

RESOLUTION NO. _____-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE CERTIFYING THE ENVIRONMENTAL IMPACT
REPORT, MAKING FINDINGS REQUIRED BY THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT, AND ADOPTING THE
MITIGATION AND MONITORING REPORTING PROGRAM FOR THE
FAIR OAKS AVENUE OVERHEAD BRIDGE REHABILITATION
PROJECT**

WHEREAS, the California Environmental Quality Act ("CEQA"), at Public Resources Code Section 21000 *et seq.*, and the Guidelines for Implementation of the California Environmental Quality Act ("CEQA Guidelines") at 14 California Code of Regulations, Section 15000 *et seq.*, require local agencies to consider environmental consequences of projects they undertake; and

WHEREAS, a Draft Environmental Impact Report ("DEIR") and Response to Comments on the Draft EIR ("Response," collectively, the "EIR") have been prepared for and by the City of Sunnyvale ("City") for the Fair Oaks Avenue Overhead Bridge Rehabilitation Project ("the Project"), pursuant to CEQA and the CEQA Guidelines; and

WHEREAS, the EIR addresses the environmental impacts of the construction of the Project, which is further described in Section VI of Exhibit A ("Significant Environmental Effects, Findings of Fact, Mitigation Measures and Monitoring Program" for the Fair Oaks Avenue Overhead Bridge Rehabilitation Project") attached hereto and made a part hereof; and

WHEREAS, in conformance with CEQA, the City has issued notices, held public meetings, and taken other actions as described in Section IV of Exhibit A; and

WHEREAS, the EIR is incorporated by this reference in this Resolution, and consists of those documents referenced in Section IV of Exhibit A; and

WHEREAS, a public hearing was held by the City Council on March 17, 2015, regarding the Project and the EIR, 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 EIR was considered; and

WHEREAS, by this Resolution, the City Council, as the lead agency under CEQA for preparing the EIR and the entity responsible for approving the Project, desires to comply with the requirements of CEQA and the CEQA Guidelines for consideration, certification, and use of the EIR in connection with the approval of the Project.

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

1. The City Council hereby finds and certifies that the EIR has been completed in compliance with CEQA and the CEQA Guidelines; that the EIR adequately addresses the environmental issues of the Project; that the EIR was presented to the City Council; that the City Council has reviewed and considered the information contained in the EIR prior to approving the Project; and that the EIR reflects the independent judgment and analysis of the City Council.

2. The City Council hereby identifies the significant effects, adopts the mitigation measures, adopts the 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 reference. The statements, findings and determinations set forth in Exhibit A are based on the above certified EIR and other information available to the City Council, and are made in compliance with Sections 15091, 15092, 15093, 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 _____, by the following vote:

AYES:

NOES:

RECUSAL:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CITY OF SUNNYVALE

FAIR OAKS AVENUE OVERHEAD BRIDGE REHABILITATION PROJECT

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 requirements of Public Resources Code Section 21000, et seq., and Sections 15091, 15092, 15093 and 15097 of the CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, et seq., associated with approval of the Fair Oaks Avenue Overhead Bridge Rehabilitation Project (the “Project”). These findings provide the written analysis and conclusions of the City Council regarding the Project. They are divided into general sections. Each of these sections is further divided into subsections, each of which addresses a particular impact topic and/or requirement of law. At times, these findings refer to materials in the administrative record, which are available for review in the City’s Planning Division.

II. PROJECT OBJECTIVES

As noted in Section 3.8 of the Draft Environmental Impact Report, at p. 3-12, the underlying purpose of the project is to enhance public safety by rehabilitating the bridge and removing it from the EBL while providing for enhanced pedestrian and bicycle movement through the area. The City has developed the following primary objectives to satisfy the requirements of the California Environmental Quality Act (CEQA) Statute and Guidelines Section 15124(b).

- Ensure the long-term viability and ongoing safe use of the bridge
- Address known deficiencies so that the bridge can be removed from the Eligible Bridge List
- Improve pedestrian accessibility and safety through this portion of Fair Oaks Avenue in compliance with all pertinent federal and local standards
- Enhance bicycle mobility through this portion of Fair Oaks Avenue
- Improve currently substandard geometrics at the intersections of Fair Oaks Avenue with Kifer Road and Evelyn Avenue
- Implement the above objectives while minimizing the take of private property, the removal of established trees, and the relocation of underground utilities.

III. DESCRIPTION OF THE PROJECT

The Project which is under consideration by the City Council is the Fair Oaks Avenue Overhead Bridge Rehabilitation. The Project is as described in Section 3.0, Project Description, in the Draft EIR.

IV. THE CEQA PROCESS

The Environmental Impact Report (the "EIR") for the Project has been prepared by the City in accordance with the California Environmental Quality Act ("CEQA") and the State CEQA guidelines, 14 Cal. Code Regs., Sections 15000, *et seq.* The City of Sunnyvale is the lead agency for the preparation of the EIR. The EIR for the Project consists of the following:

- A. Draft Environmental Impact Report ("Draft EIR"), issued September 2014;
- B. All appendices to the Draft EIR;
- C. Responses to Comments on the Draft EIR issued February 2015; and
- D. All of the comments and staff responses entered into the record orally and in writing between September 2014 and March 17, 2015, 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 April 23, 2013, a Notice of Preparation was distributed to appropriate agencies for the purpose of obtaining written comments from these agencies regarding the scope and content of environmental information and analysis which said agencies wanted addressed in the EIR. A scoping meeting was held on May 9, 2013, and a further meeting was held by the City on February 19, 2014, to update the public on the status of the Project and the progress of the environmental review.

B. A Draft Environmental Impact Report ("Draft EIR") was prepared for the Project and was circulated for public review and comment from September 29, 2014 to November 12, 2014. The Draft EIR was submitted to the State Clearinghouse for review on September 29, 2014 (State Clearinghouse No. 2013042065). On September 29, 2014, notice of availability of the DEIR was provided to appropriate agencies and the general public via a Notice of Completion sent to the State.

C. Comments were received from three public agencies. In February, 2015, all comments received on the Draft EIR during the public comment period were responded to and included in a Response to Comments on the Draft EIR, as well as minor text revisions to the Draft EIR. The Draft EIR and Response to Comments collectively constitute the EIR.

E. The EIR came before the City Council on March 17, 2015 at a duly and properly noticed public hearing. On March 17, 2015, the City Council adopted the following findings, and Mitigation Monitoring Program.

V. FINDINGS ARE DETERMINATIVE

The City Council certifies 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 recognizes 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.

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 numbers used in the Draft EIR.

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.

The Draft EIR identified a number of potentially significant environmental impacts associated with the implementation of the Project. Each of the identified significant

environmental impacts can be avoided or reduced to less-than-significant levels through adherence to mitigation measures included in the Draft EIR. All feasible mitigation measures listed below have been incorporated into the Mitigation Monitoring and Reporting Program ("MMRP"), further described in Section X. Compliance with the MMRP is a requirement for approval of the Project, and the construction of the Project will incorporate all conditions contained in the MMRP.

All page numbers shown below refer to Draft EIR.

A. AIR QUALITY

1. **Impact AQ-1:** Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Once operational, the proposed project would not substantially increase emissions of air pollutants. (Less than significant with mitigation.)

(a) Significant Environmental Effect: This impact is further described at pp. 4.2-15-16 of the Draft EIR.

(b) **Mitigation Measure AQ-1:** Include measures to control dust and exhaust during construction.

During demolition or any construction ground disturbance, implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less than significant. The contractor shall implement the following Best Management Practices that are required of all projects:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 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.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measure AQ-1 that would ensure a less-than-significant impact by requiring the project contractor to implement a series of Best Management Practices recommended by the Bay Area Air Quality Management District (BAAQMD) throughout the construction process. These Best Management Practices would have the effect of reducing construction-related emissions of fugitive dust, an air pollutant. The City will adopt the measures identified above as conditions of approval of the project, thereby incorporating the measures into the project if the project is approved.

2. **Impact AQ-2:** Construction emissions would increase sensitive receptor exposure to pollutant concentrations for a temporary period of time. Once operational the project would not generate new air pollutant emissions. (Less than significant with mitigation.)

(a) Significant Environmental Effect: This impact is further described at pp. 4.2-17-18 of the Draft EIR.

(b) **Mitigation Measure AQ-2:** Implement the following measures to minimize emissions from diesel equipment:

- All diesel-powered off-road equipment larger than 50 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent;
- All stationary pieces of construction equipment shall use best available control technology to reduce particulate matter or shall be gasoline- or alternative energy-powered;
- Minimize the number of hours that equipment will operate, including the use of idling restrictions; and
- Avoid staging equipment within 100 feet of adjacent residences.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City of Sunnyvale finds that the feasible mitigation measure identified in the Final EIR and articulated above would reduce the project's air pollutant impact to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible

Mitigation Measure AQ-2 that would ensure a less-than-significant impact by requiring the project contractor to incorporate measures to limit diesel exhaust emissions throughout the construction process. The City will adopt the measures identified above as conditions of approval of the project, thereby incorporating the measures into the project if the project is approved.

B. BIOLOGICAL RESOURCES

1. **Impact BIO-1:** Project implementation would result in the removal, trimming, and possible damage to several existing trees within the vicinity of the project. (Less than significant with mitigation.)

(a) Significant Environmental Effect: This impact is further described at p. 4.3-12 of the Draft EIR.

(b) **Mitigation Measure BIO-1:** Prior to tree removal and construction activities, an International Society of Arboriculture (ISA) Certified Arborist will conduct a survey to evaluate the trees subject to removal. Trees to remain will be clearly identified as such on project plans. Such trees will be protected by erecting a fence around the trees, as specified by an arborist. This protective fencing will prevent the parking of vehicles and/or storage of equipment/materials within the dripline of the tree and must conform to the requirements of the City of Sunnyvale's city tree permit conditions. Any city tree that is to be removed or trimmed will require a permit per the requirements of Title 13 in the City of Sunnyvale's Municipal Code.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City of Sunnyvale finds that the feasible mitigation measure articulated above and identified in the Final EIR would reduce the project's impacts to trees to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measure BIO-1 that would ensure a less-than-significant impact by requiring the project contractor to retain a qualified arborist to ensure the proper removal and trimming of trees as well as the protection of trees to remain in the project area. The City will adopt the measure identified above as a condition of approval, thereby incorporating the measure into the project if the project is approved.

2. **Impact BIO-2:** Construction activities, demolition, and tree removal could have an adverse effect on special-status species including roosting bats that are potentially occupying the bridge, as well as to nesting birds through the incidental loss of eggs or nestlings. (Less than significant with mitigation.)

(a) Significant Environmental Effect: This impact is further described at p. 4.3-13 of the Draft EIR.

(b) **Mitigation Measure BIO-2a:** In order to facilitate the implementation of measures to avoid impacts on roosting bats without constraining project work windows (i.e., to allow for the eviction of bats during the non-breeding season), a survey for roosting bats will be conducted by a qualified bat biologist prior to the breeding season (April 1st) in the year in which project disturbance is scheduled to occur. If a visual survey is not adequate to determine presence or absence of bats (i.e., in tree cavities), acoustic equipment will be used to determine occupancy. If no bats are found roosting, bat exclusion devices will be installed to prevent bats from taking up occupancy of the structure prior to the onset of the proposed activity

Mitigation Measure BIO-2b: If a day roost of bats is found in the bridge, the bats will be safely evicted under the direction of a qualified bat biologist. Eviction of bats will occur at night to decrease the likelihood of predation (compared to eviction during the day). Eviction will occur between 1 September and 31 March, outside the maternity season, but will not occur during long periods of inclement or cold weather (as determined by the bat biologist) when prey are not available or bats are in torpor. Eviction activities will be performed under the supervision of a qualified bat biologist.

Following eviction, bat exclusion devices will be installed to prevent bats from taking up occupancy of the structure prior to the onset of the proposed activity.

In some circumstances, it could be beneficial to allow roosting bats to continue using a roost while construction is occurring on or near the roost site. For example, if a roost is found in a portion of the bridge that will not be heavily disturbed during construction, a qualified bat biologist (in consultation with the CDFW) will determine whether the bats will be evicted or whether they will remain in-place. If it is determined that the risks to bats from eviction (e.g., increased predation or exposure, or competition for roost sites) are greater than the risk of colony abandonment, then the bats will not be evicted.

Mitigation Measure BIO-2c: Because the survey described in Mitigation Measure BIO-2a will be conducted prior to the breeding season, several months could pass between the initial survey and the initiation of tree removal and project activities that could potentially result in disturbance of roosting bats. Therefore, a preconstruction survey for roosting bats, following the methods described above, will be conducted within the 15 days prior to the commencement of project activities in a given area to determine whether bats have occupied a roost in or near the project's work areas. If no active roosts are found, then no further action is warranted. In the event that a new roost (i.e., a roost that was not detected during the survey conducted under Mitigation Measure BIO-2a) is detected, Mitigation Measures BIO-2b and BIO-2d will be implemented.

Mitigation Measure BIO-2d: If a maternity roost is detected during the pre-construction survey, and bats cannot be evicted prior to the onset of project activities, the bat biologist will determine the extent of a construction-free buffer around the active roost that will be maintained. This buffer will be maintained from 1 April until the young are flying, typically after 31 August.

Mitigation Measure BIO-2e: A pre-construction survey for nesting birds will be conducted by a qualified ornithologist, to ensure that no active nests will be disturbed during project implementation. The survey will be conducted no more than seven days prior to the initiation of construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings, and the bridge) in and immediately adjacent to the impact areas for nests. These survey areas should include the project footprint and areas within 300 feet (for raptors) and 100 feet (for non-raptors) of project activity areas, as access permits. If an active nest is found within these survey areas, buffers of 300 feet for raptors and 100 feet for non-raptors will be established around the nests. No new activities (i.e., activities that were not already ongoing when the nest was established) are permitted within the buffer for as long as the nest is in active use. If, in the opinion of a qualified ornithologist, a reduced buffer can be established without risking nest abandonment or reduced reproductive success (e.g., due to the level of existing noise and other disturbance, screening structures or vegetation between the nest and project activities, or other reasons), the ornithologist will determine an appropriate buffer in consultation with the CDFW.

Mitigation Measure BIO-2f: To avoid potential impacts to nests during project implementation, potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the project would be removed prior to the start of the nesting season (e.g., prior to 1 February). This will preclude the initiation of nests in this vegetation, and prevent the potential delay of the project due to the presence of active nests in these substrates. Nest deterrence may also be implemented to prevent birds from nesting on the bridge or in other areas where nests may be disturbed by, or which may constrain, project activities. Nest deterrence may include removal of nest starts (incomplete nests that do not yet contain eggs or young) at frequent intervals and/or the installation of measures such as netting or material to plug weep holes that will prevent birds from accessing nest sites. If any such materials are installed, they must be installed very carefully to ensure that birds are not trapped within such materials (e.g., birds can become trapped behind improperly installed netting), and they must be monitored frequently to ensure that they are functioning properly.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City of Sunnyvale finds that the feasible mitigation measures articulated above and identified in the Final EIR would reduce the project's impacts on special status bat species and nesting birds to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measures BIO-2a through BIO-2f that would ensure a less-than-significant impact by requiring the project contractor to retain qualified professionals to perform pre-construction surveys in order to determine if any roosting bats or nesting birds occupy the project area. In the event active bat roosts and/or bird nesting is discovered, these measures would ensure the affected bats and birds are properly removed prior to removal of the occupied tree or demolition of structures.

The City will adopt the measures identified above as conditions of approval of the project, thereby incorporating the measures into the project if the project is approved.

C. CULTURAL RESOURCES

1. **Impact CUL-1:** Construction activities could inadvertently damage archaeological resources that may exist below the surface of the project site. (Less than significant with mitigation.)

(a) **Significant Environmental Effect:** This impact is further described at pp. 4.4-7-8 of the Draft EIR.

(b) **Mitigation Measure CUL-1:** Ground disturbing activities shall follow the protocols set forth in the project archaeological studies and investigations prepared by the City in cooperation with Caltrans. The following outlines the general protocol.

Pre-Construction Training: The City of Sunnyvale shall require that the project contractor provide documentation that all construction crews that will work on the project have undergone a training session to inform them of the potential for previously undiscovered archaeological resources within the project site, of the laws protecting these resources and associated penalties, and of the procedures to follow should they discover cultural resources during project-related work.

Monitoring During Construction: One or more monitors, including a qualified archaeologist and a Native American monitor, shall be present to monitor all ground disturbing activities.

Discovery Plan: In the event that any archaeological resources are encountered during any phase of project construction, the project contractor shall temporarily halt construction and/or grading activities within 25 feet of any find and adhere to the steps set forth in the Discovery Plan prepared by the City in cooperation with Caltrans.

While prehistoric or historic cultural resources would ideally be avoided, if any such resources could not feasibly be avoided, they shall be evaluated for their potential historic significance in consultation with the City of Sunnyvale, Caltrans, and the California State Historic Preservation Officer. If the resources are found to be ineligible for any historic register, impacts to such resources would not be considered significant and avoidance would thus not be necessary. If the resources are found to be eligible to the CRHR, they shall be avoided if feasible.

If avoidance is not feasible, project impacts will be mitigated in accordance with the recommendations of the Discovery Plan and the evaluating archaeologist and CEQA Guidelines §15126.4 (b)(3)(C). As set forth in the Discovery Plan, work in the area of any find may be halted until the resource in question is appropriately evaluated.

(c) **Finding:** Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) **Facts Supporting Findings:** The City of Sunnyvale finds that the feasible mitigation measure identified in the Final EIR and articulated above would reduce the project's potential impacts on archaeological resources to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measure CUL-1a that would ensure a less-than-significant impact by requiring 1) that a qualified archaeologist appropriately train construction crews, 2) that all ground disturbing activities are observed by a qualified archaeologist and a Native American monitor, 3) that a qualified archaeologist prepare and adhere to a suitable data recovery plan in the event any archaeological resources are discovered during ground disturbing activities. The City will adopt the measures identified above as conditions of approval of the project, thereby incorporating the measures into the project if the project is approved.

2. **Impact CUL-2:** Construction activities could inadvertently damage paleontological resources beneath the ground surface of the project site. (Less than significant with mitigation.)

(a) **Significant Environmental Effect:** This impact is further described at p. 4.4-9 of the Draft EIR.

(b) **Mitigation Measure CUL-2:** In the event that paleontological resources are encountered during any phase of project construction, all soil-disturbing activity within 100 feet of the find shall be temporarily halted until a qualified paleontologist can assess the significance of the find and provide proper management recommendations. The City shall incorporate all feasible recommendations into the project.

(c) **Finding:** Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) **Facts Supporting Finding:** The City of Sunnyvale finds that the feasible mitigation measure identified in the Final EIR and articulated above would reduce the project's paleontological resource impact to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measure CUL-2 that would ensure a less-than-significant impact by requiring a work stoppage and professional evaluation in the event potential paleontological resources are encountered. The City will adopt the measure identified above as a condition of approval of the project, thereby incorporating the measure into the project if the project is approved.

3. **Impact CUL-3:** Construction activities could inadvertently uncover human remains. (Less than significant with mitigation.)

(a) **Significant Environmental Effect:** This impact is further described at p. 4.4-9-10 of the Draft EIR.

(b) **Mitigation Measure CUL-3:** In accordance with California Public Resource Code Section 5097.98 and California Health and Safety Code 7050.5(b), should any human remains be found on the site at any time during pre-construction or construction activities, shall ensure that no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains shall be disturbed until:

- The County Coroner in which the remains are discovered is contacted and determines that no investigation of the cause of death is required; and if the County Coroner determines the remains to be Native American then:
- The coroner shall contact the Native American Heritage Commission within 24 hours;
- The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased native American; and
- The most likely descendent may make recommendations to the City or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.
- The City or their authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance if the following conditions occur:
- The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission;
- The descendent identified fails to make a recommendation; or
- The City or their authorized representative rejects the recommendation of the descendent, and the mediation by the NAHC fails to provide measures acceptable to the City.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City of Sunnyvale finds that the feasible mitigation measure identified in the Final EIR and articulated above would reduce the project's cultural resource impact to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measure CUL-3 that would ensure a less-than-significant impact by requiring a work stoppage and investigation consistent with state and/or local requirements should human remains be discovered during project construction. The City will adopt the measure identified above as a condition of approval of the project, thereby incorporating the measure into the project if the project is approved.

D. GEOLOGY AND SOILS

1. **Impact GEO-1:** Excavation would be required for the installation of new foundations and footing retrofits that could result in unstable subsurface soil conditions. (Less than significant with mitigation.)

(a) **Significant Environmental Effect:** This impact is further described at p 4.5-12 of the Draft EIR.

(b) **Mitigation Measure GEO-1a:** Prior to construction, the City shall ensure that plans for constructing foundations have been reviewed by a qualified geotechnical engineer. Plans shall reflect the following:

Mitigation Measure GEO-1b: To account for subsurface soil variation and uncertainty, the subgrade of new footing foundations should be over-excavated approximately two to three feet and replaced with Class 2 aggregate base (AB). If soft and loose, saturated native soil deposits are encountered, deeper excavation would be required to expose firm native soils. The AB should be compacted to a minimum of 95 percent relative compaction (Caltrans standard). The exposed native soils should not be allowed to dry before placement of aggregate base and concrete.

Mitigation Measure GEO-1c: All grading and compaction operations should be performed in accordance with the project specifications and Section 19, Earthwork, of Caltrans Standard Specifications (2010).

Mitigation Measure GEO-1d: Any fill materials imported to the project site should be non-expansive, relatively granular material having a Plasticity Index (PI) of less than 15 and a minimum Sand Equivalent (SE) of 10. The maximum particle size of fill material should not be greater than 4 inches in largest dimension. It should also be non-corrosive, free of deleterious material and should be reviewed by the Geotechnical Engineer. In addition, it is recommended that the materials within three feet of the proposed pavement subgrade should have a minimum R-value of 15. The on-site soils may be used as engineered fill, provided they meet the above criteria.

Mitigation Measure GEO-1e: Areas to receive fill should be clean of vegetation, shrubs, trees, and their roots greater than 1.5 inches in diameter. If soft or saturated soils are encountered during site grading, deeper excavation may be required to expose firm soils.

(c) **Finding:** Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) **Facts Supporting Finding:** The City of Sunnyvale finds that the feasible mitigation measures identified in the Final EIR and articulated above would reduce the project's geological impact to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measures GEO-1a through GEO-1e that would ensure a less-than- significant impact by requiring a number of geotechnical controls and practices to minimize the

potential effects of differential settlement. The City will adopt the measures identified above as conditions of approval of the project, thereby incorporating the measures into the project if the project is approved.

E. HAZARDS AND HAZARDOUS MATERIALS

1. **Impact HAZ-1:** Excavation of soils and demolition of existing structures on the site could result in the release of lead, asbestos, and other contaminants. (Less than significant with mitigation.)

(a) **Significant Environmental Effect:** This impact is further described at pp. 4.7-8-9 of the Draft EIR.

(b) **Mitigation Measure HAZ-1:** Because of the potential for exposure to hazardous materials and aerially deposited lead, the following measures shall be taken to avoid any potential adverse effects:

- Prior to construction, a Phase II Environmental Site Assessment (ESA) shall be conducted by a licensed professional to determine the potential presence of metals, and organic compounds in soil and groundwater underlying the project site. In particular, the Phase II ESA shall test for contamination at Areas 1 & 3 of the project site, as identified in Table 4.7-1 and Figure 4.7-1. If contaminants are identified in subsurface soils and/or groundwater of areas intended for excavation and construction, the Phase II ESA shall screen the identified contaminant concentrations relative to applicable environmental screening levels developed by the Regional Water Quality Control Board and the Department of Toxic Substances Control for residential use and construction worker health and safety. If contaminant concentrations are above the applicable screening levels, the Phase II report shall make requirements for remedial actions for the protection of public health and the environment. Given evidence of contamination in the areas that pile foundations are to be constructed at the Northrup Grumman superfund site (Area 3), the groundwater shall be tested for PCBs and volatile organic compounds, including various isomers of di-chloro and tri-chloro benzenes. In the event that groundwater is found to be affected, health and safety provisions shall be put in place and waste management procedures to handle the contaminated water extracted during pile construction shall be developed.
- Where excavation that reaches groundwater (at expected depth of 20 feet), construction dewatering will be required. The contractor shall evaluate the subsurface conditions before selecting a dewatering method. Groundwater should be lowered to at least 2 feet below the bottom of excavation to provide workable condition. All dewatering systems shall be properly designed to prevent pumping soil fines with the discharge water. The contractor shall sample and test the groundwater for soil fines content from the discharge, as needed. If soil fines are pumped, the contractor shall revise dewatering operations. Otherwise, failure of shoring, partial instability of trench bottom resulting in intolerable ground settlement/movement of existing utilities and unsafe working conditions may occur. The contractor shall provide discharge sampling locations for each pump. The contractor is encouraged to perform their own investigation, test program, etc. prior to

construction in order to satisfy their design requirements for an effective dewatering program. The contractor should confirm the design groundwater level (for shoring) prior to actual construction.

- If remedial actions are necessary to address hazardous materials in the soil and/or groundwater, the City shall consult with the appropriate regulatory agencies to ensure sufficient minimization of risk to human health and the environment, both during and after construction, posed by soil contamination and/or groundwater contamination. The City shall obtain and submit written approval documentation for any remedial action, if required by a local, state, or federal environmental regulatory agency prior to project occupancy. Remedial actions may include but are not limited to:
 - ✓ Soil and/or groundwater removal or treatment
 - ✓ Site-specific soil and groundwater management plan
 - ✓ Site-specific health and safety plan signed by a Certified Industrial Hygienist
 - ✓ Risk management plan
 - ✓ Disposal process including transport by a state-certified hazardous material hauler to a state-certified disposal/recycling facility licensed to accept/treat the identified waste.
- The City shall prepare a soil monitoring plan prior to the issuance of permits for demolition or construction and shall implement the plan during all phases of construction. Disturbed soils shall be monitored for visual evidence of contamination (e.g., staining or discoloration). Soil shall be monitored for the presence of VOCs using appropriate field instruments such as organic vapor measurement with photoionization detectors (PIDs) or flame ionization detectors. If the monitoring procedures indicate the possible presence of contaminated soil, a contaminated soil contingency plan shall be implemented that shall include procedures for segregation, sampling, and chemical analysis of soil. Contaminated soil shall be profiled for disposal and shall be transported with appropriate hazardous or non-hazardous waste manifests by a state-certified hazardous material hauler to a state-certified disposal or recycling facility licensed to accept and treat the type of waste indicated by the profiling process. The contaminated soil contingency plan shall be developed and in place during all construction activities. In the event that these processes generate any contaminated groundwater that must be disposed of outside of the dewatering/NPDES process, the groundwater shall be profiled, manifested, hauled, and disposed of in the same manner.
- The pavement markings on roadways in the project site (consisting of yellow paint and possibly thermoplastic stripes) shall also be addressed for safe and appropriate disposal.
- If repair, rehabilitation, or demolition of the Fair Oaks Avenue overhead structure is required, an asbestos-containing materials (ACM) investigation shall be performed by an inspector certified by Asbestos Hazardous Response Act (AHRA) under Toxic Substance Control Act (TSCA) Title II and certified by Cal OSHA under State of California rules and regulations (California Code of Regulations, Section 1529). A lead based paint (LBP) investigation shall also be performed by a state certified contractor. This work shall be performed during the design phase. If hazardous materials are

identified in the survey, they shall be removed from the site and properly disposed of in accordance with CAL/OSHA requirements:

- ✓ Known or suspected asbestos-containing materials shall be abated by a certified asbestos abatement contractor in accordance with BAAQMD regulations and notification requirements.
- ✓ Intact lead-based paint found to be secure (not flaking, peeling or cracked) may be discarded along with demolition debris during the demolition of the structure.
- ✓ Loose and peeling paint shall be disposed of as state and/or federal hazardous waste if the concentration of lead exceeds applicable waste thresholds.
- ✓ Hazardous wastes shall be appropriately managed, labeled, transported, and disposed of by trained workers in accordance with local requirements.
- ✓ The demolition and removal of materials potentially containing lead-based paint would be required to follow the CAL/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR).
- ✓ Other hazardous materials associated with buildings, such as fluorescent lights and electrical switches, shall be disposed of in accordance with DTSC hazardous waste regulations.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City of Sunnyvale finds that the feasible mitigation measure identified in the Final EIR and articulated above would reduce the project's hazardous materials impact to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measure HAZ-1 that would ensure a less-than-significant impact by requiring preparation of and adherence to all recommendations of a Phase II Environmental Site Assessment as prepared by a qualified professional to pertinent industry standards. The measure further sets forth protocols for dewatering and soil monitoring that will be adhered to in addition to any specific recommendations set forth in the Phase II ESA. The City will adopt the measures identified above as conditions of approval of the project, thereby incorporating the measures into the project if the project is approved.

F. NOISE

1. **Impact NOI-1:** Construction activities could temporarily expose persons to or generate noise levels in excess of standards established in the general plan and noise ordinance and would temporarily increase ambient noise levels in the project vicinity. (Less than significant with mitigation.)

(a) Significant Environmental Effect: This impact is further described at pp. 4.8-10-12 of the Draft EIR.

(b) **Mitigation Measure NOI-1a:** Require all construction equipment to conform to Section 14-8.02, Noise Control, of the latest Standard Specifications.

Mitigation Measure NOI-1b: Project construction operations shall be required to use available noise suppression devices and techniques. Per the Sunnyvale Municipal Code, construction activity is permitted between the hours of 7:00 AM and 6:00 PM daily Mondays through Fridays. Saturday hours of operation are between 8:00 AM and 5:00 PM. Unless expressly permitted in advance, no construction activity is allowed overnight, on Sundays, or on national holidays.

Mitigation Measure NOI-1c: Prior to the start of construction, the selected contractor shall prepare for City review and approval 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 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:

Noise Notification Measures:

- Neighbors located adjacent to the construction site shall be notified of the construction schedule in writing.
- The construction contractor shall designate a noise disturbance coordinator that will be responsible for responding to noise complaints during the construction phase. The name and phone number of the noise disturbance coordinator will be conspicuously posted at construction areas and on all advanced notifications.
- The construction contractor shall develop a reporting program that documents complaints received, actions taken to resolve problems, and effectiveness of these actions.
- The construction contractor shall hold a preconstruction meeting with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, construction schedule, and noise coordinator) are completed.

Noise Control Measures:

- All equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be prohibited.
- The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
- The construction contractor shall locate stationary noise sources as far from sensitive receptors as feasible. If they must be located near receptors,

adequate muffling (with enclosures where feasible and appropriate) shall be used. Any enclosure openings or venting shall face away from sensitive receptors.

- The construction contractor shall locate material stockpiles and staging areas as well as maintenance/equipment staging and parking areas as far as feasible from residential receptors.
- The construction contractor shall construct temporary noise barriers to shield significant stationary noise sources (e.g., drill rig while constructing Abutment #1) from nearby receptors. Temporary noise barriers (e.g., solid plywood fences (minimum 8 feet in height) and/or acoustical blankets) could be erected, if necessary, outside the work area or along building facades facing the construction site.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City of Sunnyvale finds that the feasible mitigation measures identified in the Final EIR and articulated above would reduce the project's noise impacts to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible mitigation measures NOI-1a through NOI-1c that would ensure a less-than- significant impact by requiring preparation of and adherence to a detailed construction noise logistics plan as detailed above. The City will adopt the measures identified above as conditions of approval of the project, thereby incorporating the measures into the project if the project is approved.

G. TRAFFIC AND CIRCULATION

1. **Impact TRA-1:** Construction activities could temporarily constrain transit, emergency access, as well as pedestrian and bicycle access through the work area. (Less than significant with mitigation.)

(a) Significant Environmental Effect: This impact is further described at pp. 4.9-12-13 of the Draft EIR.

(b) **Mitigation Measure TRA-1:** Prior to the start of construction, the selected contractor shall prepare and submit for City review and approval a detailed Traffic Control Plan (TCP). The objective of the TCP is to minimize traffic and circulation impacts that construction activities would have on the traveling public and emergency services. The TCP shall address and include, but not be limited to the following elements:

- Early consultation with the City's emergency service Departments and other interested City Staff shall occur and the TCP shall incorporate their respective Department comments and requirements.

- The TCP shall address traffic impacts from staged construction, detours, and specific traffic handling concerns during construction of the project, including both roadway and rail traffic.
- Traffic control strategies that require action by the construction contractor should be presented in the detailed construction plans and should be considered part of the project.
- The TCP shall include the designation of a traffic coordinator who would respond to neighborhood questions and complaints related to traffic and circulation matters. A sign shall be clearly posted on-site with allowed construction hours and with contact information to direct project related questions or complaints related to traffic and circulation.
- The TCP shall include measures addressing the production and dissemination of public outreach materials and other documents, as necessary, to adequately notify and inform motorists, business community groups, local entities, emergency services, and other interested parties of any upcoming road closures and detours during the different Phases of construction.

(c) Finding: Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effects identified in the EIR (14 Cal. Code of Regs. §15091(a)(1).)

(d) Facts Supporting Finding: The City of Sunnyvale finds that the feasible mitigation measure identified in the Final EIR and articulated above would reduce the project's transportation impact to a less-than-significant level. More specifically, the City finds that changes or alterations will be incorporated into the project in the form of feasible Mitigation Measure TRA-1 that would ensure a less-than-significant impact by requiring preparation of and adherence to a Traffic Control Plan to guide activities during all phases of project construction. The City will adopt the feasible mitigation measure identified above as a condition of approval of the project, thereby incorporating the measures into the project if the project is approved.

VII. PROJECT ALTERNATIVES

Legal Requirements: Section 15126.6(f) of the State CEQA Guidelines requires that an EIR 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." Based on the analysis in the EIR, with mitigation, the Project will not be expected to result in any significant impacts.

Chapter 5.0 of the Draft EIR describes the alternatives considered and compares their impacts to the Project. In addition to the project, the Draft EIR evaluated the following alternatives:

Alternative 1 – No Build Alternative

With the No Build Alternative, no bridge rehabilitation work would be implemented. The bridge deck would not be widened, no changes would be made to existing pedestrian and bicycle facilities, and no changes would be made to the intersections of Fair Oaks Avenue with Kifer Road and Evelyn Avenue. The bridge would therefore continue to be considered “structurally

deficient” and most likely would remain on FHWA’s “Eligible Bridge List.” The City recognizes that the current condition of the bridge suggests that its long-term viability may be threatened. The identified conditions of the deck in particular can reasonably be expected to continue to deteriorate unless rehabilitation moves forward. A further downgrading of the bridge’s status would be likely to result without the proposed rehabilitation. Over time, this could result in further deterioration and a subsequent determination that could limit otherwise unrestricted use of the bridge.

Finding: Alternative 1 would in the short-term avoid all of the construction-related environmental effects identified in the Draft EIR. However, Alternative 1 fails to meet any of the basic project objectives insofar as the indefinite postponement of the rehabilitation work would not ensure the long-term safe operation of the bridge. Such indefinite postponement could in turn result in unpredictable and/or accelerated deterioration, which could in turn result in limitations on usage of the bridge, lane closures, or unscheduled emergency repairs. Table 5.1 in the Draft EIR compares the relative impact of each alternative for each environmental resource evaluated. Based on the foregoing, the City of Sunnyvale hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 1 as infeasible and by itself, independent of any other reason, would justify rejection of Alternative 1 as infeasible.

Alternative 2 – Reconstruction of Pedestrian Overcrossing

Alternative 2 was conceived of with the intent of reducing project impacts while adhering to most basic project objectives. Alternative 2 would rehabilitate the bridge, but without the minor deck widening that would allow for expanded bicycle and pedestrian facilities on the bridge itself. Instead, Alternative 2 would entail the separate reconstruction of the pedestrian overcrossing structure. Without the bridge widening and addition of a separated sidewalk on the bridge deck, reconstruction of the pedestrian overcrossing structure would be needed to maintain safe pedestrian access through the area. At present, the pedestrian overcrossing structure has access ramps that are considered too steep to meet standards set forth in the Americans with Disabilities Act (ADA). Alternative 2 would reconstruct the pedestrian overcrossing to achieve ADA compliance.

Finding: Alternative 2 would not include any widening of the bridge deck and thus would reduce both the need for property acquisition (mainly from adjacent commercial areas) and the number of trees that would need to be removed/trimmed as a result of the project. However, Alternative 2 would otherwise result in essentially similar construction period impacts with regard to noise, air quality, cultural resources, geology/soils, and hazardous materials. In addition, some of these effects could be increased under Alternative 2, particularly with regard to any reconstruction of the pedestrian overcrossing southern ramp immediately adjacent to the Heritage Park apartment community. While the proposed project would result in the demolition of this ramp structure, Alternative 2 would entail reconstruction activities, which could bring noise-causing and air pollutant inducing activities closer to the sensitive receptors within the Heritage Park neighborhood. Moreover, Alternative 2 would do little to improve pedestrian wayfinding through the neighborhood. Pedestrian movement through the area would continue to require walking through the parking area of Heritage Park, in which pedestrian visibility is somewhat obscured. In addition, Alternative 2 would be unlikely to significantly reduce the number of pedestrians using the bridge (in spite of the lack of a sidewalk). The City has taken

steps to deter pedestrians from using the bridge in its current state, but the City has continued to observe pedestrians ignoring posted signs to use the pedestrian overcrossing rather than the bridge itself. Finally, the City finds that the existing pedestrian overcrossing, due to its somewhat obscured location, can be an “attractive nuisance” for illicit disposal of garbage, graffiti, and similar activities that dissuade some user groups from using the pedestrian overcrossing. The City of Sunnyvale hereby finds that each of the reasons set forth above would be an independent ground for rejecting Alternative 2 as infeasible and by itself, independent of any other reason, would justify rejection of Alternative 2 as infeasible.

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 identification of the Environmentally Superior Alternative results from a comparison of the impacts associated with each alternative to the project. The No Build/No Project Alternatives would be environmentally superior because they would have the fewest environmental impacts. However, as required by CEQA (CEQA Guidelines Section 15126.6(e)), another alternative must be identified as the Environmentally Superior Alternative. A summary comparison of impacts between the Proposed Project and the alternatives is found in Table 5-1 of Chapter 5 in the Draft EIR, at pp 5-19-33.

Based on the comparison, the proposed Project is the Environmentally Superior Alternative because it would lessen many of the impacts generated by the Project while meeting most of the major project objectives. The proposed Project will enhance the overall safety of the bridge, thus avoiding potentially detrimental long-term impacts that may occur as a result of indefinitely delaying the bridge rehabilitation work. Moreover, the overall level of construction activity would be lower for the proposed Project relative to Alternative 2.

VIII. MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program (“MMRP”) contained in Chapter 4.0 in the Response to Comments on the Draft EIR, at pp 4-2 through 4-2 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.

IX. 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 materials and supporting documents prepared by the City and its consultants, 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 Project EIR (e.g., Notice of Availability).

C. The Draft EIR, the Response to Comments on the Draft 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 September 2014 and March 17, 2015, as well as accompanying technical memos or evidence entered into the record.

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

E. Minutes and transcripts of the discussions regarding the Project and/or Project components at public hearings or scoping meetings held by the City Council.

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

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

X. LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the Council's findings regarding the mitigation measures and statement of overriding considerations are based are located at the office and in the custody of the Sunnyvale Department of Public Works, at 456 West Olive Avenue, Sunnyvale, CA 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).

XI. FILING NOTICE OF DETERMINATION

The Council hereby directs the Department of Public Works to file a Notice of Determination regarding the approval of the Project within five business days of adoption of this resolution.