Draft 2/24/2014 K.Berry

RESOLUTION NO. _____-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE MAKING FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPTING THE MITIGATION AND MONITORING REPORTING PROGRAM IN THE APPROVAL OF THE EAST WEDDELL RESIDENTIAL PROJECT FOR RAINTREE (AS PROPOSED AND FULL BUILDOUT NOT PROPOSED)

WHEREAS, the California Environmental Quality Act (Public Resources Code Sections 21000 *et seq.*, ("CEQA") and the Guidelines for Implementation of the California Environmental Quality Act (14 California Code of Regulations, Sections 15000 *et seq.*) (the "CEQA Guidelines") requires local agencies to consider environmental consequences of projects for which they have discretionary authority; and

WHEREAS, a Draft Environmental Impact Report ("DEIR") and a Final Environmental Impact Report ("FEIR", collectively, the "EIR") have been prepared for and by the City of Sunnyvale for the two separate applicant proposed scenarios (i) the Sares Regis Applicant Proposed Scenario, and (ii) the Raintree Applicant Proposed Scenario (collectively the "East Weddell Residential Projects") to study the requested proposals, as well as the (iii) Sares Regis Full Buildout Scenario, and (iv) the Raintree Full Buildout Scenario (collectively the "Full Buildout Scenarios") to study impacts at higher intensities than the applicants have proposed, pursuant to CEQA and the CEQA Guidelines; and

WHEREAS, collectively, the East Weddell Residential Projects and the Full Buildout Scenarios are referred to herein as the "Analyzed Projects;" and

WHEREAS, the EIR addresses the environmental impacts of the Analyzed Projects; and

WHEREAS, on May 3, 2013, in conformance with CEQA, the City of Sunnyvale, acting as the lead agency under CEQA, published the 30-day Notice of Preparation (NOP) and the City of Sunnyvale initiated work on the DEIR for the Analyzed Projects; and

WHEREAS, the City of Sunnyvale held a public scoping meeting on May 22, 2013; and

WHEREAS, the City of Sunnyvale completed the DEIR and circulated it for the required 45-day public comment period from September 9, 2013 through October 23, 2013; and

WHEREAS, the general public was advised of the availability of the DEIR on the City's website, and property owners within 500 feet of the two East Weddell Residential Projects' sites were notified by mail, and public agencies and interest groups were also notified by mail; and

WHEREAS, a public hearing to consider the DEIR was held before the Planning Commission on October 21, 2013; and

WHEREAS, the City of Sunnyvale prepared the FEIR for the Analyzed Projects by incorporating the DEIR; comments received about the DEIR and the City's responses to those comments; and changes, clarifications and corrections to the DEIR; and

WHEREAS, as required by CEQA, the FEIR was mailed to those public agencies that commented on the DEIR, as well as all of the other commentors; and

WHEREAS, the EIR is incorporated by this reference in this Resolution; and

WHEREAS, by motion adopted on March ___, 2014, the Sunnyvale Planning Commission recommended to the City Council the certification of the EIR; and

WHEREAS, on March ____, 2014, a public hearing was held by the City Council, following notice duly and regularly given as required by law, and all interested persons expressing a desire to comment thereon or object thereto were heard, and the City Council reviewed and considered the FEIR in order to satisfy state and local requirements governing the City's environmental review, analysis, and conclusions pertaining to the Analyzed Projects pursuant to CEQA; and

WHEREAS, the Sunnyvale City Council has reviewed the EIR for the Analyzed Projects; and

WHEREAS, on March ____, 2014, the City Council adopted Resolution ____-14, finding that the EIR was completed in accordance with CEQA and that the EIR as certified, reflects the independent judgment and analysis of the City Council and the City of Sunnyvale, and certifying for the Analyzed Projects pursuant to CEQA Guidelines § 15090; and

WHEREAS, by this Resolution, the City Council, as the lead agency under CEQA for preparing the EIR, desires to comply with the requirements of CEQA and the CEQA Guidelines for use of the EIR for the Raintree Full Buildout Scenario and the Raintree Applicant Proposed Scenario as identified in the EIR.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sunnyvale as follows:

The City Council hereby identifies the potentially significant effects, adopts the mitigation measures, adopts the monitoring Mitigation Monitoring and Reporting Plan to be implemented for each mitigation measure, and makes the findings set forth in detail in the attached Exhibit A, which is incorporated in this Resolution by this reference. The statements, findings and determinations set forth in Exhibit A are based on the certified EIR and other information available to the City Council , and are made in compliance with Sections 15091, 15092, and 15096 of the CEQA Guidelines and Sections 21081 and 21081.6 of CEQA.

Adopted by the City Council at a regular meeting held on _____, 2014, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

_____
City Clerk
(SEAL)

APPROVED:

_____
Mayor

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A

CITY OF SUNNYVALE

RAINTREE FULL BUILDOUT SCENARIO AND

RAINTREE APPLICANT PROPOSED PROJECT

POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS, FINDINGS OF FACT, MITIGATION MEASURES, AND MONITORING PROGRAM

I. PURPOSE OF THE FINDINGS

The purpose of these findings is to satisfy the requirement of Public Resources Code Section 21000, *et seq.*, and Sections 15091, 15092, and 15097 of the CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, *et seq*., associated with approval of the Raintree Full Buildout Scenario (the amount of development at greater intensity than the applicants have requested) and Raintree Applicant Proposed Scenario and associated approvals, including the General Plan Amendment ("GPA") from Industrial to RHI (Residential High Density 27-45 du/ac) for Parcel B of the Raintree site and the Rezone ("RZ") from M-S/POA (Industrial and Service/Place of Assembly) to R-4/PD(High Density Residential/Planned Development) for Parcel B of the Raintree site (analyzed in the EIR as the "Raintree Applicant Proposed Scenario"), and the GPA from Industrial to RVH (Residential Very High Density 45-65 du/ac) and Rezone from M-S/POA (Industrial and Service/Place of Assembly) to R-5 Very High Density Residential for Parcel B of the Raintree site (analyzed in the EIR as the "Raintree Full Buildout Scenario"), and the anticipated application for a Special Development Permit ("SDP")(analyzed in the EIR as the "Raintree Applicant Proposed Project"), and any other approvals necessary or desirable to implement the Raintree Full Buildout Scenario or the Raintree Applicant Proposed Project. These findings provide the written analysis and conclusions of the City Council regarding the GPA, RZ, and anticipated SDP for the Raintree Full Buildout Scenario and Raintree Applicant Proposed Project, and any other approvals necessary or desirable to implement the Raintree Full Buildout Scenario or the Raintree Applicant Proposed Project. They are divided into general sections, each of which is further divided into subsections. Each addresses a particular impact topic and/or requirement of law. At time, these findings refer to materials in the administrative record, which is available for review in the City's Planning Division.

II. PROJECT DESCRIPTION

As described in Sections 2.1 and 3.1 of the DEIR, the overall project under consideration by the City Council consists of two separate residential development projects proposed by two separate developers for the Raintree site (520-592 East Weddell Drive) and the Sares Regis site (610 - 630 East Weddell Drive) in Sunnyvale, California, just north of state highway 101 near its interchange with North Fair Oaks Avenue. The overall project includes all of the following components for both the Sares Regis project and the Raintree project:

- General Plan amendments for the Sares Regis project and Parcel B of the Raintree project.

- Rezonings for the Sares Regis project and Parcel B of the Raintree site.
- Special Development Permits.
- Potential Vesting Tentative Maps.
- Potential modifications to the Tasman/Fair Oaks Area Pedestrian and Bicycle Circulation Plan.
- Potential San Francisco Public Utilities Commission (SFPUC) approval of improvements to the John W. Christian Greenbelt.

Pursuant to a Sunnyvale City Council action initiating General Plan amendment studies for both sites, the EIR also addresses a maximum buildout (referred to as the "Full Buildout Scenario") of 938 units for the two sites (259 units at the Sares Regis site and 679 units at the Raintree Site).

While the "project" is defined as the two development projects to be studied in the same EIR, separate development applications will be processed for each project and decisions on the General Plan amendments and rezonings are completely independent of each other.

The two development projects are located in a portion of Sunnyvale now occupied by residential, commercial, and industrial buildings. This area of Sunnyvale is undergoing a transition from industrial uses to residential uses.

The Raintree Applicant Proposed Project is described in Section 3.1 of the DEIR and generally proposes to construct 465 residential apartment units within eight buildings. The units would be designed as stacked flats (single-story units with a common access hallway) in a variety of building types. The building types would include “wrap” buildings in which the units would surround one or more sides of a parking structure, “tuck-under” buildings in which units would be located above parking, and “on-grade” buildings in which residences would be located on the first floor with parking available in adjacent on-grade parking fields.

The eight buildings would range in height from three to four stories, using Type V (wood frame) construction for the residential units and Type I (concrete) construction for the structured parking. A mixture of studios, one-bedroom, and two-bedroom units is planned, with an average unit size of approximately 1,000 square feet. Total gross building square footage would be 901,870 square feet (including garages).

Amenities would include swimming pools, outdoor seating and meditation areas, common cooking and dining areas, and community centers with gyms, indoor seating, and gathering areas. The SFPUC parcel is proposed to be converted from its current use as a paved parking area to a multi-use pathway for public use with landscaping and pedestrian-friendly features such as benches. No buildings are proposed within the SFPUC right-of-way.

A total of approximately 790 parking spaces would be provided on the Raintree site for the 465 units proposed. The proposed parking is greater than the minimum required for State density bonus projects but less than would be required per Sunnyvale Municipal Code if it were not an affordable project. The majority of these spaces would be in parking structures or garages. Bicycle parking and storage spaces would also be provided on the site.

III. PROJECT OBJECTIVES

As noted in Section 3.1 of the DEIR, the objectives identified by the applicant for the Raintree site are:

1. Redevelop the site with an attractive, desirable residential community at a density that results in a community for those working and living in Sunnyvale.
2. Amend the General Plan land use designation and zoning districts where necessary to allow for sufficient development flexibility in meeting the economic and design goals built into the proposed project.
3. Develop a residential community at a density appropriate for the site's close proximity to mass transit and infrastructure.
4. Develop a residential community at a density that can support the public improvements proposed within the SFPUC right-of-way parcel, which help implement the General Plan Open Space sub-element's Key Initiative #2 and Policy LT-8.8.1.
5. Increase the City's stock of affordable housing units at a level that is economically viable for the project.
6. Provide amenities that are sufficient for and compatible with the proposed density.
7. Provide utilities and other infrastructure systems that are adequate for the proposed development.
8. Encourage alternative forms of transportation (such as walking and public transportation).
9. Ensure that the project is economically viable.
10. Promote the General Plan's Goals and Policies, such as LT-3.4a and LT-3.1c.
11. Assist the City with satisfying its Regional Housing Needs Allocation for market rate and affordable housing units.

IV. THE CEQA PROCESS

A draft and a final Environmental Impact Report (collectively, the "EIR") has been prepared for and by the City in accordance with the California Environmental Quality Act ("CEQA", Public Resources Code Sec 21000 *et seq*.), and the State CEQA Guidelines (14 Cal. Code of Regulations, Sections 15000 *et seq*.) in connection with the East Weddell Residential Projects. By way of background, the "project" as defined by CEQA that is evaluated in the EIR consists of two separate residential development projects proposed by two separate developers. The overall project includes all of the following components for both the Sares Regis project and the Raintree project:

- General Plan amendments for the Sares Regis project and Parcel B of the Raintree project.
- Rezonings for the Sares Regis project and Parcel B of the Raintree site.

[1] Key Initiative #2 and Policy LT-8.8 call for development of new parkland in the project's vicinity and support the use of the right-of-way as a method for the City to obtain open space.

- Special Development Permits.
- Potential Vesting Tentative Maps.
- Potential modifications to the Tasman/Fair Oaks Area Pedestrian and Bicycle Circulation Plan.
- Potential San Francisco Public Utilities Commission (SFPUC) approval of improvements to the John W. Christian Greenbelt.

Pursuant to a Sunnyvale City Council action initiating General Plan amendment studies for both sites, the EIR also addresses a maximum buildout (referred to as the "Full Buildout Scenario") of 938 units for the two sites (259 units at the Sares Regis site and 679 units at the Raintree Site). As stated in the EIR, the Applicant Proposed Scenario is addressed at a project level of detail (per CEQA Guidelines Section 15161) and the Full Buildout Scenario is addressed at a programmatic level of detail (per CEQA Guidelines Section 15168).

While the "project" is defined as the two development projects to be studied in the same EIR, separate development applications will be processed for each project and decisions on the General Plan amendments and rezonings are completely independent of each other.

The EIR for the project consists of the following:

A. Draft Environmental Impact Report ("DEIR"), issued September 9, 2013;

B. All appendices to the DEIR;

C. Final Environmental Impact Report ("FEIR"), dated February 2014, containing all written comments and responses on the DEIR, refinements and clarifications to the DEIR, the mitigation monitoring and reporting program;

D. All appendices to the FEIR; and

E. All of the comments and staff responses entered into the record orally and in writing, as well as accompanying technical memoranda or evidence entered into the record.

In conformance with CEQA, the City has taken the following actions in relation to the EIR:

A. On May 3, 2013, a Notice of Preparation (NOP) was distributed appropriate agencies and parties for the purpose of obtaining written comments from the agencies and parties regarding the scope and content of environmental information and analysis which they wanted addressed in the EIR. An Initial Study was circulated for public review for 30 days between May 3, 2013 and June 1, 2013.

B. On May 22, 2013, the City held a scoping meeting with interested parties for the purpose of receiving comments on the scope of the EIR.

C. A Draft Environmental Impact Report (DEIR) was prepared for the project and was circulated for public review and comment from September 9, 2013 through October 23, 2013. The DEIR was submitted to the State Clearinghouse for review on October __, 2013 (State Clearinghouse No. 2013052010). On _____, 2013, notice of the availability of the DEIR was provided to appropriate agencies and the general public via a Notice of Completion sent to the State Clearinghouse and via mailed notice to all interested parties, and persons living within 500 feet of the project site.

D. On October 21, 2013, all comments received on the EIR during the public comment period were responded to and included in a Final EIR, made available for public review on February _____, 2014.

E. On March 3, 2014, the Planning Commission conducted a duly and properly noticed public hearing on the project and the EIR, and recommended that the City Council certify the EIR and approve the project.

F. The project and the EIR came before the City Council on March __, 2014, at a duly and properly noticed public hearing. On March __, 2014, the City Council certified the EIR and adopted the following findings and Mitigation Monitoring and Reporting Program for the Raintree Full Buildout Scenario and Raintree Applicant Proposed Scenario. On March __, 2014, the City Council also adopted separate findings and Mitigation Monitoring and Reporting Program for the Raintree Full Buildout Scenario and Raintree Applicant Proposed Scenario.

V. FINDINGS ARE DETERMINATIVE

By Resolution _____-14, the City Council certified that the EIR has been completed in compliance with CEQA and that it was presented to, and reviewed and considered by, the City Council prior to acting on the project. In so certifying, the City Council recognized that there may be differences in and among the different sources of information and opinions offered in the documents and testimony that make up the EIR and the administrative record; that experts disagree; and that the City Council must base its decision and these findings on the substantial evidence in the record that it finds most compelling. Therefore, by these findings, the City Council ratifies, clarifies, and/or makes insignificant modifications to the EIR and resolves that these findings shall control and are determinative of the significant impacts of the project.

The mitigation measures proposed in the EIR are adopted in this Exhibit A, substantially in the form proposed in the EIR, with such clarifications and non-substantive modifications as the City Council has deemed appropriate to implement the mitigation measures. Further, the mitigation measures adopted in this Exhibit A are expressly incorporated into the project pursuant to the adopted conditions of approval.

The findings and determinations in this Exhibit A are to be considered as an integrated whole and, whether or not any subdivision of this Exhibit A fails to cross-reference or incorporate by reference any other subdivision of this Exhibit A, that any finding or

determination required or permitted to be made shall be deemed made if it appears in any portion of this document. All of the text included in this document constitutes findings and determinations, whether or not any particular caption sentence or clause includes a statement to that effect.

Each finding herein is based on the entire record. The omission of any relevant fact from the summary discussions below is not an indication that a particular finding is not based in part on the omitted fact.

Many of the mitigation measures imposed or adopted pursuant to this Exhibit A to mitigate the environmental impacts identified in the administrative record may have the effect of mitigating multiple impacts (e.g., conditions imposed primarily to mitigate traffic impacts may also secondarily mitigate air quality impacts, etc.). The City Council has not attempted to exhaustively cross-reference all potential impacts mitigated by the imposition of a particular mitigation measure; however, such failure to cross-reference shall not be construed as a limitation on the potential scope or effect of any such mitigation measure.

Reference numbers to impacts, mitigation measures, and page numbers in the following sections are to the page numbers used in the EIR, unless otherwise specified.

VI. IMPACTS, MITIGATION MEASURES AND FINDINGS

In conformance with Section 15091 of the State CEQA Guidelines, this section of the findings lists each significant environmental effect of the project listed in the EIR; describes those mitigation measures recommended in the EIR; and, as required by Section 15091(a), finds that either: the adopted mitigation measures have substantially lessened the significant effect; the adopted mitigation measures, though implemented, do not substantially lessen the significant effect; the mitigation measures cannot be adopted and implemented because they are the responsibility of another public agency; or that specific considerations make infeasible the mitigation measures identified in the EIR.

All feasible mitigation measures listed below have been incorporated into the Mitigation Monitoring and Reporting Program ("MMRP"), further described in Section XIII, below. Compliance with the MMRP is a condition of approval of the project, and the construction of the project will incorporate all conditions contained in the MMRP.

A. Aesthetics

1. **Impact AESTHETICS-1**: Construction of the proposed projects would potentially create temporary aesthetic impacts associated with project demolition and construction activities.

(a) Significant Environmental Effect: This impact is further described on pages 4.1-8 through 4.1-9 of the DEIR.

(b) **Mitigation Measure AESTHETICS-1**: The applicants for both projects shall incorporate the following specifications into all construction contracts for the proposed projects:

Construction staging areas and the storage of large equipment shall be located in the interior of the project sites as much as possible, and whenever feasible away from East Weddell Drive.

Construction staging areas shall be on-site and shall remain clear of trash, weeds, and debris.

Construction fencing shall be placed around the sites and shall include green fabric screening to screen portions of the site from view. The fencing shall be located at the northern and western edges of the Raintree site and the northern and eastern edges of the Sares Regis site.

This measure would reduce the aesthetics impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure AESTHETICS-1 is included in the MMRP. Compliance with this measure would reduce the visibility of Raintree's construction equipment, materials, and debris as viewed from existing residences located north and west of the project site. Consequently, implementation of these mitigation measures will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure AESTHETICS-1 is included in the MMRP. Compliance with this measure would reduce the visibility of Raintree's construction equipment, materials, and debris as viewed from existing residences located north and west of the project site. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact AESTHETICS-3**: The proposed projects could create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.

(a) Significant Environmental Effect: This impact is further described on pages 4.1-10 through 4.1-12 of the DEIR.

(b) **Mitigation Measure AESTHETICS-3***:* The applicants for both projects shall incorporate the following specifications into the proposed projects:

All lighting shall be shielded so that lighting is cast downward and "spillover" is minimized.

Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare for nearby residences.

Whenever possible, lighting for pathways shall be low path lighting.

All garage lighting shall be shielded to minimize spillover to adjacent areas and roadways.

The overall lighting design approach shall be to provide 1-foot candle of light on all parking lots and major pathways, while ½-foot candle could be provided at minor pedestrian paths.

Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and trespass.

The combination of the above measures would reduce this potential impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure AESTHETICS-3 is included in the MMRP. Compliance with this measure would reduce impacts associated with lighting and glare from interior portions of the building, the parking garage, as well as outdoor lighting, especially reducing outdoor lighting at the northern and western perimeters of the project site near existing residences. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure AESTHETICS-3 is included in the MMRP. Compliance with this measure would reduce impacts associated with lighting from interior portions of the building as well as outdoor lighting, especially reducing outdoor lighting at the northern and western perimeters of the project site near existing residences. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

B. **Air Quality**

1. **Impact AIR-2**: Construction of the Full Buildout Scenarios could result in a cumulatively considerable net increase of a criteria pollutant for which the project region is nonattainment under an applicable national or state ambient air quality standard.

(a) Significant Environmental Effect: This impact is further described on pages 4.2-17 through 4.2-25 of the DEIR (FEIR, Appendix B).

(b) Mitigation Measure AIR-2:

(1) Raintree Full Buildout Scenario: When construction information is available for the Full Buildout Scenarios, a complete air emissions analysis for construction emissions shall be completed by the project applicants to address annual and average daily construction emissions of reactive organic gases (ROG), nitrogen oxides (NOX), coarse particulate matter (PM10) exhaust, and fine particulate matter (PM2.5) exhaust during construction of the Sares Regis and Raintree projects. Average daily emissions shall be computed from total emissions. Total emissions shall be the sum of the annual emissions. If predicted average daily emissions would exceed the Bay Area Air Quality Management District (BAAQMD) thresholds, the applicants shall identify mitigation measures that would reduce construction-related emissions to below the BAAQMD thresholds. Such measures may include:

Phasing of the project to reduce daily emissions;

Use of newer or retrofitted construction equipment that has low emission rates;

Use of alternatively fueled equipment; and modification of construction techniques to avoid use of diesel-powered equipment.

Compliance with thresholds shall be verified by the City prior to issuance of any building permits. This measure would reduce the air quality impact to a less-than-significant level.

(2) Raintree Applicant Proposed Scenario: This impact is less than significant for the Raintree Applicant Proposed Scenario. Thus, Mitigation Measure AIR-2 does not apply to the Raintree Applicant Proposed Scenario.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: As stated in the EIR, the environmental impact of the Raintree Applicant Proposed Scenario would be less than significant, and no mitigation is necessary.

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure AIR-2 is included in the MMRP. Compliance with this measure would ensure that construction-related emissions for the Full Buildout Scenario would be below the BAAQMD thresholds and, thus, would be less than significant. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: This impact is less-than-significant for the Raintree Applicant Proposed Scenario. Thus, Mitigation Measure AIR-2 is not applicable to the Raintree Applicant Proposed Scenario.

2. **Impact AIR-4**: Sensitive receptors that are part of the proposed projects could be exposed to substantial pollutant concentrations.

(a) Significant Environmental Effect: This impact is further described on pages 4.2-26 through 4.2-44 of the DEIR (FEIR, Appendix B).

(b) **Mitigation Measure AIR-4**: The two projects shall include the following measures to minimize long-term toxic air contaminant (TAC) exposure for new residences.

1. Design buildings and sites to limit exposure from sources of TAC and fine particulate matter (PM2.5) emissions. The site layout shall locate windows and air intakes as far as possible from Highway 101 traffic lanes and provide additional tree plantings along the highway edge to maintain a uniform and continuous vegetative barrier per Bay Area Air Quality Management District (BAAQMD) recommended plantings. Any modifications to the site design shall incorporate buffers between residences and the freeway.

2. Install air filtration in residential or other buildings that would include sensitive receptors that have predicted PM2.5 concentrations above 0.3 micrograms per cubic meter (µg/m3) or excess lifetime cancer risk of 10.0 per million or greater. Air filtration devices shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors, a ventilation system shall meet the following minimal design standards (Department of Public Health, City and County of San Francisco, 2008):

A MERV13 or higher rating;

At least one air exchange(s) per hour of fresh outside filtered air;

At least four air exchange(s) per hour recirculation; and

At least 0.25 air exchange(s) per hour in unfiltered infiltration.

As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system shall be required. Recognizing that emissions from air pollution sources are decreasing, the maintenance period shall last as long as significant excess cancer risk or annual PM2.5 exposures are predicted.

Subsequent studies could be conducted to identify the ongoing need for the ventilation systems as future information becomes available.

3. Ensure that the lease agreement and other property documents (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks; (2) include assurance that new owners and tenants are provided information on the ventilation system; (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed; and (4) provide information regarding the ventilation/filtration systems and importance of keeping windows and doors closed to maximize the efficiency of the system.

4. Consider phasing developments located within 101 meters (330 feet) of Highway 101 to avoid significant excess cancer risks and required installation of filtered ventilation systems (described above). Note that new United States Environmental Protection Agency (U.S. EPA) engines standards combined with California Air Resources Board (CARB) rules and regulations will reduce on-road emissions of diesel particulate matter (DPM) and PM2.5 substantially, especially after 2014. Any effects of phasing the project shall be verified by an authorized air pollutant consultant approved by the City.

5. Require that prior to building occupancy, an authorized air pollutant consultant approved by the City shall verify the installation of all necessary measures to reduce toxic air contaminant (TAC) exposure.

A properly maintained vegetative barrier could reduce particulate concentrations, including DPM, by an estimated 30 percent. Combined with the vegetation barrier along the freeway, a properly installed and operated ventilation system with MERV13 air filters may reduce PM2.5 concentrations from DPM mobile and stationary sources by approximately 70 percent indoors when compared to outdoors. A ventilation system with MERV16 filters could achieve reductions of 90 percent. The air intake for these units should be located as far away as possible from Highway 101. The overall effectiveness calculations take into consideration time spent outside and the outdoor exposure of each affected unit. The U.S. EPA reports that people, on average, spend 90 percent of their time indoors (US EPA 2001). The overall effectiveness calculations should take into effect time spent outdoors. Assuming 2 hours of outdoor exposure plus 1 hour of open windows (calculated as outdoor exposure) per day, the overall effectiveness of filtration systems would be about 60 percent for MERV13 systems and about 80 percent for MERV16 systems.

A ventilation system with MERV13 filtration would be necessary to reduce cancer risk to less-than-significant levels for areas where cancer risk is between 10 and 25.0 per million. A more efficient filtration system would be required for cancer risks that exceed 25.0 per million. A ventilation system with MERV16 filters would result in cancer risk of less than 10 per million where outdoor cancer risk is predicted to be 50.0 per million or less. A system with MERV14 or MERV15 could also be used, but those systems were not evaluated.

PM2.5 concentrations would also be reduced with the ventilation system that uses a MERV13 filter or greater. Maximum annual PM2.5 concentrations of 0.75µg/m3 or less could be mitigated using ventilation systems with MERV13 filters.

In summary, residential units where excess cancer risk is 10 to 25.0 chances per million would require MERV13 or higher filtration and residences with higher excess cancer risk would require MERV16 filters to mitigate levels to less-than-significant levels. Mitigating for excess cancer risk would mitigate significant annual PM2.5 concentrations to less- than- significant levels. Figures 4.2-4 and 4.2-5 show the unmitigated exposure that can be used as a guide to identify the level of mitigation required.

The above measures would reduce the potential air quality impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure AIR-4 is included in the MMRP. Compliance with this measure would reduce cancer risk, PM2.5 concentrations, and annual PM2.5 concentrations from cumulative sources across the Raintree site, especially in areas near Highway 101. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure AIR-4 is included in the MMRP. Compliance with this measure would reduce cancer risk and annual PM2.5 concentrations across the Raintree site, especially in the areas near Highway 101. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

3. **Impact AIR-5**: Existing sensitive receptors could be exposed to substantial pollutant concentrations during construction of the projects.

(a) Significant Environmental Effect: This impact is further described on pages 4.2-44 through 4.2-50 of the DEIR (FEIR, Appendix B).

(b) **Mitigation Measures AIR-5a:** The projects shall include the following measures recommended by the Bay Area Air Quality Management District (BAAQMD) (i.e., Best Management Practices) to reduce construction dust and on-site construction exhaust emissions by 5 percent:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).

5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

8. A publicly visible sign shall be posted with the telephone number and person to contact at the City of Sunnyvale regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management Air District's phone number shall also be visible to ensure compliance with applicable regulations.

9. A plan shall be developed demonstrating that the off-road equipment to be used in project construction would achieve an additional 50-percent reduction in exhaust particulate matter emissions, compared to similar equipment based on CARB OFFROAD statewide average emission factors for the projected year of use. Based on the construction plans presented for this project, a feasible method to achieve this objective would be the following:

    All diesel-powered air compressors, welders, forklifts (including rough terrain forklifts), paint spray rigs, and all types of cranes, forklifts or aerial lifts (man lifts, boom lifts, etc.) used during all construction phases shall meet or exceed U.S. EPA Tier 4 standards for particulate matter emissions or substituted with alternatively fueled equipment (e.g., LPG fuel).

    All other off-road construction equipment used on the site shall, on a fleet-wide average, meet U.S. EPA Tier 2 emission standards.

    Portable diesel generators operating for more than two days shall be prohibited. Grid power electricity shall be used to provide power at construction sites; or non-

diesel generators (or diesel generators using bio-diesel fuel) may be used when grid power electricity is not feasible.

The above measures, which apply to both project-specific and cumulative impacts, shall be included in contract specifications for both projects.

The mitigation measures listed above, applied to the Raintree Applicant Proposed Scenario and the Sares Regis Applicant Proposed Scenario, would reduce the child excess cancer risk from each of the projects as well as the combination of the two projects to below 9.9 per million.

Construction emissions with Mitigation Measure AIR-5a were computed using the CalEEMod model. These emissions were input to the ISCST3 dispersion model to predict mitigated DPM and PM2.5 concentrations and the corresponding excess cancer risks. As a result, the maximum excess child cancer risk would be reduced to 7.0 chances per million for the Sares Regis Applicant Proposed Scenario and 6.8 chances per million for the Raintree Applicant Proposed Scenario.

Since construction techniques, equipment usage, and schedules have not been identified for the Full Buildout Scenarios, Mitigation Measure AIR-5b is included below.

(c) **Mitigation Measure AIR-5b**: When construction information is available for the Full Buildout Scenario, a complete air emissions analysis for construction emissions shall be completed by the project applicants to address health risk impacts (i.e., excess cancer risk, annual PM2.5 concentration and Hazard Index) during construction of the Sares Regis and Raintree projects. If predicted excess cancer risk, annual PM2.5 concentration or Hazard Index exceed the BAAQMD thresholds, the applicants shall identify mitigation measures that would reduce construction-related health risks to below the BAAQMD thresholds. Such measures may include:

Use of newer or retrofitted construction equipment that has low emission rates;

Use of alternatively fueled equipment; and

Modification of construction techniques to avoid use of diesel-powered equipment.

Compliance with thresholds shall be verified by the City prior to issuance of any building permits. The above measures would reduce the air quality impact to a less-than-significant level.

(d) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(e) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure AIR-5a is included in the MMRP. Compliance with this measure would reduce the cancer risk for residential child exposure. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure AIR-5a is included in the MMRP. Compliance with this measure would reduce the cancer risk for residential child exposure. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(3) Raintree Full Buildout Scenario: Mitigation Measure AIR-5b is included in the MMRP. Compliance with this measure would reduce health risk impacts during construction. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(4) Raintree Applicant Proposed Scenario: Mitigation Measure AIR-5b does not apply to the Raintree Applicant Proposed Scenario.

4. **Impact AIR-7**: Project emissions of criteria air pollutants or their precursors would not make a considerable contribution to cumulative air quality impacts.

(a) Significant Environmental Effect: This impact is further described on pages 4.2-50 through 4.2-52 of the DEIR (FEIR, Appendix B).

(b) **Mitigation Measures AIR-4**: The two projects shall include the following measures to minimize long-term toxic air contaminant (TAC) exposure for new residences.

1. Design buildings and sites to limit exposure from sources of TAC and fine particulate matter (PM2.5) emissions. The site layout shall locate windows and air intakes as far as possible from Highway 101 traffic lanes and provide additional tree plantings along the highway edge to maintain a uniform and continuous vegetative barrier per Bay Area Air Quality Management District (BAAQMD) recommended plantings. Any modifications to the site design shall incorporate buffers between residences and the freeway.

2. Install air filtration in residential or other buildings that would include sensitive receptors that have predicted PM2.5 concentrations above 0.3 micrograms per cubic meter (µg/m3) or excess lifetime cancer risk of 10.0 per million or greater. Air filtration devices shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors, a ventilation system shall meet the following minimal design standards (Department of Public Health, City and County of San Francisco, 2008):

A MERV13 or higher rating;

At least one air exchange(s) per hour of fresh outside filtered air;

At least four air exchange(s) per hour recirculation; and

At least 0.25 air exchange(s) per hour in unfiltered infiltration.

As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system shall be required. Recognizing that emissions from air pollution sources are decreasing, the maintenance period shall last as long as significant excess cancer risk or annual PM2.5 exposures are predicted. Subsequent studies could be conducted to identify the ongoing need for the ventilation systems as future information becomes available.

3. Ensure that the lease agreement and other property documents (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks; (2) include assurance that new owners and tenants are provided information on the ventilation system; (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed; and (4) provide information regarding the ventilation/filtration systems and importance of keeping windows and doors closed to maximize the efficiency of the system.

4. Consider phasing developments located within 101 meters (330 feet) of Highway 101 to avoid significant excess cancer risks and required installation of filtered ventilation systems (described above). Note that new United States Environmental Protection Agency (U.S. EPA) engines standards combined with California Air Resources Board (CARB) rules and regulations will reduce on-road emissions of diesel particulate matter (DPM) and PM2.5 substantially, especially after 2014. Any effects of phasing the project shall be verified by an authorized air pollutant consultant approved by the City.

5. Require that prior to building occupancy, an authorized air pollutant consultant approved by the City shall verify the installation of all necessary measures to reduce toxic air contaminant (TAC) exposure.

A properly maintained vegetative barrier could reduce particulate concentrations, including DPM, by an estimated 30 percent. Combined with the vegetation barrier along the freeway, a properly installed and operated ventilation system with MERV13 air filters may reduce PM2.5 concentrations from DPM mobile and stationary sources by approximately 70 percent indoors when compared to outdoors. A ventilation system with MERV16 filters could achieve reductions of 90 percent. The air intake for these units should be located as far away as possible from Highway 101. The overall effectiveness calculations take into consideration time spent outside and the outdoor exposure of each affected unit. The U.S. EPA reports that people, on average, spend 90 percent of their time indoors (US EPA 2001). The overall effectiveness calculations should take into effect time spent outdoors. Assuming 2 hours of outdoor exposure plus 1 hour of open windows (calculated as outdoor exposure) per day, the overall effectiveness of filtration systems would be about 60 percent for MERV13 systems and about 80 percent for MERV16 systems.

A ventilation system with MERV13 filtration would be necessary to reduce cancer risk to less-than-significant levels for areas where cancer risk is between 10 and 25.0 per million. A more efficient filtration system would be required for cancer risks that exceed 25.0 per million. A ventilation system with MERV16 filters would result in cancer risk of less than 10 per million where outdoor cancer risk is predicted to be 50.0 per million or less. A system with MERV14 or MERV15 could also be used, but those systems were not evaluated.

PM2.5 concentrations would also be reduced with the ventilation system that uses a MERV13 filter or greater. Maximum annual PM2.5 concentrations of 0.75µg/m3 or less could be mitigated using ventilation systems with MERV13 filters.

In summary, residential units where excess cancer risk is 10 to 25.0 chances per million would require MERV13 or higher filtration and residences with higher excess cancer risk would require MERV16 filters to mitigate levels to less-than-significant levels. Mitigating for excess cancer risk would mitigate significant annual PM2.5 concentrations to less- than- significant levels. Figures 4.2-4 and 4.2-5 show the unmitigated exposure that can be used as a guide to identify the level of mitigation required.

The above measures would reduce the potential air quality impact to a less-than-significant level.

(c) **Mitigation Measure AIR-5a**: The projects shall include the following measures recommended by the Bay Area Air Quality Management District (BAAQMD) (i.e., Best Management Practices) to reduce construction dust and on-site construction exhaust emissions by 5 percent:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).

5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

8. A publicly visible sign shall be posted with the telephone number and person to contact at the City of Sunnyvale regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management Air District's phone number shall also be visible to ensure compliance with applicable regulations.

9. A plan shall be developed demonstrating that the off-road equipment to be used in project construction would achieve an additional 50-percent reduction in exhaust particulate matter emissions, compared to similar equipment based on CARB OFFROAD statewide average emission factors for the projected year of use. Based on the construction plans presented for this project, a feasible method to achieve this objective would be the following:

    All diesel-powered air compressors, welders, forklifts (including rough terrain forklifts), paint spray rigs, and all types of cranes, forklifts or aerial lifts (man lifts, boom lifts, etc.) used during all construction phases shall meet or exceed U.S. EPA Tier 4 standards for particulate matter emissions or substituted with alternatively fueled equipment (e.g., LPG fuel).

    All other off-road construction equipment used on the site shall, on a fleet-wide average, meet U.S. EPA Tier 2 emission standards.

    Portable diesel generators operating for more than two days shall be prohibited. Grid power electricity shall be used to provide power at construction sites; or non-diesel generators (or diesel generators using bio-diesel fuel) may be used when grid power electricity is not feasible.

The above measures, which apply to both project-specific and cumulative impacts, shall be included in contract specifications for both projects.

The mitigation measures listed above, applied to the Raintree Applicant Proposed Scenario and the Sares Regis Applicant Proposed Scenario, would reduce the child excess cancer risk from each of the projects as well as the combination of the two projects to below 9.9 per million.

Construction emissions with Mitigation Measure AIR-5a were computed using the CalEEMod model. These emissions were input to the ISCST3 dispersion model to predict mitigated DPM and PM2.5 concentrations and the corresponding excess cancer risks. As a result, the maximum excess child cancer risk would be reduced to 7.0 chances per million for the Sares Regis Applicant Proposed Scenario and 6.8 chances per million for the Raintree Applicant Proposed Scenario.

Since construction techniques, equipment usage, and schedules have not been identified for the Full Buildout Scenarios, Mitigation Measure AIR-5b is included below.

(d) **Mitigation Measure AIR-5b**: When construction information is available for the Full Buildout Scenario, a complete air emissions analysis for construction emissions shall be completed by the project applicants to address health risk impacts (i.e., excess cancer risk, annual PM2.5 concentration and Hazard Index) during construction of the Sares Regis and Raintree projects. If predicted excess cancer risk, annual PM2.5 concentration or Hazard Index exceed the BAAQMD thresholds, the applicants shall identify mitigation measures that would reduce construction-related health risks to below the BAAQMD thresholds. Such measures may include:

Use of newer or retrofitted construction equipment that has low emission rates;

Use of alternatively fueled equipment; and

Modification of construction techniques to avoid use of diesel-powered equipment.

Compliance with thresholds shall be verified by the City prior to issuance of any building permits. The above measures would reduce the air quality impact to a less-than-significant level.

(e) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(f) Facts Supporting Findings.

(3) Raintree Full Buildout Scenario: Mitigation Measures AIR-4 and AIR-5 are included in the MMRP. Compliance with these measures would reduce the cumulative air quality impacts of project emissions of criteria air pollutants or their precursors. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(4) Raintree Applicant Proposed Scenario: Mitigation Measures AIR-4 and AIR-5a are included in the MMRP. Compliance with these measures would reduce the cumulative air quality impacts of project emissions of criteria air pollutants or their precursors. Mitigation Measure AIR-5b does not apply to the Raintree Applicant Proposed Scenario. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

C. **Biological Resources**

1. **Impact BIO-1**: Tree removal and building demolition associated with the projects could result in the loss of bird nests in active use, which would be a violation of the federal Migratory Bird Treaty Act (MBTA).

(a) Significant Environmental Effect: This impact is further described on pages 4.3-5 through 4.3-7 of the DEIR.

(b) **Mitigation Measure BIO-1**: Tree removal and building demolition shall be performed in compliance with the Migratory Bird Treaty Act and relevant sections of the California Fish and Wildlife Code. This shall be accomplished by preferably scheduling tree removal and building demolition outside of the bird nesting season (which occurs from February 1 to August 31) to avoid possible impacts to nesting birds if new nests are established in the future. Alternatively, if tree removal and building demolition cannot be scheduled during the non-nesting season (September 1 to January 31), then a preconstruction nesting survey shall be conducted. The preconstruction nesting survey shall include the following:

A qualified biologist (Biologist) shall conduct a pre-construction nesting bird (both passerine and raptor) survey within seven days prior to tree removal and/or building demolition.

If no nesting birds are observed, no further action is required and tree removal and construction activities shall occur within seven days of the survey to prevent take of individual birds that could begin nesting after the survey.

Another nest survey shall be conducted if more than seven days elapse between the initial nest search and the beginning of tree removal and construction activities.

If any active nests are encountered, the Biologist shall determine an appropriate disturbance-free buffer zone to be established around the nest location(s) until the young have fledged. Buffer zones vary depending on the species (i.e., typically 75 to 100 feet for passerines and 300 feet for raptors) and other factors such as on-going disturbance in the vicinity of the nest location. If necessary, the dimensions of the buffer zone shall be determined in consultation with the California Department of Fish and Wildlife (CDFW).

Orange construction fencing, flagging, or other marking system shall be installed to delineate the buffer zone around the nest location(s) within which no construction-related equipment or operations shall be permitted. Continued use of existing facilities such as surface parking and site maintenance may continue within this buffer zone.

No restrictions on grading or construction activities outside the prescribed buffer zone are required once the zone has been identified and delineated in the field and workers have been properly trained to avoid the buffer zone area.

Construction activities shall be restricted from the buffer zone until the Biologist has determined that young birds have fledged and the buffer zone is no longer needed.

A survey report of findings verifying that any young have fledged shall be submitted by the Biologist for review and approval by the City of Sunnyvale Planning Division prior to initiation of any tree removal or other construction activities within the buffer zone. Following approval by the City, tree removal and construction within the nest-buffer zone may proceed.

This measure would reduce the biological resources impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure BIO-1 is included in the MMRP. Compliance with this measure would ensure compliance with the MBTA and relevant sections of the California Fish and Wildlife Code for tree removal and building demolition. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure BIO-1 is included in the MMRP. Compliance with this measure would ensure compliance with the MBTA and relevant sections of the California Fish and Wildlife Code for tree removal and building demolition. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact BIO-2**: Proposed development would require removal of protected trees and could conflict with the City's Tree Preservation Ordinance.

(a) Significant Environmental Effect: This impact is further described on pages 4.3-7 through 4.3-8 of the DEIR.

(b) **Mitigation Measure BIO-2**: The proposed projects shall comply with the City's Tree Preservation Ordinance. As necessary, additional information shall be provided by the applicants regarding valuation of trees to be preserved and tree preservation guidelines during and after construction. Further review shall be provided to demonstrate adequate replacement plantings, establish an appropriate bond value for trees to be protected, and determine whether soil mitigation and other requirements are necessary.

This measure would reduce the biological resources impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure BIO-2 is included in the MMRP. Compliance with this measure would ensure compliance with the City's Tree Preservation Ordinance as well as additional information, as necessary, regarding valuation of trees to be preserved, tree preservation guidelines, bond value of trees, and/or soil mitigation. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure BIO-2 is included in the MMRP. Compliance with this measure would ensure compliance with the City's Tree Preservation Ordinance as well as additional information, as necessary, regarding valuation of trees to be preserved, tree preservation guidelines, bond value of trees, and/or soil mitigation. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

D. **Cultural Resources**

1. **Impact CULTURAL**: Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

(a) Significant Environmental Effect: This impact is further described on pages 46 through 48 of the Initial Study.

(b) **Mitigation Measure CULTURAL-1**: Each project applicant shall retain a qualified archaeologist to monitor project ground-disturbing activities. Prior to project ground-disturbing activities, the archaeologist shall prepare a Monitoring Plan for the project. The Monitoring Plan shall describe the specific methods and procedures that will be used in the event that archaeological deposits are identified.

Archaeological monitors shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while the finds are being evaluated. Monitoring shall continue until, in the archaeologist's judgment, cultural resources are not likely to be encountered.

If archaeological materials are encountered during project activities, all work within 25 feet of the discovery shall be redirected until the archaeologist assesses the finds, consults with

agencies as appropriate, and makes recommendations for the treatment of the discovery. If avoidance of the archaeological deposit is not feasible, the archaeological deposits shall be evaluated for their eligibility for listing in the California Register of Historical Resources. If the deposits are not eligible, mitigation is not necessary. If the deposits are eligible, adverse effects on the deposits shall be mitigated. Mitigation may include excavation of the archaeological deposit in accordance with a data recovery plan (see CEQA Guidelines Section 15126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; and accessioning of archaeological materials and a technical data recovery report at a curation facility.

Upon completion of the assessment, the archaeologist shall prepare a report to document the methods and results of the assessment. The report shall be submitted to the City of Sunnyvale and the Northwest Information Center at Sonoma State University upon completion of the resource assessment.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure CULTURAL-1 is included in the MMRP. Compliance with this measure would ensure that, through the oversight of a qualified archaeologist and the creation of a Monitoring Plan, the project will not cause a substantial adverse change in the significance of an archaeological resource. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure CULTURAL-1 is included in the MMRP. Compliance with this measure would ensure that, through the oversight of a qualified archaeologist and the creation of a Monitoring Plan, the project will not cause a substantial adverse change in the significance of an archaeological resource. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact CULTURAL**: Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

(a) Significant Environmental Effect: This impact is further described on pages 48 through 49 of the Initial Study.

(b) **Mitigation Measure CULTURAL-2**: On each project site, should paleontological resources be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist shall be contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If found the resources are to be significant, and project activities cannot avoid the resources, adverse effects on paleontological resources shall be mitigated. Mitigation may include monitoring, recording of the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Public educational outreach may also be appropriate. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City of Sunnyvale for review. If paleontological materials are recovered, the report shall also be submitted to a paleontological repository, such as the University of California Museum of Paleontology.

Each project applicant shall inform its contractor(s) of the sensitivity of the project area for paleontological resources. The City shall verify that the following directive has been included in the appropriate construction documents:

"The subsurface of the construction site may be sensitive for paleontological resources. If paleontological resources are encountered during project subsurface construction and a paleontologist is not on-site, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Paleontological resources include fossil plants and animals, and such trace fossil evidence of past life as tracks. Ancient marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, ground sloth, dire wolf, and bison. Paleontological resources also include plant imprints, petrified wood, and animal tracks."

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure CULTURAL-2 is included in the MMRP. Compliance with this measure would ensure that Raintree's construction activities do not directly or indirectly destroy a unique paleontological resource, such as a fossil, or site, or unique geologic feature. Consequently, implementation of this mitigation measure

will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure CULTURAL-2 is included in the MMRP. Compliance with this measure would ensure that Raintree's construction activities do not directly or indirectly destroy a unique paleontological resource, such as a fossil, or site, or unique geologic feature. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

3. **Impact CULTURAL**: Would the project disturb any human remains, including those interred outside of formal cemeteries?

(a) Significant Environmental Effect: This impact is further described on page 49 of the Initial Study.

(b) **Mitigation Measure CULTURAL-1**: Each project applicant shall retain a qualified archaeologist to monitor project ground-disturbing activities. Prior to project ground-disturbing activities, the archaeologist shall prepare a Monitoring Plan for the project. The Monitoring Plan shall describe the specific methods and procedures that will be used in the event that archaeological deposits are identified.

Archaeological monitors shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while the finds are being evaluated. Monitoring shall continue until, in the archaeologist's judgment, cultural resources are not likely to be encountered.

If archaeological materials are encountered during project activities, all work within 25 feet of the discovery shall be redirected until the archaeologist assesses the finds, consults with agencies as appropriate, and makes recommendations for the treatment of the discovery. If avoidance of the archaeological deposit is not feasible, the archaeological deposits shall be evaluated for their eligibility for listing in the California Register of Historical Resources. If the deposits are not eligible, mitigation is not necessary. If the deposits are eligible, adverse effects on the deposits shall be mitigated. Mitigation may include excavation of the archaeological deposit in accordance with a data recovery plan (see CEQA Guidelines Section 15126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; and accessioning of archaeological materials and a technical data recovery report at a curation facility.

Upon completion of the assessment, the archaeologist shall prepare a report to document the methods and results of the assessment. The report shall be submitted to the City of Sunnyvale and the Northwest Information Center at Sonoma State University upon completion of the resource assessment.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure CULTURAL-1 is included in the MMRP. Compliance with this measure would reduce potential impacts on human remains to less-than-significant levels. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure CULTURAL-1 is included in the MMRP. Compliance with this measure would reduce potential impacts on human remains to less-than-significant levels. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

E. **Geology and Soils**

1. **Impact GEO**: Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: strong seismic ground shaking?

(a) Significant Environmental Effect: This impact is further described on pages 50 through 51 of the Initial Study.

(b) **Mitigation Measure GEO-1**: For each project, prior to the issuance of any grading or construction permits, a design-level geotechnical investigation shall be prepared by a licensed professional and submitted to the City Engineer for review and approval. The investigation shall verify that the project plans comply with CBC and City requirements and incorporate the recommendations for design contained in preliminary geotechnical reports. All design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation shall be implemented as a condition of project approval.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure GEO-1 is included in the MMRP. Compliance with this measure would ensure that, through the design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation, people and structures will not be exposed to substantial adverse effects from strong seismic ground shaking. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure GEO-1 is included in the MMRP. Compliance with this measure would ensure that, through the design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation, people and structures will not be exposed to substantial adverse effects from strong seismic ground shaking. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact GEO**: Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?

(a) Significant Environmental Effect: This impact is further described on pages 51 through 52 of the Initial Study.

(b) **Mitigation Measure GEO-1**: For each project, prior to the issuance of any grading or construction permits, a design-level geotechnical investigation shall be prepared by a licensed professional and submitted to the City Engineer for review and approval. The investigation shall verify that the project plans comply with CBC and City requirements and incorporate the recommendations for design contained in preliminary geotechnical reports. All design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation shall be implemented as a condition of project approval.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure GEO-1 is included in the MMRP. Compliance with this measure would ensure that, through the design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation, people and structures will not be exposed to substantial adverse effects from

seismic-related ground failure, including liquefaction. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure GEO-1 is included in the MMRP. Compliance with this measure would ensure that, through the design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation, people and structures will not be exposed to substantial adverse effects from seismic-related ground failure, including liquefaction. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

3. **Impact GEO**: Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

(a) Significant Environmental Effect: This impact is further described on page 53 of the Initial Study.

(b) **Mitigation Measure GEO-1**: For each project, prior to the issuance of any grading or construction permits, a design-level geotechnical investigation shall be prepared by a licensed professional and submitted to the City Engineer for review and approval. The investigation shall verify that the project plans comply with CBC and City requirements and incorporate the recommendations for design contained in preliminary geotechnical reports. All design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation shall be implemented as a condition of project approval.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure GEO-1 is included in the MMRP. Compliance with this measure would ensure that, through the design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation, the project would address the presence of any expansive soils and reduce any potential impacts related to substantial risks to life or property. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure GEO-1 is included in the MMRP. Compliance with this measure would ensure that, through the design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical investigation, the project would address the presence of any expansive soils and reduce any potential impacts related to substantial risks to life or property. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

F. **Hazards and Hazardous Materials**

1. **Impact HAZARDS-1**: Development of the Raintree site could expose construction workers and future residents to soils containing potentially hazardous concentrations of arsenic and vanadium.

(a) Significant Environmental Effect: This impact is further described on pages 4.5-9 through 4.5-10 of the DEIR.

(b) **Mitigation Measure HAZARDS-1**: Regulatory oversight shall be initiated to develop and implement measures to eliminate potential health risks related to soils containing elevated levels of arsenic and/or vanadium at the Raintree site. This oversight may be provided by Santa Clara County Department of Environmental Health (SCCDEH), the Regional Water Quality Control Board (RWQCB), or Department of Toxic Substances Control (DTSC) and may require the project applicant to submit an application to the State Site Designation Committee for assignment of an appropriate local or state oversight agency. As a condition of approval for construction, demolition, or grading permits, the applicant shall incorporate measures to ensure that any potential added health risks to construction workers, maintenance and utility workers, site users, and the general public as a result of hazardous materials are reduced to a cumulative risk of less than 1 × 10-6 (one in one million) for carcinogens and a cumulative hazard index of 1.0 for non-carcinogens, or as otherwise required by a regulatory oversight agency. The evaluation of risk would be subject to review and/or approval by regulatory oversight agencies. These agencies could also require additional site investigation to more fully delineate the extent of contaminants of concern at the site.

The potential risks to human health in excess of these goals must be reduced either by remediation of the contaminated soils (e.g., excavation and off-site disposal) and/or implementation of institutional controls and engineering controls (IC/EC). If extensive on-site excavation and/or soil off-haul is determined to be the appropriate response action, additional CEQA review may be required to evaluate potential impacts related to air quality, noise, and traffic and to recommend mitigation measures, as necessary. IC/EC may include the use of a Construction Risk Management Plan (for mitigating exposures during construction and maintenance of the project), placement of new fill or pavement over contaminated soils, and/or deed restrictions. If IC/EC are implemented, an Operations and Maintenance Program must be prepared and implemented to ensure that the measures adopted are maintained throughout the life of the project. The Operations and Maintenance Program would be subject to review and approval by regulatory oversight agencies.

This measure would reduce the hazards and hazardous materials impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure HAZARDS-1 is included in the MMRP. Compliance with this measure would eliminate potential health risks related to soils containing elevated levels of arsenic and/or vanadium at the Raintree site. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure HAZARDS-1 is included in the MMRP. Compliance with this measure would eliminate potential health risks related to soils containing elevated levels of arsenic and/or vanadium at the Raintree site. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact HAZARDS-3**: Development of the two projects would require the use, transport, and disposal of hazardous materials, which could create a potential hazard to public health or the environment.

(a) Significant Environmental Effect: This impact is further described on pages 4.5-11 through 4.5-13 of the DEIR.

(b) **Mitigation Measure HAZARDS-3**: Construction at the project sites shall be conducted under a project-specific Construction Risk Management Plan (CRMP) to protect construction workers, the general public, and the environment from subsurface hazardous materials previously identified and to address the possibility of encountering unknown contamination or hazards in the subsurface. The CRMP shall summarize soil and groundwater analytical data collected on the project sites during past investigations and during site investigation and remediation activities described in Mitigation Measure HAZARDS-1 for the Raintree site; delineate areas of known soil and groundwater contamination, if applicable; and identify soil and groundwater management options for excavated soil and groundwater, in compliance with local, state, and federal statutes and regulations.

The CRMP shall:

(1) Provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively.

(2) Require the preparation of a project-specific Health and Safety Plan that identifies hazardous materials present, describes required health and safety provisions and training for all workers potentially exposed to hazardous materials in accordance with state and federal worker safety regulations, and designates the personnel responsible for Health and Safety Plan implementation.

(3) Require the preparation of a contingency plan that shall be applied should previously unknown hazardous materials be encountered during construction activities. The contingency plan shall include provisions that require collection of soil and/or groundwater samples in the newly discovered affected area by a qualified environmental professional prior to further work, as appropriate. The analytical results of the sampling shall be reviewed by the qualified environmental professional and submitted to the appropriate regulatory agency. The environmental professional shall provide recommendations, as applicable, regarding soil/waste management, worker health and safety training, and regulatory agency notifications, in accordance with local, state, and federal requirements. Work shall not resume in the area(s) affected until these recommendations have been implemented under the oversight of the City or regulatory agency, as appropriate

(4) Designate personnel responsible for implementation of the CRMP.

The CRMP shall be submitted to the City of Sunnyvale for review and approval prior to the issuance of construction and demolition permits.

This measure would reduce the hazards and hazardous materials impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure HAZARDS-3 is included in the MMRP. Compliance with this measure would protect construction workers, the general public, and the environment from subsurface hazardous materials. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure HAZARDS-3 is included in the MMRP. Compliance with this measure would protect construction workers, the general public, and the environment from subsurface hazardous materials. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

3. **Impact HAZARDS-4**: Demolition of the existing project site buildings at both the Raintree and Sares Regis sites may result in the release of lead, asbestos, and/or other hazardous materials, which could pose a risk to construction workers, the general public, and the environment.

(a) Significant Environmental Effect: This impact is further described on pages 4.5-13 through 4.5-14 of the DEIR.

(b) **Mitigation Measure HAZARDS-4**: Hazardous building materials surveys shall be conducted by a qualified and licensed professional for all structures that were not previously inspected or abated and that are proposed for demolition or renovation at the project sites. Lead-based paint shall be included in all hazardous material surveys. All loose and peeling lead-based paint and asbestos-containing materials (ACM) shall be abated by certified contractor(s) in accordance with local, state, and federal requirements. All other hazardous materials, such as "universal wastes," shall be removed from buildings prior to demolition in accordance with Division of Occupational Safety and Health (DOSH) regulations. The completion of the abatement activities shall be documented by a qualified environmental professional(s) and submitted to the City of Sunnyvale prior to the issuance of construction and demolition permits.

This measure would reduce the hazards and hazardous materials impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure HAZARDS-4 is included in the MMRP. Compliance with this measure would reduce the release of lead, asbestos, and other materials from the Raintree site during demolition. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure HAZARDS-4 is included in the MMRP. Compliance with this measure would reduce the release of lead,

asbestos, and other materials from the Raintree site during demolition. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

G. **Noise**

1. **Impact NOISE-1**: Existing and future noise levels at the project sites would exceed the City's noise thresholds of acceptability.

(a) Significant Environmental Effect: This impact is further described on pages 4.7-14 through 4.7-18 of the DEIR.

(b) **Mitigation Measure NOISE-1**: The following mitigation measures shall be included in each project to reduce the impact to a less-than-significant level:

When refining the project's site plan, continue to locate common outdoor use areas away from roadways and shield noise-sensitive outdoor spaces with buildings whenever possible.

Incorporate building design and treatments to ensure compliance with State of California and City of Sunnyvale noise standards. A project-specific acoustical analysis shall be required by the City of Sunnyvale to ensure that the design of the project incorporates controls so that interior noise levels would be reduced to 45 dBA DNL or lower. Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for all residential units, so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and doors and building facade treatments) may be required for many residential units facing adjacent roadways. These treatments may include sound-rated windows and doors, sound rated wall constructions, and acoustical caulking. Pursuant to the State Building Code, the results of the analysis, including a description of the necessary noise control measures, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA DNL or lower.

A qualified acoustical consultant shall review final site plans, building elevations, and floor plans prior to construction to calculate expected interior and exterior noise levels and ensure compliance with City of Sunnyvale policies and State of California noise regulations.

The above measures would reduce the potential noise impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure NOISE-1 is included in the MMRP. Compliance with this measure would reduce noise impacts, especially for those residential units facing U.S. Highway 101. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure NOISE-1 is included in the MMRP. Compliance with this measure would reduce noise impacts, especially for those residential units facing U.S. Highway 101. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact NOISE-5**: Construction noise would cause a temporary or periodic increase in noise exposure above ambient noise levels.

(a) Significant Environmental Effect: This impact is further described on pages 4.7-22 through 4.7-25 of the DEIR.

(b) **Mitigation Measure NOISE-5**: To mitigate potential short-term construction noise impacts, each project shall be required to comply with the following:

1. Project construction operations shall be required to use available noise suppression devices and techniques and to limit construction hours per the Sunnyvale Municipal Code.

2. A construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints shall be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The construction noise logistics plan shall include, but not be limited to, the following measures to reduce construction noise levels as low as practical:

Use "quiet" models of air compressors and other stationary noise sources where technology exists.

Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.

Locate all stationary noise-generating equipment, such as air compressors, portable power generators, and crushing/recycling operations, near U.S. Highway 101 and as far away as possible from adjacent land uses.

Locate staging areas and construction material areas as far away as possible from adjacent land uses.

Prohibit all unnecessary idling of internal combustion engines.

Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented.

Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

The potential short-term noise impacts associated with construction would be mitigated by the above measures implemented during all phases of construction activity to minimize the exposure of neighboring properties, and in combination with the limitations on hours set forth in the Sunnyvale Municipal Code. The impact would be mitigated to a less-than-significant level with the implementation of the above measures.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure NOISE-5 is included in the MMRP. Compliance with this measure would reduce short-term noise impacts resulting from demolition and construction of the Raintree site. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure NOISE-5 is included in the MMRP. Compliance with this measure would reduce short-term noise impacts resulting from demolition and construction of the Raintree site. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

H. **Public Services**

1. **Impact SERVICES-3**: Students from the projects would increase enrollment at Sunnyvale School District and Fremont Union High School District schools, but not to the extent that new or physically altered school facilities would be needed.

(a) Environmental Effect: This impact is further described on pages 4.8-7 through 4.8-8 of the DEIR.

(b) **Mitigation Measure SERVICES-3**: The environmental impact would be less than significant, and no mitigation is necessary. As a condition of project approval, the project applicants would be required to pay standard school impact fees. As provided by state law, the payment of these fees is deemed to fully mitigate the impacts of new development on school services.

(c) Findings.

(1) Raintree Full Buildout Scenario: As stated above and in the EIR, The environmental impact would be less than significant, and no mitigation is necessary. As a condition of project approval, the project applicants would be required to pay standard school impact fees. As provided by state law, the payment of these fees is deemed to fully mitigate the impacts of new development on school services.

(2) Raintree Applicant Proposed Scenario: As stated above and in the EIR, The environmental impact would be less than significant, and no mitigation is necessary. As a condition of project approval, the project applicants would be required to pay standard school impact fees. As provided by state law, the payment of these fees is deemed to fully mitigate the impacts of new development on school services.

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure SERVICES-3 is included in the MMRP. Compliance with this measure would ensure that a condition of approval is included requiring the payment of standard school impact fees. Consequently, implementation of this mitigation measure will ensure that this potential impact is less-than-significant as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure SERVICES-3 is included in the MMRP. Compliance with this measure would ensure that a condition of approval is included requiring the payment of standard school impact fees. Consequently, implementation of this mitigation measure will ensure that this potential impact is less-than-significant as defined by CEQA.

I. Recreation

1. **Impact REC-1**: The projects could result in the need for new parks and could increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.

(a) Significant Environmental Effect: This impact is further described on pages 4.9-4 through 4.9-6 of the DEIR.

(b) **Mitigation Measure REC-1**: As a condition of project approval, each project shall be required to comply with applicable City of Sunnyvale parkland dedication and in-lieu fee requirements. Compliance with these requirements would ensure that the impact of each

project on existing parks and demand for new parkland would be reduced to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure REC-1 is included in the MMRP. Compliance with this measure would reduce the impacts on existing parks and the demand for new parkland. The Raintree site also includes usable open space (outdoor and indoor recreational amenities) as well as access to the proposed SFPUC greenbelt between the two sections of the site. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure REC-1 is included in the MMRP. Compliance with this measure would reduce the impacts on existing parks and the demand for new parkland. The Raintree site also includes usable open space (outdoor and indoor recreational amenities) as well as access to the proposed SFPUC greenbelt between the two sections of the site. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact REC-2**: The projects would include recreational facilities that might have an adverse physical effect on the environment.

(a) Significant Environmental Effect: This impact is further described on page 4.9-6 of the DEIR.

(b) **Mitigation Measure REC-2**: Each project shall comply with Mitigation Measure REC-1 and all other applicable mitigation measures identified in this EIR. Compliance with these measures would ensure that the impact of recreational facilities included in each project would be reduced to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure REC-2 is included in the MMRP. Compliance with this measure would reduce the impact of recreational facilities included in the project. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure REC-2 is included in the MMRP. Compliance with this measure would reduce the impact of recreational facilities included in the project. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

J. **Transportation**

1. **Impact TRANSPORTATION-9**: The proposed East Weddell Residential Projects could contribute to inadequate emergency vehicle access on East Weddell Drive for both sites.

(a) Significant Environmental Effect: This impact is further described on pages 4.10-56 through 4.10-61 of the DEIR.

(b) **Mitigation Measure TRANSPORTATION-9**: Both project sites shall be designed to incorporate emergency vehicle access that meets City emergency access standards as described in the City of Sunnyvale Department of Public Safety Fire Prevention Unit's Requirements for Fire Department Vehicle Access and is approved by the City Fire Marshal. This mitigation would reduce the impact on emergency access to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure TRANSPORTATION-9 is included in the MMRP. Compliance with this measure would ensure that the Raintree site is designed to incorporate emergency vehicle access that meets City standards as approved by the City Fire Marshal. Consequently, implementation of this

mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure TRANSPORTATION-9 is included in the MMRP. Compliance with this measure would ensure that the Raintree site is designed to incorporate emergency vehicle access that meets City standards as approved by the City Fire Marshal. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. **Impact TRANSPORTATION-10**: The proposed East Weddell Residential Projects could conflict with adopted policies, plans, or programs regarding pedestrian facilities, or otherwise decrease the performance or safety of such facilities within the study area.

(a) Significant Environmental Effect: This impact is further described on pages 4.10-61 through 4.10-62 of the DEIR.

(b) **Mitigation Measure TRANSPORTATION-10**. Both project sites shall be designed to integrate improvements with existing pedestrian facilities to accommodate potential increases in pedestrian activity. If the SFPUC does not approve the proposed pedestrian improvements, the site plans for both projects shall be adjusted to maximize pedestrian use near the SFPUC right-of-way (ROW), and this shall occur prior to issuance of any building permits.

This measure would reduce the transportation impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure TRANSPORTATION-10 is included in the MMRP. Compliance with this measure would ensure that the Raintree site is designed to integrate improvements with existing pedestrian facilities and maximize pedestrian use near the SFPUC ROW through the proposed pedestrian improvements or site plan adjustments. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure TRANSPORTATION-10 is included in the MMRP. Compliance with this measure would

ensure that the Raintree site is designed to integrate improvements with existing pedestrian facilities and maximize pedestrian use near the SFPUC ROW through the proposed pedestrian improvements or site plan adjustments. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

3. **Impact TRANSPORTATION-11**: The proposed East Weddell Residential Projects could conflict with adopted policies, plans, or programs regarding bicycle facilities, or otherwise decrease the performance or safety of such facilities within the study area.

(a) Significant Environmental Effect: This impact is further described on pages 4.10-62 through 4.10-63 of the DEIR.

(b) **Mitigation Measure TRANSPORTATION-11**. Both project sites shall be designed to integrate with existing bicycle facilities to accommodate potential increases in bicycle activity. On-site facilities for bicycles shall be consistent with VTA and City of Sunnyvale guidelines for such facilities, including parking and storage on both project sites. If the SFPUC does not approve the proposed bicycle improvements, the site plan for the Raintree site shall be adjusted to maximize bicycle use near the SFPUC right-of-way, and this shall occur prior to issuance of any building permits.

This measure would reduce the transportation impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure TRANSPORTATION-11 is included in the MMRP. Compliance with this measure would ensure that the Raintree site is integrates with existing bicycle facilities and includes on-site bicycle facilities consistent with VTA and City guidelines. Also, the Raintree site will include proposed SFPUC bicycle improvements or site plan adjustments to maximize bicycle use near the SFPUC right-of-way. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure TRANSPORTATION-11 is included in the MMRP. Compliance with this measure would ensure that the Raintree site is integrates with existing bicycle facilities and includes on-site bicycle facilities consistent with VTA and City guidelines. Also, the Raintree site will include

proposed SFPUC bicycle improvements or site plan adjustments to maximize bicycle use near the SFPUC right-of-way. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

4. **Impact TRANSPORTATION-13**: Truck traffic expected to be generated by the required demolition of existing buildings and construction of the proposed East Weddell Residential Projects could affect existing weekday peak period traffic operations at the study intersections.

(a) Significant Environmental Effect: This impact is further described on pages 4.10-65 through 4.10-66 of the DEIR.

(b) **Mitigation Measure TRANSPORTATION-13**. Each project applicant shall prepare a construction truck traffic program for approval by the City of Sunnyvale. The program shall recommend city-designated truck routes and avoids AM and PM commute peak periods (7:00-9:00 AM and 4:00-6:00 PM) in order to avoid impacts on the local roadway system and also to avoid residential neighborhoods. This program shall be integrated into contract specifications. With implementation of this program, each project would result in a less than significant impact.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure TRANSPORTATION-13 is included in the MMRP. Compliance with this measure would ensure that, during the construction period for the Raintree site, construction truck traffic trips will avoid impacts on the local roadway system and avoid residential neighborhoods. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure TRANSPORTATION-13 is included in the MMRP. Compliance with this measure would ensure that, during the construction period for the Raintree site, construction truck traffic trips will avoid impacts on the local roadway system and avoid residential neighborhoods. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

K. **Utilities and Service Systems**

1. **Impact UTIL-3**: The projects (proposed development on the Sares Regis site and Parcel A of the Raintree site) would require upsizing of the sewer main in North Fair Oaks Avenue immediately northeast of the Raintree site.

(a) Significant Environmental Effect: This impact is further described on pages 4.11-9 through 4.11-11 of the DEIR.

(b) **Mitigation Measure UTIL-3**. As part of the proposed projects, the project applicants shall replace the existing 8 inch sewer main in North Fair Oaks Avenue with a 10-inch main, in accordance with City of Sunnyvale Department of Public Works requirements. This measure would reduce the impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure UTIL-3 is included in the MMRP. Compliance with this measure would ensure that the North Fair Oaks Avenue sewer main is replaced with a 10-inch main to accommodate wastewater from Raintree's Parcel A and the Sares Regis project. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA. Additionally, as stated in the EIR, the impact of construction of the upsized sewer main would not be significant for the following reasons: 1) construction would take place within the right-of-way of North Fair Oaks Avenue; 2) construction noise and air emissions would be short term and would not result in significant air quality or noise impacts; 3) traffic impacts would be mitigated by a City-initiated traffic plan to route traffic as needed during construction; 4) potential erosion impacts related to excavation and spoils management would be less than significant due to the limited area and extent of excavation required; and 5) no other impacts related to biological, hydrological or other topics would result. Construction of the wastewater facilities would not have any specific significant environmental impacts requiring mitigation.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure UTIL-3 is included in the MMRP. Compliance with this measure would ensure that the North Fair Oaks Avenue sewer main is replaced with a 10-inch main to accommodate wastewater from Raintree's Parcel A and the Sares Regis project. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA. Additionally, as stated in the EIR, the impact of construction of the upsized sewer main would not be significant for the following reasons: 1) construction would take place within the

right-of-way of North Fair Oaks Avenue; 2) construction noise and air emissions would be short term and would not result in significant air quality or noise impacts; 3) traffic impacts would be mitigated by a City-initiated traffic plan to route traffic as needed during construction; 4) potential erosion impacts related to excavation and spoils management would be less than significant due to the limited area and extent of excavation required; and 5) no other impacts related to biological, hydrological or other topics would result. Construction of the wastewater facilities would not have any specific significant environmental impacts requiring mitigation.

2. **Impact UTIL-6**: The projects would comply with federal, state, or local statutes and regulations related to solid waste. However, debris from building demolition and construction and materials discarded by residents after the projects are occupied have the potential to create conflicts with the City of Sunnyvale's state-mandated waste diversion goals and the goals of the City's Zero Waste Strategic Plan.

(a) Significant Environmental Effect: This impact is further described on pages 4.11-13 through 4.11-14 of the DEIR.

(b) **Mitigation Measure UTIL-6**. Each project applicant shall prepare a Waste Management Plan for City approval. The Waste Management Plan shall include provisions for deconstructing existing buildings to facilitate salvaging their reusable components, recycling demolition wastes, reusing or recycling unused construction materials, and ensuring that residents participate in the multi-family recycling service provided by the City to the project after it is occupied. The Waste Management Plan shall describe the projected quantities of waste generated during demolition and construction; indicate how much of those materials will be reused, recycled, or otherwise diverted from landfills; and indicate where un-recycled materials will be disposed. The Waste Management Plan shall also describe where and how post-occupancy discarded materials will be stored and moved to collection points and how residents and project staff (e.g., maintenance workers) will be informed and motivated, on an ongoing basis, to handle discarded materials to support the City's diversion goals. Upon completion of each project, each project applicant shall document implementation of the Waste Management Plan by providing the City with a report summarizing the waste type, quantity, disposition (e.g., recycled
or landfilled), and the facility used. This measure would reduce the impact to a less-than-significant level.

(c) Findings.

(1) Raintree Full Buildout Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(2) Raintree Applicant Proposed Scenario: Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environments effects identified in the EIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Findings.

(1) Raintree Full Buildout Scenario: Mitigation Measure UTIL-6 is included in the MMRP. Compliance with this measure would reduce impacts associated with project-related demolition and construction waste, as well as generation of discarded materials after the project is occupied, and would therefore support the City's waste diversion goals and the City's Zero Waste Strategic Plan. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

(2) Raintree Applicant Proposed Scenario: Mitigation Measure UTIL-6 is included in the MMRP. Compliance with this measure would reduce impacts associated with project-related demolition and construction waste, as well as generation of discarded materials after the project is occupied, and would therefore support the City's waste diversion goals and the City's Zero Waste Strategic Plan. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

VII. LESS THAN SIGNIFICANT IMPACTS

A. Impacts Determined To Be Less Than Significant And Not Individually Analyzed

The Initial Study identified that the project would have no impacts, less than significant impacts, or potentially significant impacts unless mitigation incorporated for the following topics:

- Agriculture and Forestry
- Cultural Resources
- Geology and Soils
- Hydrology and Water Quality
- Mineral Resources
- Population and Housing

For these topics, for the reasons set forth in the Initial Study and EIR, no further environmental assessment was required for preparation of the EIR, in accordance with CEQA Guidelines Section 15128.

B. Impacts Determined To Be Less Than Significant After Individual Analysis

The EIR identified that the project would have less than significant impacts (without mitigation) for the following impact areas:

- Impact AESTHETICS - 2
- Impact AIR - 1
- Impact AIR - 2 (less-than-significant impacts for Sares Regis Applicant Proposed Scenario and Raintree Applicant Proposed Scenario)
- Impact AIR – 3
- Impact AIR - 6
- Impact GHG - 1
- Impact GHG - 2

- Impact HAZARDS - 2 (not applicable to Raintree Full Buildout Scenario or Raintree Applicant Proposed Scenario)
- Impact HAZARDS - 5
- Impact HAZARDS - 6
- Impact HAZARDS - 7
- Impact LAND - 1
- Impact NOISE - 2
- Impact NOISE - 3
- Impact NOISE - 4
- Impact NOISE - 6
- Impact SERVICES - 1
- Impact SERVICES - 2
- Impact SERVICES - 3[2]
- Impact TRANSPORTATION - 1
- Impact TRANSPORTATION - 2
- Impact TRANSPORTATION - 3
- Impact TRANSPORTATION - 4
- Impact TRANSPORTATION - 5
- Impact TRANSPORTATION - 6
- Impact TRANSPORTATION - 7
- Impact TRANSPORTATION - 8
- Impact TRANSPORTATION - 12
- Impact TRANSPORTATION - 14
- Impact UTIL - 1
- Impact UTIL - 2
- Impact UTIL - 4
- Impact UTIL – 5
- Impact ENERGY - 1
- Impact ENERGY - 2

For the reasons set forth in the EIR, the City Council finds and determines that these impacts are less-than-significant and no mitigation measures are necessary or required.

VIII. CUMULATIVE IMPACTS

Cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental effects. The CEQA Guidelines require a discussion of the cumulative impacts of a project when the project's

[2] Impact SERVICES – 3 is less than significant. As concluded in the EIR and as stated in the MMRP and Mitigation Measure SERVICES -3, environmental impacts would be less than significant and no mitigation is necessary. As a condition of project approval, the project applicant would be required to pay standard school impact fees. As provided by state law, the payment of these fees is deemed to fully mitigate the impacts of new development on school services.

incremental effects are cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. The City Council finds and determines that the discussion of cumulative impacts in the EIR provides adequate and sufficient discussion of cumulative impacts pursuant to CEQA Guidelines Section 15130. Cumulative impacts are discussed in Chapter 4 and Section 6.4 of the EIR. The City Council further finds that the cumulative impacts addressed would be less than significant or mitigated to a less-than-significant level by incorporation of mitigation measures, as set forth in the EIR and Sections VI and VII of these findings.

IX. SIGNIFICANT IRREVERSIBLE EFFECTS

Significant irreversible effects are discussed in Section 6.1 of the EIR. The City Council finds and determines that the EIR provides adequate and sufficient discussion of significant irreversible effects pursuant to CEQA Guidelines Sections 15126.2(c) and 15127. This project would include the demolition of 15 buildings on the Raintree site and one building on the Sares Regis site. A total of eight new residential buildings would be constructed on the Raintree site and one new building would be constructed on the Sares Regis site. The structures are permanent buildings; therefore, their installation would constitute an irreversible use of these lands, as it is unlikely that the buildings would be removed for many years. The proposed project would irretrievably commit materials to the construction and maintenance of the new buildings. In addition, the construction and operation of the proposed project would result in the use of energy, including fossil fuels. The project is not expected to result in any activities likely to result in accidents that could lead to irreversible environmental damage.

X. NO SIGNIFICANT UNAVOIDABLE IMPACTS

Pursuant to Section 6.2 of the EIR, the City Council finds that all potential impacts indentified for the project could be mitigated to a less than significant level.

XI. GROWTH INDUCEMENT

CEQA Guidelines Section 15126.2(d) requires discussion of the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Growth inducement is discussed in Section 6.3 of the EIR. The City Council finds and determines that the EIR provides adequate and sufficient discussion of growth inducing impacts pursuant to CEQA Guidelines Section 15126.2(d). The proposed project would be located in an urbanized portion of the City of Sunnyvale. The project site is surrounded by an existing highway, a major arterial, and existing residential development. No wastewater or water lines that would cross undeveloped lands would be required for the project. No major road improvements would be required. While this area of Sunnyvale has been undergoing a transition from industrial to residential use, the proposed projects are not expected to result in further growth inducement for the reasons stated above. Land uses in the vicinity would continue to be regulated by adopted zoning.

XII. PROJECT ALTERNATIVES

A. Legal Requirements. Section 15126.6(f) of the State CEQA Guidelines requires that an environmental impact report include a "reasonable range of alternatives to the project, or to the location of the project, which would avoid or substantially lessen any significant effects of the project." As provided in the EIR, all potentially significant effects have been mitigated to less-than-significant levels. However, the EIR evaluates a Mitigated Alternative that is intended to further reduce some of the identified impacts, especially as related to air quality. The EIR focused on alternatives that could address potentially significant impacts.

As discussed above and in the EIR, all potentially significant effects have been mitigated to a less-than-significant level. Accordingly, the City is not required under CEQA to consider the environmentally superior alternatives identified in the EIR and find that they are "infeasible" before approving the project (Pub. Res. Code §§ 21002 & 21081(a)(3); CEQA Guidelines § 15091(a)(3)). Nonetheless, the City Council has considered the alternatives analyzed in the EIR and finds and determines that the alternatives do not meet the project objectives identified in the EIR.

B. Range of Alternatives. Chapter 5 of the EIR describes the alternatives considered and compares their impacts to the project. The EIR evaluated three alternatives to the project: Alternative 1: No Project; Alternative 2: R-3 Zoning Alternative; and Alternative 3: Mitigated Alternative.

C. Project Objectives.

As noted in Section 3.1 of the DEIR, the objectives identified by the applicant for the Sares Regis site are:

1. Provide desirable apartment homes for people who work or live in the City of Sunnyvale.
2. Replace a vacant industrial building in an underutilized industrial area with a vibrant apartment community.
3. Locate higher density housing with easy access to transportation corridors, rail transit stations, bus corridor stops, commercial services, and jobs.
4. Enhance the high quality character of the residential neighborhood.
5. Provide amenities that are compatible with the proposed density of the community.
6. Encourage alternative forms of transportation such as walking, bicycling, and public transportation.
7. Create a sustainable residential community featuring a distinctive and attractive building with landscaping appropriate for this location.
8. Ensure that new development is economically viable by containing sufficient market rate units to support the inclusion of affordable units.
9. Utilize the state density bonus law as a tool to integrate affordable units with this market rate development, which will increase the availability of affordable housing throughout the community.

10. Provide development of housing that responds to diverse community needs in terms of density, location, and cost.
11. Assist the City with satisfying its Regional Housing Needs Allocation for market rate and affordable housing units.

As noted in Section 3.1 of the DEIR, the objectives identified by the applicant for the Raintree site are:

1. Redevelop the site with an attractive, desirable residential community at a density that results in a community for those working and living in Sunnyvale.
2. Amend the General Plan land use designation and zoning districts where necessary to allow for sufficient development flexibility in meeting the economic and design goals built into the proposed project.
3. Develop a residential community at a density appropriate for the site's close proximity to mass transit and infrastructure.
4. Develop a residential community at a density that can support the public improvements proposed within the SFPUC right-of-way parcel, which help implement the General Plan Open Space sub-element's Key Initiative #2 and Policy LT-8.8.3.
5. Increase the City's stock of affordable housing units at a level that is economically viable for the project.
6. Provide amenities that are sufficient for and compatible with the proposed density.
7. Provide utilities and other infrastructure systems that are adequate for the proposed development.
8. Encourage alternative forms of transportation (such as walking and public transportation).
9. Ensure that the project is economically viable.
10. Promote the General Plan's Goals and Policies, such as LT-3.4a and LT-3.1c.
11. Assist the City with satisfying its Regional Housing Needs Allocation for market rate and affordable housing units.

D. Alternative 1: No Project ("No Project Alternative")

Pursuant to CEQA Guidelines, Section 15126.6 (e)(3)(A), when a project is a revision to an existing land use or regulatory plan, the No Project alternative will be the continuation of the existing land use or regulatory plan for the project site. In the case of the project, the East Weddell Residential projects include a General Plan amendment and rezoning as well as a specific development project. Therefore, the No Project Alternative addresses continuation of the Sares Regis site in its current General Plan designation of "Industrial" and zoning of "Industrial and Service/Planned Development (M-S/PD)"; continuation of Parcel A of the Raintree site in its current General Plan designation of "Industrial to Residential Medium to High

[3] Key Initiative #2 and Policy LT-8.8 call for development of new parkland in the project's vicinity and support the use of the right-of-way as a method for the City to obtain open space.

Density" and zoning of "Industrial and Service/Industrial-to-Residential/Medium Density Residential/Planned Development (M-S/ITR/R-3/PD)"; and continuation of Parcel B of the Raintree site in its current General Plan designation of "Industrial" and zoning of "Industrial and Service/Place of Assembly (M-S/POA)". Because the exact uses that could be proposed under the existing General Plan and zoning designations cannot be determined, the EIR primarily compared the impacts of this No Project Alternative to the proposed project.

Finding: The No Project Alternative is less desirable than the project. Specific economic, legal, social, technological, or other considerations make infeasible the No Project Alternative, and therefore, this alternative is rejected for the following reasons. The No Project Alternative does not meet many of the project objectives. It would depend on future uses that may be located at the sites but residential development would be significantly restricted.

E. Alternative 2: R-3 Zoning Alternative

Under Alternative 2, the two sites would be zoned as Residential Medium Density (R-3) that would allow 24 units per acre (compared to the R-4 zoning for the Applicant Proposed Scenario and the R-5 zoning for the Full Buildout Scenario). As shown in **Table 5-1** in the EIR, up to 407 units would be allowed for the Raintree site (234 units for Parcel A and 173 units for Parcel B); up to 135 units would be allowed for the Sares Regis site. Thus, both sites together would have 542 units which would be 128 fewer than what the applicants have proposed under the Applicant Proposed Scenario, and 274 units fewer than what would be allowed under R-4 zoning. The areas of development on each site are assumed to be similar to the Applicant Proposed Scenario.

Finding: The R-3 Zoning Alternative is less desirable than the project. Specific economic, legal, social, technological, or other considerations make infeasible the Existing Specific Plan Alternative, and therefore, this alternative is rejected for the following reasons. The R-3 Zoning Alternative would meet all of the project objectives for both the Sares Regis and the Raintree sites. However, the economic viability of providing the affordable units for the R-3 Alternative may be slightly reduced due to the lower density of the overall project as compared to both the Applicant Proposed Scenario and the Full Buildout Scenario.

F. Alternative 3: Mitigated Alternative

Under the Mitigated Alternative, the Sares Regis site would be rezoned to an Office (O) district to allow professional and administrative office use; the Raintree site would have multi-family (R-4) zoning for Parcel A and Parcel B would remain in its existing Industrial and Service/Place of Assembly zoning (M-S/POA) or possibly be rezoned to an Office (O) or Commercial district such as C-1 to allow neighbor-serving retail uses (see EIR **Figure 5-1**). In addition, a thick planting of trees would occur along the south side of Parcel B (see EIR Figure 5-1) as a way to mitigate potential air toxic contaminants per BAAQMD recommendations. The main factor influencing this alternative was the identification of toxic air contaminants at both project sites due to their proximity to U.S. Highway 101 (Highway 101). The level of diesel particulate matter (DPM) at the Sares Regis site was significant throughout the site, while the level of DPM at the Raintree site was found to be significantly less at Parcel A, the northern parcel. A more detailed discussion of this issue can be found in Section 4.2 of the EIR.

The EIR included mitigation measures for reducing the potentially significant toxic air contaminants but this alternative was developed as a means of eliminating the need for complex air filtration systems for both projects. At the same time, this alternative would help to mitigate potential noise impacts as discussed below. A more detailed discussion of this issue can be found in Section 5.3 of the EIR.

Environmentally Superior Alternative. CEQA requires the identification of an Environmentally Superior Alternative among the alternatives to the project. The Environmentally Superior Alternative is the alternative that would avoid or substantially lessen, to the greatest extent, the environmental impacts associated with the project while feasibly obtaining most of the major objectives of the project. Additionally, if the No Build Alternative or the No Project Alternative is determined to be the Environmentally Superior Alternative, CEQA requires that the EIR identify an Environmentally Superior Alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)).

The No Project Alternative that assumes development under the existing General Plan and zoning designations would not necessarily be the environmentally superior alternative because it is not known what future industrial uses could develop at either site, and such uses could have their own environmental impacts (e.g., air, noise, etc.) on nearby residential uses to the north and east of the Sares Regis site, and to the north and west of the Raintree site. The existing protected trees to be removed under the proposed project would be retained under the No Project Alternative, and mitigation recommended to replace protected trees and avoid bird nests from disturbance or removal when in active use would not be required.

The Mitigated Alternative would be considered the environmentally superior alternative because of the following:

- It would expose fewer residents to toxic air contaminants associated with highway use;
- Residents would be located on the north end of the Raintree site where toxic air contaminants would be reduced;
- Residential uses on Parcel A of the Raintree site would be compatible with nearby residences to the north and west of the Raintree site;
- Additional heavy tree plantings on the south side of Parcel B of the Raintree site would reduce overall level of toxic air contaminants which would benefit not only future residential uses on Parcel A but would also benefit existing residential uses to the north and west of the Raintree site;
- Office/non-residential uses on the Sares Regis site and north portion of Parcel B of the Raintree site would be appropriate due to the higher levels of toxic air contaminants and the shorter exposure time of office workers as compared to residents;
- Office uses on the Sares Regis site would have fewer potential conflicts with nearby residential uses, as compared to industrial uses.

- Office or industrial uses on a portion of Parcel B could be compatible with the proposed residential uses on Parcel A but would also result in reduced exposure time of workers, as compared to the residential uses of the proposed project.

However, the Mitigated Alternative would not meet some of the objectives of the proposed project as discussed below.

Finding:

The Mitigated Alternative is less desirable than the project because it fails to satisfy project objectives for the Sares Regis site and the Raintree site. Specifically, under the Mitigated Alternative, rather than the project's proposed residential uses, the Sares Regis site would include office uses and the Raintree site would include industrial, office, or commercial uses. The project objectives expressly provide that the Sares Regis and Raintree sites be redeveloped for residential uses. Some of the project objectives that would not be satisfied by the Mitigated Alternative include the following.

For the Sares Regis site:

- Provide desirable apartment homes for people who work or live in the City of Sunnyvale.
- Replace a vacant industrial building in an underutilized industrial area with a vibrant apartment community.
- Locate higher density housing with easy access to transportation corridors, rail transit stations, bus corridor stops, commercial services, and jobs.
- Enhance the high quality character of the residential neighborhood.

For the Raintree site:

- Redevelop the site with an attractive, desirable residential community at a density that results in a community for those working and living in Sunnyvale.
- Develop a residential community at a density appropriate for the site's close proximity to mass transit and infrastructure.
- Develop a residential community at a density that can support the public improvements proposed within the SFPUC right-of-way parcel, which help implement the General Plan Open Space sub-element's Key Initiative #2 and Policy LT-8.8.
- Increase the City's stock of affordable housing units at a level that is economically viable for the project.
- Assist the City with satisfying its Regional Housing Needs Allocation for market rate and affordable housing units.

G. Conclusion

After consideration of this reasonable range of identified alternatives to the project, the City Council finds that alternatives 1, 2, and 3 do not meet the project objectives for the Sares Regis site or for the Raintree site.

XIII. MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program ("MMRP") contained on pages 200 through 219 of the FEIR sets forth specific monitoring actions, timing requirements and monitoring/verification entities for each mitigation measure adopted in this Exhibit A, in compliance with Public Resources Code Section 21081.6(a)(1) and CEQA Guidelines Section 15097. The City Council hereby adopts the MMRP and determines that compliance with the MMRP is a condition of approval of the project.

XIV. THE RECORD

The environmental analysis provided in the EIR and these findings are based on and are supported by the following documents, materials and other evidence, which constitute the administrative record for the approval of the project:

A. All application materials for the project and supporting documents submitted by the applicant, including but not limited to those materials constituting the project and listed in Section III of this Exhibit A.

B. The NOP, comments received on the NOP and all other public notices issued by the City in relation to the EIR (e.g., Notice of Availability).

C. The Initial Study.

D. The Draft EIR, the Final EIR, all appendices to any part of the EIR, all technical materials cited in any part of the EIR, comment letters, oral testimony, responses to comments, as well as all of the comments and staff responses entered into the record orally and in writing between [_____] and [_____], as well as accompanying technical memos or evidence entered into the record.

E. All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants related to the EIR, its analysis and findings.

F. Minutes and transcripts of the discussions regarding the project and/or project components at public hearings or scoping meetings held by the Planning Commission and the City Council.

G. Staff reports associated with Planning Commission and Council Meetings on the project and supporting technical memoranda and any letters or other material submitted into the record by any party; and

H. Matters of common knowledge to the City Council which they consider, such as the Sunnyvale General Plan, any other applicable specific plans or other similar plans, and the Sunnyvale Municipal Code.

XV. LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the Council findings regarding the mitigation measures are based are located and in the custody of the Community Development Department, 456 West Olive Avenue, Sunnyvale, California 94086. The location and custodian of these documents is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

XVI. FILING NOTICE OF DETERMINATION

The Council hereby directs the Planning Division to file a Notice of Determination regarding the approval of the project within five business days of adoption of this resolution.