies, and Regulations, FEIR pages 13-9, 10, 11
- Impact LUP-3: Inducement of Population Growth, FEIR page 13-12

Impact LUP-4: Displacement of Housing and People, FEIR page 13-12

**Chapter 14.0 Noise:** The following specific noise impacts were found to be less than significant:

Impact NOISE-4: Groundborne Vibration, FEIR page 14-13

Impact NOISE-5: Airport and Airstrip Noise, FEIR page 14-13

**Chapter 15.0 Public Services and Recreation:** The following specific public service and recreation impacts were found to be less than significant:

Impact PSR-1: Fire Protection Services, FEIR pages 15-7,8, 9

Impact PSR-2: Police Protection Services, FEIR pages 15-9,10

Impact PSR-3: Schools, FEIR page 15-10

Impact PSR-4: Parks and Recreational Services, FEIR page 15-10

Impact PSR-5: Other Public Facilities, FEIR page 15-10

**Chapter 16.0 Transportation:** The following specific transportation impacts were found to be less than significant:

Impact TRANS-4: Motor Vehicle Transportation Plans - Truck Routes, FEIR pages 16-23,24

Impact TRANS-5: Conflicts with Non-Motor Vehicle Transportation Plans, FEIR page 16-24

Impact TRANS-7: Safety Hazards, FEIR pages 16-26, 27

Impact TRANS-8: Emergency Access, FEIR page 16-28

**Chapter 17.0 Utilities and Energy:** The following specific utilities and energy impacts were found to be less than significant:

Impact UTIL-1: Wastewater Services and Facilities, FEIR pages 17-10, 11

Impact UTIL-2: Water Services and Facilities, FEIR pages 17-11, 12

Impact UTIL-3: Stormwater Services and Facilities, FEIR page 17-12

Impact UTIL-4: Solid Waste, FEIR page 17-12,13

Impact UTIL-5: Electrical and Telecommunications Facilities, FEIR page 17-13

Impact UTIL-6: Project Energy Consumption, FEIR pages 17-13,14,15

The cumulative impacts of the project were evaluated in separate issue-specific sections of Chapter 18.0 of the Revised FEIR (FEIR). The project was found to have a less than cumulatively considerable contribution to cumulatively significant impacts within the following categories of environmental effects, as described in more detail in the EIR

18.3.1 Aesthetics and Visual Resources: FEIR page 18-3.

18.3.2 Agricultural Resources: FEIR pages 18-3, 4.

18.3.3 Air Quality: FEIR pages 18-4, 5, 6

18.3.4 Biological Resources: FEIR pages 18-6,7.

- 18.3.5 Cultural Resources and Tribal Cultural Resources: FEIR page 18-7.
- 18.3.6 Geology, Soils, and Mineral Resources: FEIR pages 18-7,8.
- 18.3.7 Greenhouse Gas Emissions: FEIR pages 18-7, 8.
- 18.3.8 Hazards and Hazardous Materials: FEIR pages 18-8,9.
- 18.3.9 Hydrology and Water Quality: FEIR pages 18-9.
- 18.3.10 Land Use, Population, and Housing: FEIR pages 18-10.
- 18.3.11 Noise: FEIR pages 18-10, 11, 12.
- 18.3.12 Public Services and Recreation: FEIR pages 18-12, 13.
- 18.3.13 Transportation: FEIR pages 18-13,14,15,16.
- 18.3.14 Utilities and Energy: FEIR pages 18-17.

Each of the above-listed potential cumulative impacts were determined to be less than significant or less than cumulatively considerable for one of the following reasons:

The Revised FEIR determined that the impact is less than significant for the Mariposa Industrial Park project;

The Revised FEIR determined that the Project would have a less than cumulatively considerable contribution to the cumulative impact; or

The Revised FEIR determined that the impact is beneficial (would be reduced) for the Project.

## 3.0 FINDINGS REGARDING ALTERNATIVES

### 3.1 PROJECT ALTERNATIVES

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The State CEQA Guidelines require that an EIR include a discussion of a reasonable range of alternatives to the proposed project or to the location of the project. Alternatives to the proposed project are addressed in Chapter 19.0 of the Revised FEIR.

When a Lead Agency finds that mitigation measures needed to reduce a significant effect to less than significant, or to substantially reduce it, are infeasible (CEQA Guidelines Section 15091, Finding 3), the Lead Agency must also describe the specific reasons for rejecting alternatives that could meet the same need. As discussed in Section 2.1, the City is making Finding 3 with regard to six environmental effects that could result from the project; these effects will not be sufficiently reduced by mitigation measures and are therefore considered significant and unavoidable. The City Council's findings with regard to project alternatives are shown in the following sections.

An EIR is required to identify a range of reasonable alternatives to the project. The potential alternatives to the project include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects. "Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent)."

With the exception of the No Project Alternative, the alternatives discussed in the Revised FEIR are generally feasible but are unlikely to avoid or substantially lessen environmental effects of the project. Therefore, these alternatives are not specifically rejected by the City, but their environmental effects are not such that any of the alternatives should be considered "environmentally superior" to the project and therefore selected in lieu of the proposed project. The alternatives are discussed below.

### 3.2 PROJECT OBJECTIVES

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The quantifiable objectives of the Mariposa Industrial Park project include annexation of the 203-acre project site into the Stockton city limits, pre-zoning of the site and the subsequent development of the site for industrial use. The Revised FEIR identifies the following objectives:

Development of approximately 3.6 million square feet of industrial space together with associated site and utility improvements for lease to various potential tenants

To provide for industrial development of the site as contemplated by the Stockton General Plan 2040. Stockton General Plan Policy LU-4.1 encourages large-scale



development proposals in appropriate locations that include significant numbers of higher-wage jobs and local revenue generation.

To take advantage of existing development-ready infrastructure and provide for project design flexibility in the allowable number and size of parcels and industrial structures, thereby maximizing the industrial development potential of the site.

To comply with the natural resource management objectives of the Stockton General Plan 2040 by placing new industrial development in an area where potential impacts to sensitive natural resources are or can be reduced or avoided through site design, development phasing, and landscaping.

### 3.3 ALTERNATIVES NOT SELECTED FOR FURTHER CONSIDERATION

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Both the DEIR and Revised FEIR briefly considered several alternatives that were not addressed in detail; these alternatives were not considered “feasible” alternatives under CEQA. These alternatives, discussed in detail in Section 19.3 of the FEIR: 1) were clearly infeasible, or 2) did not have the ability to avoid or substantially lessen the significant environmental effects of the project. The alternatives considered are shown below.

**Alternative Sites.** Depending on the location, some impacts might be reduced by an alternative site, and in some cases new or more severe environmental impacts could occur. No clear opportunity to reduce environmental effects was identified, and the City declined to conduct further analysis.

**Alternative Site Design.** Site designs for the proposed project were considered but would not avoid or substantially lessen one or more of the potentially significant effects identified in this EIR. Given the lack of opportunity for reduction of environmental effects, this alternative was not analyzed further.

A NOP was circulated to agencies and the public as part of the effort to identify a reasonable range of alternatives to the proposed project. Additionally, the City held a public scoping meeting during the NOP review period. No specific alternatives were identified during the NOP public review process or scoping meeting.

### 3.4 FINDINGS REGARDING ALTERNATIVES ANALYZED IN EIR

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The alternatives analysis provides a summary of the relative impact levels of significance associated with each alternative for each of the environmental issue areas analyzed in the Draft EIR. The environmental analysis for each of the alternatives is included at the project-level within each impact statement following the analysis for the proposed Project within Sections 3.1 through 3.14.

## NO PROJECT ALTERNATIVE:

The **No Project Alternative** is discussed on page 19-5,6 and 7 of the Revised FEIR. The Revised EIR defines the “No Project” Alternative as no annexation to the City of Stockton, no industrial pre-zoning, and no industrial development as proposed by the project. The project site would continue to be used for agricultural activities consistent with the existing San Joaquin County zoning.

Since industrial development would not occur under this alternative, there would be no impacts associated with such development on the project site. Most environmental impacts associated with the proposed project would be avoided, particularly air pollutant and GHG emissions, noise, and traffic. However, this alternative would meet none of the objectives of the proposed project. It also would be inconsistent with both the City of Stockton General Plan, which anticipates industrial development of the project site. No annexation and development of the site also would mean that the City would not realize increase in revenue from property taxes, utility user taxes, license fees, and other taxes and fees. With no development, the site would offer only limited employment opportunities associated with agricultural work.

It is uncertain if agricultural operations on the project site, even those involving higher-value crops, would be viable in the long term, given its location in an area designated for industrial development under the Stockton General Plan and already extensively developed with industrial uses. Continued agricultural use may require agricultural chemicals such as pesticides, herbicides, and fertilizers, with the potential to affect nearby residential areas, contaminate project site soils and adjacent North Littlejohns Creek if not properly applied. Agricultural activities also could generate dust emissions to which nearby land uses, including residences, may be exposed.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction of impacts to aesthetics and visual resources, agricultural resources, air quality, biological resources, cultural and tribal resources, geology and soils, greenhouse gases and climate change, hazards and hazardous materials, hydrology and water quality, land use and population, noise, transportation and circulation, and utilities.

While the City understands the environmental benefits of the No Project Alternative, this alternative would not achieve any of the Project objectives. Specifically, this alternative would not: permit industrial development of the site or any of the project’s attendant economic impacts. It is not a reasonable expectation for the property owner(s) to keep the Project site in the existing condition for the foreseeable future because of previous investments. For these reasons, this alternative is rejected.

The City Council hereby rejects the No Project Alternative because it would not meet the objectives of the project and could cause some environmental impacts that would not occur with the proposed project. The evidence in support of this finding is provided in Chapter 19.0 of the FEIR.

### ALTERNATIVE INDUSTRIAL DEVELOPMENT:

This alternative proposes development of the project site other than the high-cube warehouses proposed by the project. For this alternative, it is assumed that the City would annex the project site and pre-zone the property as Limited Industrial (IL), the same as for the proposed project. The IL zone would be consistent with the existing Stockton General Plan designation for the site (Industrial). The IL zone is applied to areas appropriate for light manufacturing uses that may generate more nuisance impacts than are acceptable in commercial zoning districts and whose operations are conducted indoors.

Alternative industrial development would require extension of public services and utilities from the City to the project site as does the proposed project. Road improvements, including curb, gutter, and sidewalk improvements, would need to be made. Because of this, development under this alternative would have similar impacts to the proposed project, particularly related to traffic and noise. Ground disturbance impacts related to soil erosion, surface water quality, and drainage would be similar to the proposed project. Depending on the type of industrial activity located on the project site, this alternative may have new or more severe impacts than the proposed project involving use or storage of hazardous materials, generation of hazardous waste, or releases of hazardous materials to the environment which could have a more adverse impact in the vicinity than would occur under the proposed project. In addition, this alternative would not meet the objectives of the proposed project related to warehouse development.

Findings: The City Council hereby rejects the Alternative Industrial Development because it would not meet the objectives of the project and would cause similar effects as the project and could cause new and/or more severe environmental impacts than the proposed project. The evidence in support of this finding is provided in DEIR Chapter 19.0.

### REDUCED PROJECT SITE DEVELOPMENT:

The Reduced Project Site Alternative is discussed on page 19-8 of the FEIR. Under this alternative, the project site would be annexed to the City of Stockton and pre-zoned as under the proposed project. Also, proposed development of the project site would be like the proposed project. However, the proposed warehouse development on the project site would be reduced in floor area. For the purposes of this analysis, it is assumed that only two buildings that total approximately 2,042,880 square feet in floor area would be constructed.

This alternative would be consistent with the objectives of the proposed project. As with the proposed project, it would contribute to increased City revenue potential, though at a lower level. Employment opportunities also would be created, again at a lower level than under the proposed project. The environmental impacts of the proposed project would be lessened by this alternative. Air pollutant and GHG emissions from both mobile and area emissions would be reduced, although a CalEEMod run indicates that ROG emissions would remain above their SJVAPCD significance threshold. The alternative would also reduce the amount of traffic that would be generated, along with attendant air quality and

noise impacts. With the reduced development, a lower quantity of hazardous materials associated with industrial development would be used.

However, effects on other environmental issues would be the same as the proposed project, and mitigation would likely be required to reduce some of these impacts. Potentially more land would be left available for existing uses such as agriculture, although the existing walnut orchard would likely be removed as this area is favored for near-term development. Agricultural activities, as discussed under the No Project Alternative, could involve the use of agricultural chemicals that could contaminate the project site and nearby North Littlejohns Creek if not properly used. Also, agricultural activities could generate dust emissions to which nearby sensitive receptors could be exposed, and potential conflicts could occur between farm equipment and vehicle traffic.

Findings: The City Council hereby rejects the Reduced Development Alternative. Although the alternative could reduce the project's land disturbance, traffic, air quality and noise effects, it could also have more adverse impacts in certain environmental issues, mainly related to ongoing potential agricultural use. This alternative would not meet project objectives to the extent the proposed project would. Further, this alternative would provide less economic growth and development as anticipated by the land use designation and policies of Stockton's General Plan. This alternative is considered to have environmental effects that are generally equivalent to the proposed project, but the alternative is not considered "environmentally superior" to the project and need not be selected in lieu of the proposed project. The evidence in support of this finding is provided in Revised FEIR Chapter 19.0.

#### ENVIRONMENTALLY SUPERIOR ALTERNATIVE:

As the No Project Alternative would eliminate or avoid all potential environmental effects associated with the proposed project, it would be considered the environmentally superior alternative. However, this alternative would meet none of the project objectives, while it could generate adverse environmental impacts of its own.

CEQA Guidelines Section 15126.6(e)(2) requires that, if a No Project Alternative is identified as the environmentally superior alternative, then an EIR shall identify an environmentally superior alternative from the other alternatives. Most of the other alternatives analyzed in this Revised FEIR would involve environmental effects similar to the proposed project. The Reduced Development Alternative would involve some reduced impacts in certain issue areas, but would not effectively meet the objectives of the proposed project. Therefore, the Reduced Development Alternative would not be considered the environmentally superior alternative after the No Project Alternative.

## 4.0 STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE MARIPOSA INDUSTRIAL PARK PROJECT

As described in detail in Section 2.0 of these Findings, the following six significant and unavoidable impacts could occur with implementation of the Project:

Impact AG-1: Conversion of Farmland

Impact AIR-2: Air Quality Plans and Standards-Operational Emissions

Impact AIR-3: Exposure of Sensitive Receptors to Criteria Pollutants

Impact GHG-1: Project GHG Construction Emissions and Consistency with Applicable Plans and Policies

Impact NOISE-1: Increase in Noise Levels in Excess of Standards - Traffic

Impact TRANS-6: Consistency with CEQA Guidelines Section 150645.3(b).

The adverse effects listed above, and described in detail in Section 2.0, are substantive issues of concern to the City of Stockton. The project is, however, consistent with City of Stockton land use designations and zoning and would implement important goals and policies of the General Plan while conforming with its applicable standards. The overall objective of the General Plan is to accommodate the City's needs for growth over the foreseeable future. The proposed Project site has been designated for development of land uses that will generate jobs and tax revenue for the City, which could reduce the number of citizens commuting to areas outside of the City. Additionally, the Project would provide short-term employment opportunities during the design and construction process. Additionally, the proposed Project would generate tax and other revenue that would exceed public costs associated with the project.

Pursuant to CEQA Guidelines Section 15093, the City Council of the City of Stockton finds that the six potential environmental effects of the Mariposa Industrial Park project, as described above and in the referenced sections of F Revised EIR for the project, are potentially significant and cannot be avoided, mitigated to Less Than Significant or substantially reduced by the mitigation measures described in the Revised EIR and which will be required of the project.

The City also finds in Section 3.0 of this document that none of the project alternatives have the potential to avoid or substantially reduce the significant environmental effects of the project except the No Project Alternative, which is inconsistent with the project objectives.

The City Council hereby adopts and makes the following Statement of Overriding Considerations (SOC) with respect to Section 15093 of the CEQA Guidelines, which is

shown in its entirety in Section 1.0. The SOC describes the anticipated economic, legal, social, technological and/or other benefits or considerations that warrant the City Council's decision to approve the project even though all of the environmental effects of the project are not fully mitigated.

In light of the whole record before it, the Stockton City Council specifically finds that the potentially significant and unavoidable environmental impacts of the Mariposa Industrial Park project are considered acceptable in light of overriding social, economic and other benefits or considerations related to the project, these overriding effects are listed below. The City Council finds that the social, economic and other benefits or considerations of the project outweigh the significant and unavoidable effects of the project. The City Council considers the following items to be the overriding social, economic and other benefits or considerations of the project.

1. The project site and surroundings are designated for urban industrial development by the Stockton General Plan 2040. The site area is within Stockton's designated Urban Services Boundary, which is intended to be annexed and pre-zoned for urban development in the near future. In anticipation of eventual annexation and development, the project site is designated "Urban Reserve" by San Joaquin County.
2. Economic development and job creation, including the designation of sufficient land for ongoing development of job-generating land uses, are among the core objectives of the Stockton General Plan 2040.
3. The project is in compliance with Stockton General Plan 2040 policies supporting urban growth on lands with existing transportation and utility services, thereby preventing unnecessary urban expansion into other greenfield areas on the periphery of Stockton. The project site is surrounded by other areas designated for urban industrial development.
4. The General Plan 2040 EIR, considered and certified by the Stockton City Council before adopting the General Plan in 2018, disclosed a range of potential environmental impacts associated with planned development in accordance with the existing general plan designations. The project would make contributions to these previously identified impacts consistent with the analysis provided in the certified Stockton General Plan 2040 Environmental Impact Report (GPEIR). The significant impacts analyzed in the GPEIR include conversion of agricultural lands, emissions of criteria pollutants including oxides of nitrogen, greenhouse gas emissions and traffic and noise increases along Mariposa Road that would result from planned urban growth as a whole.
5. Proposed industrial development is within the allowable land use intensity for the City's Industrial General Plan designation. Approval of the project would not confer any increase in the planned future industrial development intensity on the project site that is not already accounted for in the Stockton General Plan 2040 and the GPEIR.
6. The City is planning development of a new fire station to serve ongoing industrial development in the southern portion of the City. As provided in the proposed, the project applicant will provide \$100,000 to fund formation of a Community Facilities

District (CFD). The CFD will be responsible for construction and long-term operation of the fire station. The Development Agreement also commits the applicant to provide up to \$3 million in funding for fire station construction and to pay the project's fair share of operating costs in perpetuity.

7. The 2022 Economic Benefit Report on the project, prepared by Development Planning and Financing Group (DPFG), indicates that the project will produce significant economic benefits to the local economy, including impact fee benefits, construction benefits, employment benefits, earnings increases, and tax revenue generation.
8. DPFG estimates that construction of the project will generate approximately \$580 million in construction economic activity, an estimated 7,422 construction jobs and \$517.8 million in worker earnings over the project construction period.
9. Once constructed and in operation, DPFG estimates the project will generate an estimated \$4.1 million annually in property tax revenues; \$303,000 of this revenue will directly benefit the City of Stockton; an increase of \$680,000 in revenues will be paid to the County of San Joaquin, and an additional \$3.1 million in property tax revenues will accrue to other local agencies including the Stockton USD, SJ Delta Community College and San Joaquin County flood control agencies, among others.
10. The project will employ an estimated 3,062 full-time employees. New employee spending will generate an estimated \$8 million in taxable sales, including \$5.6 million within the City limits generating approximately \$55,736 annually in sales tax revenue to the City.
11. The project is estimated to fund more than \$6 million in development fees to the City and \$1.3 million to the Stockton Unified School District. Of these, City development impact fees contribute to capital costs of new facilities or upgrades to existing streets, utilities, fire, police, medical, libraries and parks facilities required by new development.
12. The project is subject to the requirements of the Stockton Agricultural Lands Mitigation Program. The project will involve a substantial contribution of conservation easement-protected land or payment of in-lieu fees of approximately \$1 million to the Mitigation Program as compensation for the agricultural land conversion impacts of the project.
13. The project will involve a contribution of more than \$3.5 million in habitat conservation fees to the San Joaquin County Multi-Species Habitat Conservation Program.
14. The project will widen approximately 900 feet of Mariposa Road, including turning lanes, pedestrian sidewalks and bike lanes, at an estimated cost of approximately \$6 million.
15. Except for the six significant and unavoidable impacts addressed in this document, all of the other potential environmental impacts of the project described in the Revised

FEIR were determined to be less than significant or would be reduced to less than significant level with mitigation measures that will be incorporated into the project.

In addition to the above-listed social, economic and other benefits of the project, the City Council has also taken the following points into consideration:

16. The Revised FEIR considers a range of feasible alternatives to the proposed project. None of the alternatives would result in avoidance or a substantial reduction in the significant and unavoidable effects of the project.
17. The agricultural land conversion impacts of developing the project site were included in the analysis of this environmental concern in the Revised FEIR prepared and certified prior to adoption of the Stockton General Plan 2040 in 2018. Agricultural land conversion impacts were accepted by the City as significant and unavoidable in its Statement of Overriding Considerations adopted in conjunction with adoption of the General Plan in 2018.
18. While the Mariposa Industrial Revised FEIR considers Air Quality Plans and Standards- Operational Emissions impacts to be significant and unavoidable, these impacts were also addressed for planned urban development foreseen by the Stockton General Plan 2040 EIR and accepted in the Statement of Overriding Considerations adopted in conjunction with adoption of the General Plan.
19. The agencies commenting on the Mariposa Industrial Draft EIR have identified a range of potential air quality mitigation measures, which have been incorporated into the Revised Final EIR to the degree feasible. The means to reliably quantify the efficacy of these mitigation measures, considered “best available,” are not available at this time.

The City Council of the City of Stockton hereby finds in light of the whole record that the above-described economic, legal, social, technological and other benefits or considerations of the project outweigh the environmental effects of the project that may remain unmitigated or are considered to be unavoidable. These environmental effects of project implementation are, therefore, considered to be acceptable.

The City Council also finds that any environmental detriment caused by the proposed Project has been minimized to the extent feasible through the mitigation measures identified in the Revised FEIR and herein. Where mitigation of environmental impacts is not feasible, these impacts will be outweighed and counterbalanced by the significant economic, social, environmental, and other benefits to be generated within the region.