

DRAFT 7/28/16 RLM

RESOLUTION NO. _____

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, ADOPTING THE MITIGATION AND MONITORING REPORTING PROGRAM, AND STATING OVERRIDING CONSIDERATIONS IN THE APPROVAL OF THE SUNNYVALE WATER POLLUTION CONTROL PLANT MASTER PLAN

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 Program Environmental Impact Report ("DPEIR") and Final Program Environmental Impact Report ("FPEIR", collectively, the "PEIR") has been prepared for and by the City of Sunnyvale for the Sunnyvale Water Pollution Control Plant Master Plan ("the Project") pursuant to CEQA and the CEQA Guidelines; and

WHEREAS, the PEIR addresses the environmental impacts of the Project, which is further described in Sections VI of Exhibit A attached hereto; and

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

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

WHEREAS, a public hearing was held by the City Council on August 23, 2016, regarding the Project and the PEIR, 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 PEIR was considered; and

WHEREAS, by this resolution, the City Council, as the lead agency under CEQA for preparing the PEIR 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 PEIR in connection with the approval of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The City Council hereby finds and certifies that the PEIR has been completed in compliance with CEQA and the CEQA Guidelines; that the PEIR adequately addresses the environmental issues of the Project; that the PEIR was presented to the City Council; that the City Council has reviewed and considered the information contained in the PEIR prior to approving the Project; and that the PEIR 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 Program to be implemented for each mitigation measure, makes the findings, and adopts a statement of overriding considerations 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 above certified PEIR 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.
3. The City Council hereby finds the Master Plan consistent with the City's General Plan and approves and adopts the Master Plan.

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

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CITY OF SUNNYVALE

SUNNYVALE WATER POLLUTION CONTROL PLANT MASTER PLAN

SIGNIFICANT ENVIRONMENTAL EFFECTS, FINDINGS OF FACT, MITIGATION MEASURES, MONITORING PROGRAM, AND STATEMENT OF OVERRIDING CONSIDERATIONS

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, 15093 and 15097 of the CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, *et seq.*, associated with approval of the Sunnyvale Water Pollution Control Plan Master Plan (the "Project"). These findings provide the written analysis and conclusions of the City Council regarding the Sunnyvale Water Pollution Control Plant Master Plan. 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 times, these findings refer to materials in the administrative record, which is available for review in the City's Department of Public Works.

II. PROJECT OBJECTIVES

As noted in the Draft Program Environmental Impact Report for the Project, the City established overall planning objectives for the WPCP Master Plan in 2013. These planning objectives include:

- Develop process improvements to meet current and foreseeable water quality, biosolids, and air quality requirements.
- Identify process improvements that are cost effective, incorporate innovative solutions and technologies, and promote City goals to maximize water recycling opportunities.
- Provide the WPCP with a more reliable power supply through renewable energy generation that provides means to meet future heat and power demands.
- Maximize the use of available space, enhance safety through improved traffic circulation and access, and improve public access to the WPCP while ensuring site security.
- Maintain wastewater operations to meet regulatory standards during the course of implementing the Master Plan improvements.
- Provide flexibility in responding to financial and regulatory uncertainty.
- Maximize the useful life of the existing WPCP facilities in a manner that minimizes rate impacts while maintaining regulatory compliance.
- Incorporate a level of redundancy which provides operations and maintenance flexibility to deal with planned and unplanned process downtime.

- In partnership with other agencies, protect the WPCP from flooding and risks associated with sea level rise.
- Minimize life-cycle costs (capital and operation and maintenance) to City rate payers.

III. PROJECT DESCRIPTION

In the Draft Environmental Impact Report (EIR) for the Sunnyvale Water Pollution Control Plant (WPCP or Plant) Master Plan (Master Plan), the City proposes to approve the *Sunnyvale Water Pollution Control Plant Master Plan* for the Donald M. Somers Water Pollution Control Plant. The proposed Master Plan will serve as a long-term guide for upgrading and replacing the WPCP's facilities and operations. The purpose of the Master Plan is to ensure that the WPCP can meet changing regulations, treat existing and projected wastewater flows reliably and cost-effectively, and increase recycled water production. The Master Plan yielded a preferred site plan and a series of capital improvement projects, including replacement of existing and construction of new facilities, to be phased in over the next 20 or more years at and near the WPCP. Many of the existing buildings and processes at the WPCP site would be decommissioned and replaced with new buildings and processes. Improvements planned outside of the main plant area include construction of basins and tanks for emergency water storage and relocation of Bay Trail access to Caribbean Drive. The Master Plan would be implemented at and near the Sunnyvale WPCP, 1444 Borregas Avenue, Sunnyvale CA.

IV. THE CEQA PROCESS

A draft and a final Program Environmental Impact Report (collectively, the "PEIR") 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 Project. The PEIR for the Project consists of the following:

- A. Draft Program Environmental Impact Report ("DPEIR"), issued February 2016;
- B. All appendices to the DPEIR;
- C. Final Program Environmental Impact Report ("FPEIR"), dated July 2016, containing all written comments and responses on the DPEIR, refinements and clarifications to the DPEIR, the mitigation monitoring and reporting program; and
- D. 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 PEIR:

- A. On June 15, 2015, a Notice of Preparation (NOP) was distributed to 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 PEIR.

- B. On June 24, 2015, the City held two scoping meetings with interested parties for the purpose of receiving comments on the scope of the PEIR.
- C. A Draft Program Environmental Impact Report (DPEIR) was prepared for the Project and was circulated for public review and comment from February 29, 2016 through April 14, 2016. The DPEIR was submitted to the State Clearinghouse for review on February 26, 2016 (State Clearinghouse No. 2015062037). On February 29, 2016, notice of the availability of the DPEIR 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 listed in the legal advertisements in the San Jose Mercury News on February 29, 2016, and the Sunnyvale Sun on March 4, 2016.
- D. On April 14, 2016, all comments received on the PEIR during the public comment period were responded to and included in a Final PEIR, made available for public review on July 12, 2016.
- E. Pursuant to CEQA Guidelines §15088(b), a written response was provided to each public agency on comments made by that public agency at least 10 days prior to the date of this certification.
- F. The Project and the PEIR came before the City Council on August 23, 2016 at a duly and properly noticed public hearing. On this date, the City Council adopted the following findings, Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations.

V. FINDINGS ARE DETERMINATIVE

The City Council certifies that the PEIR 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 PEIR 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 PEIR and resolves that these findings shall control and are determinative of the significant impacts of the Project.

The mitigation measures proposed in the PEIR are adopted in this Exhibit A, substantially in the form proposed in the PEIR, 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 PEIR, as 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 PEIR; describes those mitigation measures recommended in the PEIR; 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 PEIR.

All feasible mitigation measures listed below have been incorporated into the Mitigation Monitoring and Reporting Program ("MMRP"), further described in Section X, 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.

1. Transportation

1.1 Impact. The activities associated with the project would temporarily reduce roadway capacity and increase traffic delays on area roadways, which could conflict with applicable measures of effectiveness for the performance of the circulation system.

Mitigation. The project shall implement the following mitigation measures to reduce impacts related to construction traffic:

MM-TR-1a: As part of pre-construction submittals, the contractor(s) shall submit a truck route plan to the City of Sunnyvale Public Works Department for review and approval to help minimize impacts to adjacent roadways.

MM-TR-1b: The City contractor(s) shall prepare and implement a traffic control plan using the City's Temporary Traffic Control guidelines to reduce traffic impacts on the roadways at and near the work site, as well as to reduce potential traffic safety hazards and ensure adequate access for emergency responders. The City shall coordinate development and implementation of this plan with City departments (e.g., Emergency Services, Fire, Police, Transportation), as appropriate. To the extent applicable, the traffic control plan shall conform to the Caltrans' California Manual on Uniform Traffic Control Devices, Part 6 (Temporary Traffic Control; Caltrans, 2014). The traffic control plan shall include, but not be limited to, the following elements:

- Circulation and detour plans to minimize impacts on local road circulation during road and lane closures. Flaggers and/or signage shall be used to guide vehicles through and/or around the construction zone.
- Controlling and monitoring construction vehicle movement through the enforcement of standard construction specifications by onsite inspectors.
- Sufficient staging areas for trucks accessing construction zones to minimize disruption of access to adjacent public rights-of-way.
- Scheduling truck trips outside the peak morning and evening commute hours to the extent possible.
- Maintaining pedestrian and bicycle access and circulation during project construction where safe to do so. If construction activities encroach on bicycle routes or multi-use paths, advance warning signs (e.g., "Bicyclists Allowed Use of Full Lane" and/or "Share the Road") shall be posted that indicate the presence of such users.
- Identifying detours for bicycles and pedestrians, where applicable, in all areas affected by project construction.
- Implementing roadside safety protocols. Advance "Road Work Ahead" warning and speed control signs (including those informing drivers of State legislated double fines for speed infractions in a construction zone) shall be posted to reduce speeds and provide safe traffic flow through the work zone.
- Coordinating construction with administrators of police and fire stations (including all fire protection agencies), and recreational facility managers. Operators shall be notified in advance of the timing, location, and duration of construction activities and the locations of detours and lane closures, where applicable.
- Storing all equipment and materials in designated contractor staging areas on or adjacent to the worksite, such that traffic obstruction is minimized.

Finding. Implementation of the above PEIR mitigation measure will reduce impacts on the performance of the circulation system to **less than significant** levels.

1.2 Impact. The project would increase traffic safety hazards for vehicles, bicyclists, and pedestrians on public roadways due to roadway design features, incompatible uses, or project-related vehicle trips.

Mitigation. The project shall implement a Temporary Traffic Control Plan (Mitigation Measure MM-TR-1b) to reduce impacts related to traffic safety hazards.

Finding. Implementation of the above PEIR mitigation measure will reduce impacts related to traffic safety hazards to **less than significant** levels.

1.3 Impact. The project could result in inadequate emergency access.

Mitigation. The project shall implement a Temporary Traffic Control Plan (Mitigation Measure MM-TR-1b) to reduce impacts related to emergency access.

Finding. Implementation of the above PEIR mitigation measure will reduce impacts related to emergency access to **less than significant** levels.

1.4 Impact. Implementation of the Master Plan and WPF, in combination with other projects, could result in cumulative impacts related to transportation.

Mitigation. Prior to construction, the City's or District's respective contractor(s) shall develop a Coordinated Transportation Management Plan, and the City/District and its contractor(s) shall work with other projects' contractors and appropriate County and/or City departments (e.g., Emergency Services, Fire, Police, Transportation) as needed to prepare and implement a transportation management plan for roadways adjacent to and directly affected by the Master Plan improvements or the WPF, and to address the transportation impact of the overlapping construction projects within the vicinity of the Master Plan or the WPF in the region. The transportation management plan shall include, but not be limited to, the following requirements:

- Coordination of individual traffic control plans for the Master Plan or WPF with nearby projects.
- Coordination between the contractor and other project contractors in developing circulation and detour plans that include safety features (e.g., signage and flaggers). The circulation and detour plans shall address:
 - Full and partial roadways closures
 - Circulation and detour plans to include the use of signage and flagging to guide vehicles through and/or around the construction zone, as well as any temporary traffic control devices
 - Bicycle/Pedestrian detour plans, where applicable
 - Parking along public roadways

- Haul routes for construction trucks and staging areas for instances when multiple trucks arrive at the work sites
- Protocols for updating the transportation management plan to account for delays or changes in the schedules of individual projects.

Finding. Implementation of the above PEIR mitigation measure will reduce cumulative transportation impacts to **less than significant** levels.

2. Noise and Vibration

2.1 Impact. Demolition and construction associated with the implementation of the WPCP improvements would result in temporary increases in ambient noise levels in the WPCP vicinity above existing noise levels and could generate noise levels in excess of standards established in the City of Sunnyvale General Plan and Municipal Code.

Mitigation. For any Master Plan improvements involving construction activities at, or truck trips to or from, the WPCP between the hours of 6:00 p.m. and 7:00 a.m., the City will incorporate into the contract specifications required compliance with a Construction Noise Logistics Plan developed by the City or its contractor, which will specify hours of construction, identify noise and vibration minimization measures, require posting or notification of construction schedules and hours, and identify a designated noise disturbance coordinator who shall respond to noise complaints. The Plan shall include measures such as, but not limited to the following:

- Consistent with Section 16.08.030 of the Sunnyvale Municipal Code, all noise generating construction activities at the project site shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday and between 8:00 a.m. and 5:00 p.m. on Saturdays as much as possible. There shall be no construction activity at the project site on Sundays and national holidays when city offices are closed. Any critical construction activities that will need to take place outside the hours stated above shall be completed as expeditiously as possible to reduce the duration of the impact. No extreme noise generating activities at the project site shall take place outside the hours listed above.
- Any onsite construction activities that will need to take place outside the above mentioned hours will need prior approval from the City.
- Signs shall be posted at the construction site that include construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City or contractor in the event of problems.
- All construction vehicles and equipment, fixed and mobile, shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use

of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible)

- Construction staging areas shall be located as far as practicable from existing recreational uses so as to cause minimal disruption to these activities.
- Construction traffic to and from the project site shall be routed via designated truck routes that use freeways to the extent possible. Trucks shall not traverse through or adjacent to any residential areas, including along Lawrence Expressway, between the hours of 6:00 p.m. and 7:00 a.m. Preferred access to the site shall be from SR-237 through Caribbean Drive or North Mathilda Avenue.
- Prohibit unnecessary idling of internal combustion engines.

Finding. Implementation of the above PEIR mitigation measure will reduce noise and vibration impacts to **less than significant** levels.

4. Air Quality

3.1 Impact. Implementation of the Master Plan would generate emissions that would conflict with the 2010 Clean Air Plan.

Mitigation. The project shall implement BAAQMD Basic Construction Measures (Mitigation Measure AQ-2a) and BAAQMD Additional Construction Mitigation Measures (Mitigation Measure AQ-2b) to reduce impacts related to consistency with the 2010 Clean Air Plan.

Finding. Construction of the Master Plan would generate emissions in excess of significance levels (described further below), conflicting with the primary goals of the 2010 Clean Air Plan. Implementation of Mitigation Measures AQ-2a and AQ-2b would reduce potential impacts primarily from fugitive dust and, to a lesser extent, from exhaust. While these measures would reduce construction impacts from fugitive dust to a less-than-significant level, they are not likely to reduce emissions from construction equipment exhaust to levels below significance. This impact would remain **significant and unavoidable**.

3.2 Impact. Construction activities associated with Master Plan improvements would generate emissions that could contribute to air quality violations.

Mitigation. The project shall implement the following mitigation measures to reduce impacts related to construction emissions:

MM-AQ-2a: The City shall implement the following applicable BAAQMD Basic Construction Mitigation Measures to reduce emissions of fugitive dust and equipment exhaust:

- 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 offsite shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 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 visible emissions evaluator.
- Post a publicly visible sign with the telephone number and person to contact at the City or City's contractor regarding dust complaints. This person shall respond and the contractor shall take corrective action within 48 hours.

MM-AQ-2b: The City shall implement the following applicable BAAQMD Additional Construction Mitigation Measures Recommended for Projects with Construction Emissions Above the Thresholds to further reduce emissions of fugitive dust and exhaust:

- All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
- Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.
- Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- Minimizing the idling time of diesel powered construction equipment to two minutes.
- The City shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions include the use of newer model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- All construction equipment, diesel trucks, and generators must be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- All contractors must use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.

Finding. Construction of the Master Plan would generate emissions that could contribute to air quality violations. Implementation of Mitigation Measures AQ-2a and AQ-2b would reduce potential impacts for most, but not all, stages of construction. It cannot be substantiated that implementation of Mitigation Measures AQ-2a and AQ-2b would be adequate to reduce the associated impact. This impact would remain **significant and unavoidable**.

3.3 Impact. Implementation of the Master Plan would have a considerable contribution to cumulative air quality impacts in the region.

Mitigation. No mitigation was identified for the cumulative impact on air quality in the region.

Finding. Insufficient information is currently available about the nature of construction activities associated with some stages of Master Plan construction, and emissions of criteria pollutants during construction of these stages could be significant even with mitigation. Therefore, the Master Plan's construction emissions would be cumulatively considerable. This impact would remain **significant and unavoidable**.

5. Biological Resources

4.1 Impact. The Master Plan could result in the loss of or damage to special-status plants.

Mitigation. The project shall implement the following mitigation measures to reduce impacts special-status plants:

MM-BIO-1a:

- Within 2 years prior to initial ground disturbance for activities outside the main plant fenceline, the City will retain a qualified biologist, or require the contractor to retain a qualified biologist, to conduct protocol-level surveys for Congdon's tarplant in suitable habitat in, and within 50 feet of, the proposed construction footprint. These surveys will be conducted in accordance with the protocols established by the CDFW and CNPS, and shall coincide with the bloom period for the species (May through November).
- If Congdon's tarplant is present in the survey area, the City contractor will avoid impacts on individuals of this species to the extent feasible during implementation of the Master Plan.
- If Congdon's tarplant is present near the limits of disturbance, the City contractor will maintain a buffer free from construction-related activities around the tarplant occurrence; this buffer will be at least 50 feet if feasible, but large enough to avoid indirect impacts such as dust mobilization and alteration of hydrology. The City contractor shall demarcate the buffer in the field with orange fencing. No equipment or vehicles shall be permitted within the buffer area during construction.
- If 15 percent or more of the known population of Congdon's tarplant within five miles of the Master Plan area at the time of impact would be affected by the Master Plan, the City will provide compensatory mitigation. To compensate for loss of individual Congdon's tarplants, offsite habitat either occupied by the species or suitable for restoration to support the species and revegetated with this species (such as Sunnyvale Baylands Park) shall be preserved and managed in perpetuity at a minimum 1:1 mitigation ratio (at least one plant preserved for each plant affected). Seeds from the affected population shall be collected and used to seed the mitigation area.

MM-BIO-1b:

- The City will retain a qualified biologist, or require the contractor to retain a qualified biologist, to develop an Invasive Species Management Plan to reduce the presence and spread of non-native, invasive plant species in the Master Plan area. The Invasive Species Management Plan shall be developed prior to any grading or import of fill material outside of, or within 20 feet of the western and northern sections of the main

plant fenceline. Once a concrete flood wall is built around the facility, no invasive species management will be necessary for project activities within the main plant fenceline. The overarching goal of this mitigation is to halt the further expansion of existing invasive species and introduction of new invasives into sensitive habitats in project areas. The Invasive Species Management Plan shall include, but not be limited to, the following:

- Prior to construction outside of, or within 20 feet of the western and northern sections of, the main plant fenceline, the extent and locations of invasive species occurrences will be mapped within all areas proposed to be graded, including access roads and staging areas, and within all sensitive habitats (e.g., wetlands) across the project areas.
- Areas identified to have weed infestations shall be treated prior to ground disturbance according to weed control methods detailed below:
 - Weed control treatments shall include all legally permitted herbicide, manual, and mechanical methods approved for application. The application of herbicides shall be in compliance with all state and federal laws and regulations under the prescription of a Pest Control Advisor (PCA), where concurrence has been provided by the City of Sunnyvale, and implemented by a Licensed Qualified Applicator. Herbicides shall not be applied during or within 72 hours of a scheduled rain event. Where manual and/or mechanical methods are used, disposal of the plant debris will take place at an appropriate offsite location. The timing of the weed control treatment shall be determined for each plant species with the goal of controlling populations before they start producing seeds and/or encroach into adjacent areas from rhizomatous shoots. Consultation with a qualified wildlife biologist and plant ecologist shall be required prior to weed control treatments in sensitive habitats with the intent of avoiding any adverse impacts on special-status species in the area.
 - Surveying and monitoring for weed infestations shall occur over the course of any grading operations outside of, or within 20 feet of the western and northern sections of, the main plant fenceline. Treatment of all identified weed populations shall occur at a minimum of once annually.
 - Once grading ceases, invasive plant populations within all sensitive habitats (such as wetlands) that are not impacted, but that are within 200 feet of grading/construction areas located outside of or within 20 feet of the western and northern sections of the main plant fenceline, shall be mapped and the areal extent and location of invasive populations documented. Sensitive habitats include portions of the Sunnyvale West Channel, the Cargill Channel, Ponds 1 and 2, and SCVWD Pond A4. This shall occur on an annual basis for

a minimum of 3 years following grading operations.

- If, in any monitoring year, the size of existing populations within sensitive habitats expands by 20 percent or more in terms of surface area in comparison to the population size documented prior to construction, the weed control measures described above shall be implemented (inter-annual variation due to climate differences may account for as much as 10 percent of change).
- During construction activities located outside of or within 20 feet of the western and northern sections of the main plant fenceline, all seeds and straw materials used on site shall be weed-free rice straw, and all gravel and fill material shall be certified weed free.
- During construction activities located outside of or within 20 feet of the western and northern sections of the main plant fenceline, vehicles and all equipment shall be washed (including wheels, undercarriages, and bumpers) before entering the project areas adequately to ensure that weed seeds from other sites are not transported to these construction areas. Vehicles shall be cleaned at existing construction yards or legally operating car washes. In addition, tools such as chainsaws, hand clippers, pruners, etc., shall be washed before entering the work areas.

Finding. Implementation of the above PEIR mitigation measure will reduce impacts related to special-status plants to **less than significant** levels.

4.2 Impact. The Master Plan could result in the loss of or damage to special-status wildlife species.

Mitigation. The project shall implement the following mitigation measures to reduce impacts special-status wildlife:

MM-BIO-2a: The City will retain, or require the contractor to retain, a qualified biologist to conduct mandatory contractor/worker environmental awareness training for all construction personnel working on project activities outside of the main plant, including but not limited to Ponds 1 and 2, the diurnal equalization and emergency storage basins, channel levees, and the Bay Trail parking relocation area. The awareness training will be provided to all construction personnel to brief them on the potential for special-status species to occur on the site, the need to avoid effects to special-status species and their habitats, and all project mitigation measures pertaining to biological resources and water quality. If new construction personnel are added, the contractor will ensure that the personnel receive the mandatory training before starting work. A representative will be appointed during the employee education program to be the contact for any employee or contractor who might inadvertently kill or injure a special-status species or who finds a dead, injured, or entrapped individual. The representative's name and telephone number will be provided to the City prior to the initiation of construction activities outside of the main plant.

MM-BIO-2b: The following measures will be incorporated into the construction stormwater pollution prevention plan and implemented during construction of Master Plan improvements to avoid or minimize impacts on water quality:

- Earth-moving in areas draining directly to wetlands and aquatic habitats will not occur during days when rain is occurring or predicted to occur (i.e., greater than 40 percent chance) during the work period. This measure applies to all Project areas with potential to drain directly to wetlands or aquatic habitats, particularly in or adjacent to the Southeast Channel, the Sunnyvale West Channel, the Cargill Channel, Ponds 1 and 2, and SCVWD Pond A4.
- All permit conditions, legal requirements, and appropriate dredging and engineering practices shall be followed to avoid and minimize water quality impacts associated with Master Plan activities. Suitable erosion control, sediment control, source control, treatment control, material management, and stormwater management BMPs will be implemented consistent with the latest edition of the California Stormwater Quality Association “Stormwater Best Management Practices Handbook,” available at www.capmphandbooks.com.
- Spill prevention kits shall always be in close proximity when using hazardous materials (e.g., crew trucks and other logical locations). Feasible measures shall be implemented to ensure that hazardous materials are properly handled and the quality of aquatic resources is protected by all reasonable means when removing vegetation and sediments from the channels.
- No fueling shall be done in areas immediately adjacent to (i.e., within 50 feet of) channels, ponds, or wetlands. For stationary equipment that must be fueled on site, containment shall be provided in such a manner that any accidental spill of fuel shall not be able to enter the water or contaminate sediments that may come in contact with water. Any equipment that is readily moved out of the channels, ponds, or wetlands shall not be fueled in these sensitive habitat areas or the immediate floodplains surrounding them.
- A hazardous materials management/fuel spill containment plan will be developed and implemented by the construction contractor and given to all contractors and biological monitors working on the Master Plan, with at least one copy of the plan located onsite at all times. The purpose of the plan is to provide onsite construction managers, environmental compliance monitors, and regulatory agencies with a detailed description of hazardous materials management, spill prevention, and spill response/cleanup measures associated with the construction of Master Plan elements. The primary objective of the plan is to prevent a spill of hazardous materials. Elements of the plan will include, but are not limited to the following:

- A discussion of hazardous materials management, including delineation of hazardous material and hazardous waste storage area, access and egress routes, waterways, emergency assembly areas, and temporary hazardous waste storage areas;
 - Materials Safety Data Sheets for all chemicals used and stored on site;
 - An inventory list of emergency equipment;
 - Spill control and countermeasures including employee spill prevention/response training;
 - Notification and documentation procedures; and
 - A monthly reporting plan.
- Vehicles will be checked daily for oil or fuel leaks and will be washed only at an approved area as described above for Mitigation Measure BIO-1b. No washing of vehicles will occur in Master Plan areas located outside of the main plant fenceline.
 - The work site, areas adjacent to the site, and access areas will be maintained in an orderly condition, free and clear from debris and discarded materials. This measure includes all Master Plan areas located outside of the main plant fenceline. Personnel will not sweep, grade, or flush surplus materials, rubbish, debris, or dust onto adjacent areas or waterways. Upon completion of work, all building materials, debris, unused materials, concrete forms, and other construction-related materials will be removed from the Master Plan areas located outside of the main plant fenceline.
 - Stockpiled materials outside of the main plant fenceline will be covered by plastic sheeting, tarps, or similar material that can be secured during wind and rain. A sediment fence or berm will be installed around stockpiled dredged material to prevent runoff from transporting sediment into sensitive habitats (such as the channels, ponds, and wetlands). Heavy equipment will not be operated in the active channels or within wetland habitats, but instead from existing hardscape, access roads, and levees.
 - Water conservation methods will ensure that water used in the Master Plan area does not create surface flows capable of carrying pollutants to the nearby creek channel. All personnel, including sub-contractors will be instructed on the practical methods of preventing leaks or over-use of watering, and will be required to adhere to the practices in the detail sheets provided. Woody debris from tree trimming and other activities will not be left in the active channels or in wetland habitats.
 - In-channel vegetation removal may result in increased local erosion in the channels due to increased flow velocity. To minimize such erosion, the toe of the bank will be

protected by leaving vegetation within the channel to the maximum extent practicable.

- Cofferdams or silt fencing will be used to the extent feasible during construction and maintenance activities that could potentially result in substantial siltation of open water. For any work within aquatic or wetland habitats, such as Ponds 1 and 2 or the Cargill Channel, silt curtains will be installed to prevent suspended sediments from migrating out of the immediate work area, and dredging will be conducted on incoming tides to the extent feasible to further reduce the potential for sediment mobilization outside the Master Plan area. Dredging within aquatic or wetland habitats will be conducted with a closed clamshell-style dredge to reduce the amount of suspended sediment produced. Dredge volumes will be documented to ensure compliance with and adequate performance of these measures.

MM-BIO-2c: The following measures will be implemented during construction of the Master Plan to avoid or minimize impacts on special-status fish species:

- Impacts on tidal waters where special-status fish and Essential Fish Habitat may occur will be minimized to the extent feasible.
- Construction activities in, or directly adjacent to, waters where green sturgeon, longfin smelt, steelhead, or Chinook salmon may be present will be performed between June 1 and November 30. These waters include but are not limited to the Moffett Channel and the Sunnyvale West Channel.
- Activities that extend into the waters where special-status fish may be present, such as levee breaching for active restoration of Ponds 1 and 2, will be performed at low tide and/or under de-watered conditions, to the extent practicable.
- If pile driving or installation of temporary sheet piles is necessary during construction or restoration activities outside of the main plant fenceline, such as for earthwork, foundations, or dewatering, then pile driving will be performed using a vibratory hammer to minimize the potential effects of noise and pressure-waves on fish.
- National Marine Fisheries Service personnel will be immediately notified of any observed fish mortality events associated with Master Plan activities.
- Tidally restored ponds will contain channels that are adequate for the ingress and egress of fish with tidal circulation to avoid fish stranding.
- Treated wood will not be used in structures that may come into contact with water.

MM-BIO-2d: The following measures will be implemented to avoid and minimize impacts on western pond turtles in portions of the Master Plan area outside of the main plant fenceline, particularly in or near the Sunnyvale West Channel:

- Impacts on aquatic habitat of the western pond turtle, such as the Sunnyvale West Channel, will be minimized to the extent feasible.
- A qualified biologist shall conduct a survey for western pond turtles and their nests immediately (i.e., within 2 hours) prior to commencement of work along the Sunnyvale West Channel. If a western pond turtle is found in an area where it could be injured or killed by Master Plan improvement activities, the biologist will relocate the turtle to an appropriate site outside the construction disturbance area.
- Following the initial survey, a construction crewmember who has been trained to identify western pond turtles by a qualified biologist shall conduct a survey of the work area along the Sunnyvale West Channel area each morning prior to the onset of construction activities. If a turtle is located, all work in the vicinity shall immediately cease, and a qualified biologist shall be contacted. Work within the area shall not resume until the turtle has been relocated or has moved on its own out of the construction disturbance area.
- If an active western pond turtle nest is detected within the activity area, a 25 foot-buffer zone around the nest will be established and maintained during the nesting season (April 1 through August 31) until the young have left the nest or it is no longer active due to predation, as determined by a qualified biologist.

MM-BIO-2e: The following measures will be implemented to avoid and minimize impacts on burrowing owls in the Master Plan area, particularly on the closed landfill and along the Sunnyvale West Channel but also including areas within the main plant fenceline that may support ground squirrel burrows:

- Preconstruction surveys for burrowing owls will be conducted by a qualified biologist prior to all construction activities that occur within 250 feet of potential burrowing owl habitat on the closed landfill or along the Sunnyvale West Channel, in conformance with CDFW protocols. This measure applies to construction activities inside of the main plant fenceline only where ground squirrel burrows are present or for those activities located within 250 feet of suitable burrowing owl habitat on the closed landfill or Sunnyvale West Channel. The final survey will occur no more than 2 days prior to the start of any ground-disturbing activity such as clearing and grubbing, excavation, or grading, or any similar activity within 250 feet of suitable habitat that could disturb nesting owls. If no burrowing owls are located during these surveys, no additional action would be warranted. However, if burrowing owls are located on or immediately adjacent to impact areas, the following measures would be implemented.
- If burrowing owls are present during the nonbreeding season (generally 1 September to 31 January), the City/contractor would maintain a 150-foot buffer zone, within which no new Master Plan-related activity would occur, around the occupied

burrow(s) if feasible. However, this buffer distance would not apply to existing operations and maintenance activities in the main plant. A reduced buffer distance is acceptable during the nonbreeding season as long as construction avoids direct impacts on the burrow(s) used by the owls. During the breeding season (generally 1 February to 31 August), a 250-foot buffer, within which no new Master Plan-related activity would be permissible, would be maintained between Master Plan activities and occupied burrows. Owls present at burrows on the site after 1 February would be assumed to be nesting on or adjacent to the site unless evidence indicates otherwise. This protected area would remain in effect until 31 August, or based upon monitoring evidence, until young owls are foraging independently or until the nest is no longer active.

- In the unlikely event that an occupied burrowing owl burrow is within the construction footprint (e.g., on the bank of a levee), and the burrow cannot be avoided, the owl will be evicted from the burrow by a qualified biologist using one-way doors. The biologist will leave the one-way doors in place for at least 48 hours, checking them daily to ensure that they are functioning properly. If the biologist cannot be certain that the owl is outside the burrow (e.g., if the one-way doors were installed when the owl was inside the burrow and the owl cannot be detected outside later), then the burrow will be excavated by hand prior to being filled to ensure that no owl is trapped inside. Otherwise, the burrow will be backfilled after the owl has been evicted. No burrowing owls will be evicted from burrows during the nesting season unless evidence indicates that nesting is not actively occurring (e.g., because the owls have not yet begun nesting early in the season, or because young have already fledged late in the season).

MM-BIO-2f: The following measures will be implemented for activities outside of the main plant fenceline to avoid and minimize impacts on California Ridgway's rails and California black rails, particularly in tidal marsh habitats associated with the Moffett Channel:

- Impacts on tidal wetland habitat of these species will be minimized to the extent feasible. Tidal wetland habitat for these species occurs in the northern portions of the Master Plan area, in association with the Moffett Channel. Suitable tidal wetland habitat for these species is not present within the main plant fenceline.
- To avoid causing the abandonment of an active nest, construction activities within 700 feet of vegetated tidal marsh providing suitable breeding habitat for Ridgway's rails or black rails (i.e., the area along Moffett Channel where the marsh begins to widen just upstream from its confluence with Guadalupe Slough, or the large marsh area along Guadalupe Slough north of Pond 1) will be avoided during the breeding season from February 1 through August 31 unless protocol-level surveys are conducted to determine rail locations and territories the same year in which those

construction activities occur. If breeding Ridgway's rails or black rails are determined to be present, activities will not occur within 700 feet of areas in which Ridgway's rails or black rails were heard calling during protocol-level surveys. If the intervening distance across a major slough channel (e.g., Moffett Channel or Guadalupe Slough) or across a substantial barrier between the locations of rail detections and any construction activity area is greater than 200 feet, then it may proceed at that location within the breeding season. Aside from continued use of recreational trails established prior to the start of the breeding season (which may continue), only routine inspection, maintenance, or monitoring activities that have little potential for effects on rails due to their short durations, distance from rail habitat, or low-magnitude effects may be performed during the breeding season in areas within or adjacent to rail breeding habitat. Otherwise, with USFWS and CDFW approval on a case-by-case basis, construction activities may take place after July 15 in a given area if the activity is thought to be minimally disturbing to breeding rails.

- The extent of impacts on tidal marsh will be clearly demarcated in the field, and no impacts (including construction access) will occur outside those limits.
- Silt fencing or similar material will be installed between all areas of earth-moving and marsh outside the impact area to prevent dirt and other materials from entering marsh areas that are not intended to be affected.
- No animals can be brought to the project site to avoid harassing, killing, or injuring wildlife.
- The project site will be maintained trash-free, and food refuse will be contained in secure bins and removed daily during construction and dredging.
- Nighttime work near tidal marsh habitat will be avoided to the extent feasible. If nighttime work cannot be avoided, lighting will be directed to the work area and away from tidal marsh habitat.

MM-BIO-2g: The following measures will be implemented for activities outside of the main plant fenceline to avoid and minimize impacts on the salt marsh harvest mouse and salt marsh wandering shrew, particularly in marsh habitat associated with the Moffett Channel:

- Impacts on pickleweed and wetland habitat that may support these species will be minimized to the extent feasible. Wetland habitat that may support these species occurs in the northern portion of the Master Plan area, in association with the Moffett Channel and the Cargill Channel. No suitable habitat for these species occurs within the main plant fenceline.
- To avoid the loss of individual harvest mice or wandering shrews from any excavation, fill, or construction activities in suitable habitat, vegetation removal and

fill in marsh habitats, including the Moffett Channel and the Cargill Channel, will be limited to the minimum amount necessary to implement the Master Plan improvements. Wherever feasible, sufficient pickleweed habitat will remain adjacent to the activity area to provide refugia for displaced individuals.

- In areas where salt marsh harvest mice or wandering shrew habitat will be affected, vegetation and debris that could provide cover for mice will be removed using only hand tools at least three weeks prior to the commencement of construction activities. Vegetation removal will occur under the supervision of a qualified biologist. The vegetation will be removed on a progressive basis, such that the advancing front of vegetation removal moves toward vegetation that would not be disturbed. In some cases, temporary shelter consisting of dead vegetation may be positioned to provide escape routes to suitable habitat. A qualified biologist will monitor the vegetation removal and make specific recommendations with respect to the rate of vegetation removal (to ensure that any harvest mice or wandering shrews present are able to escape to cover that will not be affected), whether vegetation needs to remain in a certain area temporarily to facilitate dispersal of mice into habitat outside the impact area, and whether any berms are necessary to allow mice or shrews to disperse across wetted channels.
- Following the hand-removal of vegetation in areas where these species may be affected, exclusion fencing will be erected as needed between construction areas and harvest mouse/wandering shrew habitat that is to remain unaffected to define and isolate protected habitat for these species. This fencing will consist of heavy plastic sheeting or metal material that cannot be climbed by harvest mice or wandering shrews, or similar Resource Agency-approved exclusion materials, buried at least 4 inches below the ground's surface and with at least 1 foot (but no more than 4 feet) above the ground. All supports for the fencing will be placed on the inside of the work area. A 4-foot buffer will be maintained free of vegetation around the outside of the exclusion fencing. The fencing will be inspected daily during construction, and any necessary repairs will be made within 24 hours of when they are found. If any breaks in the fencing are found, a qualified biologist will inspect the work area for salt marsh harvest mice or wandering shrews. If any individual harvest mice are found within the impact footprint, they will be allowed to move on their own (although shrews may be relocated by a qualified biologist) to vegetated areas outside the impact footprint.
- During construction in areas where salt marsh harvest mice and wandering shrews may be affected, a qualified biologist will check underneath vehicles and equipment for these species before such equipment is moved during each day of construction, unless the equipment is surrounded by exclusion fencing. Based on current design concepts, the Master Plan is expected to affect approximately 1.5 acres of tidal

coastal brackish marsh (in the Moffett Channel) and another 0.5 acre of non-tidal salt marsh (in the Cargill Channel) that could potentially support these species through raising (and as a result widening) an access road and construction of a new pipeline segment to the diurnal equalization basins. To compensate for these habitat impacts, the City will provide mitigation through a combination of (a) the purchase of credits in an approved conservation bank that provides habitat suitable for use by these species and/or (b) tidal marsh habitat restoration onsite or offsite. Owing to the relatively low quality of habitat provided by the wetlands to be affected by Master Plan activities, this mitigation will be provided at a minimum ratio of 1:1 (mitigation:impact) on an acreage basis. This mitigation can be provided using the same mitigation area as described in Mitigation Measure BIO-3b for wetlands as long as the habitat is suitable for the salt marsh harvest mouse and salt marsh wandering shrew and provides vegetated wetlands adequate to compensate for impacts on these species' habitats at a 1:1 ratio.

Prior to construction, the City will purchase credits from an approved conservation bank and/or prepare a Habitat Mitigation and Monitoring Plan (HMMP) describing the proposed creation of mitigation habitats that will satisfy the mitigation requirements. Impacts on habitat of the salt marsh harvest mouse and salt marsh wandering shrew may not commence until the adequate credits in a conservation bank have been purchased and/or the City prepares the HMMP. The HMMP will be prepared by a qualified restoration ecologist and will include the following:

- A summary of impacts on these species' habitats and the proposed mitigation acreage
- Goals of the restoration to achieve no net loss of habitat functions and values for these species
- The location of the mitigation site and description of existing site conditions
- Mitigation design:
 - Existing and proposed site hydrology, geomorphology, and geotechnical stability, if applicable
 - Grading plan if appropriate, including bank stabilization or other site stabilization features
 - Soil amendments and other site preparation elements as appropriate
 - Planting plan
 - Irrigation and maintenance plan
 - Construction schedule
- Monitoring plan (including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule,

etc.). Performance criteria will include demonstration of the presence of appropriate vegetation for these species within 10 years of mitigation implementation and presence of at least one of these two small mammal species within 10 years of the establishment of appropriate vegetated habitat.

- A contingency plan for mitigation elements that do not meet performance or final success criteria; this plan will include specific triggers for remediation if performance criteria are not being met.

MM-BIO-2h: The following measures will be implemented throughout the Master Plan area to minimize impacts on nesting San Francisco common yellowthroat, Alameda song sparrow, and other native bird species:

- Nesting deterrence can be implemented to minimize the potential for nesting birds to constrain project activities or to be adversely affected by those activities. The most effective nesting deterrence in non-developed portions of the main plant is vegetation removal to remove nesting substrate. Vegetation that is to be affected by the project should be removed during the nonbreeding season (i.e., September 1 through January 31) if feasible. If necessary, removal of nest-starts (incomplete nests that do not yet contain eggs or young) by qualified biologists may occur during the breeding season. Such nest-start removal may begin early in the breeding season (e.g., February) and continue regularly until vegetation can be removed and construction commences. Some species, such as barn swallows or black phoebes, may establish nests on buildings or other structures. To deter birds from nesting on structures, netting or other deterrence devices may be installed to preclude birds from constructing nests. Such nesting deterrence should be implemented under the supervision of qualified biologists in order to prevent death or injury of birds as a result of improperly installed deterrence devices, and such devices will require regular maintenance to ensure that they are functioning properly.
- Prior to commencement of new activities (i.e., activities that are not currently ongoing in any given area) during the breeding season (February 1 through August 31), preconstruction surveys will be conducted by a qualified biologist no more than 7 days prior to the initiation of new disturbance in any given area to ensure that no active nests of species protected by the Migratory Bird Treaty Act or California Fish and Game Code will be disturbed during Master Plan implementation. During this survey, the biologist will inspect all potential nesting habitats (e.g., trees, shrubs, buildings, and various substrates on the ground) in the project area for nests. This survey will include suitable nesting substrates both within and outside the main plant fenceline. Surveys will be conducted within search radii corresponding to disturbance-free buffer zones described below for raptors (300 feet) and non-raptors

(100 feet), including offsite areas adjacent to the Master Plan area (where such areas are accessible and are contained in the buffer zones).

- If an active nest is found, a qualified biologist will determine the extent of a disturbance-free buffer zone to be established around the nest until nesting has been completed. Disturbance-free buffer zones are typically 300 feet for raptors and 100 feet for non-raptors, although factors such as existing disturbance and vegetation or structures that screen construction activities from a nest will be considered in determining the appropriate buffer. Nests will be considered active until surveys conducted by a qualified ornithologist confirm nesting is complete. However, construction within these radii may proceed if, based on monitoring of the birds behavior, a qualified biologist determines that such activities are not likely to result in the abandonment of the nest. Per CDFW recommendations, monitoring will be conducted as follows:
 - A qualified biologist will monitor activity at each nest for three days prior to the onset of construction activities to develop a baseline of the normal behavior of the birds attending the nest. If the behavior observed at the nest is consistent on Days 1 and 2 of monitoring, Day 3 of monitoring may be skipped.
 - A qualified biologist will monitor activity at each nest for 8 hours on the first day that construction occurs within the standard buffer (e.g., within 100 feet of a non-raptor nest). If the biologist determines that the birds' behavior is not adversely affected, Master Plan activities may continue. The biologist should continue to monitor the nests for 1 hour/day on any day when construction activities occur within the standard buffer around an active nest.
 - If at any time the biologist determines that Master Plan activities within the standard buffer is adversely affecting the behavior of the birds such that the nest is in jeopardy of failing, construction activities should retreat to honor the standard buffer until the nest is no longer active (i.e., the young have fledged).

Finding. Implementation of the above PEIR mitigation measures will reduce impacts related to special-status wildlife to **less than significant** levels.

4.3 Impact. The Master Plan could result in the loss of or damage to open water and wetland habitats that are considered Waters of the U.S. and/or State.

Mitigation. The project shall implement the following mitigation measures to reduce impacts on open water and wetland habitats that are considered Waters of the U.S. and/or State:

MM-BIO-3a:

- Detailed design of WPCP improvements for the Master Plan will avoid and minimize impacts on open water and wetland resources to the extent feasible.
- If open water and wetland habitats are present within 100 feet or less of the limits of disturbance in the Master Plan area, avoidance buffers shall be maintained between those habitats and construction areas that drain directly to them. These buffers should be at least 50 feet for general construction activities and 100 feet for grading, to the extent feasible. The avoidance buffers shall be designated as Environmentally Sensitive Areas and clearly identified in the field using orange fencing. No equipment, vehicles, or personnel are permitted within Environmentally Sensitive Areas. Environmentally Sensitive Areas shall be shown on Project plan sets. All Environmentally Sensitive Area fencing shall be maintained intact and in good condition throughout the duration of construction.
- Any temporarily affected aquatic and wetland habitats will be restored to preconstruction elevations and contours, and temporarily affected wetlands will be revegetated using native plant species appropriate for the salinity, elevation, and location of the affected area.

MM-BIO-3b: The City shall obtain permits from the USACE, RWQCB, and CDFW as needed to obtain authorization to affect jurisdictional waters. In order to ensure that the proposed Master Plan results in no net loss of wetland and aquatic habitat functions and values, the City shall compensate for the permanent loss of jurisdictional wetland and aquatic habitats through a combination of on-site and/or off-site restoration/creation and protection and enhancement of wetland habitat. The size and location(s) of the area(s) to be restored/created will be determined based on appropriate mitigation ratios derived in consultation with USACE, RWQCB, and CDFW, but the amount of compensatory mitigation provided shall be at least 1:1 (i.e., at least equivalent to the acreage of jurisdictional wetlands and other waters permanently affected). Prior to construction, the City of Sunnyvale will purchase credits from a mitigation bank approved by the applicable resource agencies and/or prepare a Mitigation and Monitoring Plan describing the proposed creation of mitigation wetlands that will satisfy the mitigation requirements. Impacts on jurisdictional wetlands and other waters may not commence until the adequate credits in a mitigation bank have been purchased and/or the City of Sunnyvale prepares the Mitigation and Monitoring Plan.

The Mitigation and Monitoring Plan will be prepared by a qualified restoration ecologist and will include the following:

- A summary of wetland impacts and the proposed wetland creation mitigation
- Goals of the restoration to achieve no net loss of habitat functions and values
- The location of the mitigation site and description of existing site conditions

- Mitigation design:
- Existing and proposed site hydrology, geomorphology, and geotechnical stability, if applicable
- Grading plan if appropriate, including bank stabilization or other site stabilization features
- Soil amendments and other site preparation elements as appropriate
- Planting plan
- Irrigation and maintenance plan
- Construction schedule
- Monitoring plan (including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.). Performance criteria will include the establishment of wetland vegetation on any vegetated wetland mitigation area within 5 years of mitigation implementation.
- A contingency plan for mitigation elements that do not meet performance or final success criteria within 5 years; this plan will include specific triggers for remediation if performance criteria are not being met.

Finding. Implementation of the above PEIR mitigation measures will reduce impacts on open water and wetland habitats that are considered Waters of the U.S. and/or State to **less than significant** levels.

4.4 Impact. The Master Plan could result in the loss of or damage to protected trees.

Mitigation. The project shall implement the following mitigation measures to reduce impacts on protected trees:

MM-BIO-4a: During detailed design of Master Plan activities, either within or outside the main plant fenceline, ordinance-sized trees will be avoided to the extent feasible. If it is determined during detailed design that impacts on some trees can be avoided, a construction-phase Tree Preservation Plan shall be prepared by a certified arborist prior to initiation of construction to describe how trees that will not be removed will be protected. The construction-phase Tree Preservation Plan shall include the following tree protection measures, which are based on guidelines established by the International Society for Arboriculture:

- Establish an area surrounding individual trees or groups of trees to be protected during construction as defined by a circle concentric with each tree with a radius 1-1/2 times the diameter of the tree canopy drip line. This Tree Protection Zone is established to protect the tree trunk, canopy and root system from damage during construction activities and to ensure the long-term survival of the protected trees. The

Tree Protection Zone shall: (1) ensure that no structures or buildings, that might restrict sunlight relative to the existing condition, will be constructed in proximity to the trees; and (2) that no improvements are constructed on the ground around the tree within the Tree Protection Zone, thus ensuring that there is sufficient undisturbed native soil surrounding the tree to provide adequate moisture, soil nutrients and oxygen for healthy root growth.

- Protect tree root systems from damage caused by (a) runoff or spillage of noxious materials while mixing, placing, or storing construction materials and (b) ponding, eroding, or excessive wetting caused by dewatering operations through use of the following measures during excavation and grading:
 - Excavation: Do not trench inside tree protection zones. Hand excavate under or around tree roots to a depth of 3 feet. Do not cut main lateral tree roots or taproots. Protect exposed roots from drying out before placing permanent backfill.
 - Grading: Maintain existing grades within tree protection zones. Where existing grade is 2 inches or less below elevation of finish grade, backfill with topsoil or native site soil. Place fill soil in a single uncompacted layer and hand grade to required finish elevation.
 - Apply 6-inch average thickness of wood bark mulch inside tree protection zones. Keep mulch 6 inches from tree trunks.
- Provide 48-inch tall orange plastic construction fencing fastened to steel T-posts, minimum six (6) feet in length, using heavyweight plastic ratchet ties. Install fence along edges of tree protection zones before materials or equipment are brought on site and construction operations begin. Maintain fence in place until construction operations are complete and equipment has been removed from site.
- Provide temporary irrigation to all trees in protection zones that may have important root systems impacted by construction.

MM-BIO-4b: At the discretion of the Director of Community Development, the City will either replace any removed protected trees at a 1:1 ratio or pay an in-lieu fee into a fund.

Finding. Implementation of the above PEIR mitigation measures will reduce impacts protected trees to **less than significant** levels.

4.5 Impact. The Master Plan could result in impacts on nesting birds.

Mitigation. The project shall implement Nesting Bird Measures (Mitigation Measure MM-BIO-2h) to reduce impacts related to nesting birds.

Finding. Implementation of the above PEIR mitigation measure will reduce impacts related to nesting birds to **less than significant** levels.

4.6 Impact. Implementation of the Master Plan and WPF, in combination with other projects, would have a potentially significant contribution to cumulative impacts on biological resources.

Mitigation. No mitigation was identified for the cumulative impact on biological resources.

Finding. Ruddy ducks breed in limited numbers in ponds and non-tidal marshes throughout the South Bay, but the majority of individuals occur as nonbreeders during migration and winter, when thousands occur on managed ponds around the Bay. Because this species occurs in the South Bay almost exclusively in managed pond habitats, making little use of tidal habitats, regional planned tidal restoration of south bay ponds (such as South Bay Salt Ponds Restoration Project) is not feasible while maintaining sufficient habitat for maintenance of South Bay wintering ruddy duck numbers. If Ponds 1 and 2 are not maintained and managed for waterfowl such as ruddy ducks, their conversion to other habitat types under the Master Plan or WPF would result in a cumulatively considerable contribution to a potentially significant cumulative impact on ruddy ducks. This impact would remain **significant and unavoidable**.

6. Hydrology

6.1 Impact. The project would alter the existing drainage pattern in such a manner that could result in substantial erosion, siltation, or flooding.

Mitigation. Prior to design of the diurnal equalization and emergency storage facilities, or any Master Plan improvement that would require widening of the existing levee and road between the main plant and Pond 1, the City or its contractor will conduct a hydraulic analysis assessing the potential secondary effects of levee widening on water surface elevation and channel scour in Moffett Channel. Recommendations of the hydraulic analysis will be incorporated into project design and contractor specifications such that any changes to water surface elevation or the channel do not adversely affect channel capacity. The project will acquire a No-Rise Certification to confirm that the selected alternative will not cause an increase in water surface elevations along the Moffett Channel. This finding will be confirmed and certified by a registered professional engineer.

Finding: Implementation of the above PEIR mitigation measure will reduce impacts related to the existing drainage pattern to a **less than significant** level.

6.2 Impact. Implementation of the Master Plan would place structures within a 100-year flood area, which could expose people or structures to a significant risk of loss, injury or death involving flooding.

Mitigation. The project shall implement the following mitigation measures to reduce impacts related to flooding:

MM-HYD-3a: Prior to design of proposed WPCP improvements along Moffett Channel or within the oxidation ponds, the City will conduct a vulnerability analysis of project facilities to flooding, assess potential risks, and evaluate additional improvements that could reduce identified flood hazard risks. The evaluation will identify the flood safe elevation (FSE) as the sum of the (then) current base flood elevation (BFE) for the project area, the projected sea level rise during the project's design service lifetime, and additional three to four feet of freeboard as determined necessary by a registered professional engineer. The risk assessment will address the construction and design of facilities below the FSE and the potential for significant loss, injury, or upset that could result from flooding, and identify feasible measures that could reduce flood hazard risks. Project design will incorporate the findings from the flood hazard assessment. Project design measures could include, but are not limited to, the following:

- Elevating the ground floor elevation of the diurnal equalization pump station above the FSE;
- Anchoring structures to prevent flotation, collapse and lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- Design of the extension of the primary effluent pipeline and associated support structures to minimize corrosion and ensure stability during occasional flooding;

The flood hazard assessment and selected design improvements for implementation shall be certified by a registered professional engineer to avoid a substantial risk of loss involving flooding.

MM-HYD-3b: Prior to restoration of the oxidation ponds, the City shall develop a restoration plan for the oxidation ponds, to be implemented upon decommissioning. The plan must include:

- Hydraulic analysis of the flooding and erosion effects resulting from breaching the levees surrounding Ponds 1 and 2.
- An assessment of the effects of breaching on the floodplain surrounding the WPCP.
- Regular inspection of the diurnal equalization and emergency storage facilities in coordination with a qualified engineer following breaching to look for evidence of erosion that appears to be associated with restoration of Ponds 1 and 2. If inspections identify excessive erosion, develop and implement a plan to protect the diurnal equalization and emergency storage facilities.
- Restoration designs that reflect recommendations made by a qualified engineer.

MM-HYD-3c: The City of Sunnyvale shall not breach levees to restore Ponds 1 and 2 until adequate flood protection is provided for the landward uses that could be affected by such breaching, as determined in the assessment of effects to the surrounding floodplain included in the Restoration Plan for Ponds 1 and 2.

Finding: The implementation of the above PEIR mitigation measures will reduce impacts involving flooding to a **less than significant** level.

7. Water Quality

7.1 Impact. Oxidation pond breaching and/or restoration could increase methylmercury production.

Mitigation. During design of oxidation pond breaching and/or restoration, the City, in coordination with other agencies directly involved in planning and implementing of restoration activities, shall require preparation of a water quality evaluation for the proposed levee breach and associated pond restoration activities. The water quality evaluation shall evaluate anticipated construction activities, including disturbance and potential mobilization of pond sediments, and anticipated changes to pond area and nearby hydrodynamics, and evaluate their potential to influence each of the water quality parameters discussed in this analysis: temperature, salinity, DO, metals, mercury, methyl mercury, phytoplankton blooms, and nuisance algae. The water quality evaluation shall consider applicable water quality standards and goals defined in the Basin Plan, the Bay Conservation and Development Commission's Bay Plan Policies on Water Quality, as applicable, and other applicable water quality standards. The water quality evaluation shall provide recommendations for the minimization of each category of potential water quality pollutants described above, sufficient to ensure that downstream beneficial uses would not be adversely affected, and that applicable water quality standards would not be exceeded. The City shall implement all recommendations identified in the water quality evaluation needed to preserve water quality and maintain consistency with the Basin Plan and other applicable water quality standards and requirements, and protect beneficial uses on site and downstream. The water quality evaluation shall also identify protocols and procedures for the deployment of long-term monitoring for temperature, salinity, dissolved oxygen, metals including mercury, methylmercury, phytoplankton blooms, and nuisance algae, and shall, in the event of exceedance of applicable standards established to protect beneficial use by the Regional Board, identify measures and actions as warranted to reduce pollutant emissions and protect beneficial uses using an adaptive management approach. Measures and actions warranted to reduce pollutant emissions and protect beneficial uses could include, but would not be limited to, characterization, monitoring or remediation of pond sediments, changing hydraulic residence times or manipulating other factors affecting the generation or presence of methylmercury.

Finding. The implementation of the above PEIR mitigation measure will reduce methylmercury production impacts to a **less than significant** level.

8. Hazards and Hazardous Materials

8.1 Impact. Project construction activities could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Mitigation. The project shall implement the following mitigation measures to reduce the release of hazardous materials into the environment.

MM-HAZ-2a: The City shall ensure that, prior to demolition, the building is surveyed for hazardous building materials including, electrical equipment containing polychlorinated biphenyl (PCBs), fluorescent light ballasts containing PCBs or bis(2-ethylhexyl) phthalate (DEHP), and fluorescent light tubes containing mercury vapors. These materials shall be removed and properly disposed of prior to the start of demolition or renovation. Light ballasts that are proposed to be removed during renovation shall be evaluated for the presence of PCBs and in the case where the presence of PCBs in the light ballast cannot be verified, they shall be assumed to contain PCBs, and handled and disposed of as such, according to applicable laws and regulations. Any other hazardous building materials identified either before or during demolition or renovation shall be abated according to federal, state, and local laws and regulations.

MM-HAZ-2b: For each Master Plan improvement involving ground disturbing activities, the City or its contractor will prepare a Health and Safety Plan in accordance with federal OSHA regulations (29 CFR 1910.120) and Cal/OSHA regulations (8 CCR Title 8, Section 5192). Each Plan will be based on all activities proposed as part of the specific project and include designated personnel responsible for implementation of the Plan. The City will require each contractor for each individual construction contract to implement a Plan. Each Plan will include all required measures to protect construction workers and the general public potentially exposed to hazardous materials or wastes by including engineering controls, monitoring, and security measures to prevent dangerous levels of exposure and unauthorized entry to the construction area, and to reduce hazards outside of any construction area. If prescribed contaminant exposure levels are exceeded, personal protective equipment shall be required for workers in accordance with state and federal regulations. Compliance with the Health and Safety Plan will not be construed as approval of the adequacy of the contractor's health and safety professional's qualifications or any safety measure taken in or near the construction site. The contractor will be solely and fully responsible for compliance with all laws, rules, and regulations applicable to health and safety during the performance of the construction work.

MM-HAZ-2c: For any elements involving ground disturbing activities, the City will require the construction contractor to implement a Soil and Groundwater Management Plan, subject to review by the City that specifies the method for handling and disposal of contaminated soil and groundwater prior to demolition, excavation, and construction activities. The plan will include all necessary procedures to ensure that any excavated materials and fluids from throughout the Master Plan area generated during construction are stored, managed, and disposed of in a manner that is protective of human health and in accordance with applicable laws and regulations. The plan will include the following information.

- Step-by-step procedures for evaluation, handling, stockpiling, storage, testing, and disposal of excavated material, including criteria for reuse and offsite disposal. All excavated materials shall be inspected prior to initial stockpiling, and spoils that are visibly stained and/or have a noticeable odor shall be stockpiled separately to minimize the amount of material that may require special handling.
- Procedures to be implemented if unknown subsurface conditions or contamination are encountered, such as previously unreported tanks, wells, or contaminated soils.
- Detailed control measures for use and storage of hazardous materials to prevent the release of pollutants to the environment, and emergency procedures for the containment and cleanup of accidental releases of hazardous materials to minimize the impacts of any such release. These procedures shall also include reporting requirements in the event of a reportable spill or other emergency incident. At a minimum, the City or its contractor shall notify applicable agencies in accordance with guidance from the California Office of Emergency Services as well as the Santa Clara County Environmental Health Department.
- Procedures for containment, handling and disposal of groundwater generated from construction dewatering, the method used to analyze groundwater for hazardous materials likely to be encountered at specific locations and the appropriate treatment and/or disposal methods.

Finding. The implementation of the above PEIR mitigation measures will reduce impacts associated with hazardous materials release to a **less than significant** level.

8.2 Impact. Portions of the project could be located on sites included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, could create a significant hazard to the public or the environment.

Mitigation. The project shall implement a Health and Safety Plan (Mitigation Measure MM-HAZ-2b) and a Soil and Groundwater Management Plan (Mitigation Measure MM-HAZ-2c) to reduce impacts related to hazardous materials sites.

Finding. The implementation of the above PEIR mitigation measures will reduce impacts related to hazardous materials sites to a **less than significant** level.

8.3 Impact. The project would not impair or interfere with an adopted emergency response plan or emergency evacuation plan but could interfere with emergency response provider access in the WPCP vicinity.

Mitigation. The project shall implement a Temporary Traffic Control Plan (Mitigation Measure MM-TR-1b) to reduce impacts related to interference with emergency response provider access.

Finding. Implementation of the above PEIR mitigation measure will reduce impacts related to interference with emergency response provider access to **less than significant** levels.

9. Cultural Resources

9.1 Impact. The project could result in a substantial adverse change in the significance of a historical resource.

Mitigation. Prior to implementation of the Diurnal Equalization and Emergency Storage Facilities project or other action that could affect the Cargill Channel, the City will retain a qualified historian or architectural historian to complete a specific assessment of effects of this action. If effects are found to be adverse, additional mitigation measures may be necessary, including supplemental Historic American Landscapes Survey documentation, as well as public interpretation efforts such as videotaping resources, a public outreach program, or signage at appropriate points near publically accessible viewsheds of Cargill Channel.

Finding. The implementation of the above PEIR mitigation measure will reduce impacts to historic resources to a **less than significant** level.

9.2 Impact. The project could result in a substantial change in the significance of an archaeological resource.

Mitigation. If prehistoric or historic-period archaeological resources are encountered, all construction activities within 100 feet will halt and the City of Sunnyvale will be notified. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (“midden”) containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include deposits of metal, glass, and/or ceramic refuse. A Secretary of the Interior-qualified archaeologist will inspect the findings within 24 hours of discovery. If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the CEQA Guidelines), mitigation will be implemented in accordance with PRC Section 21083.2 and Section 15126.4 of the CEQA Guidelines, with a preference for preservation in place. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, a qualified archaeologist will prepare and implement a detailed treatment plan in consultation with City of Sunnyvale and, for prehistoric resources, the appropriate Native American representative. Treatment of unique archaeological resources will follow the applicable requirements of PRC Section 21083.2. Treatment for most resources would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important

scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan will include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.

Finding. The implementation of the above PEIR mitigation measure will reduce impacts on archaeological resources to a **less than significant** level.

9.3 Impact. The project could result in direct or indirect impacts on paleontological resources, a less-than-significant impact with mitigation.

Mitigation. If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work will stop in that area and within 100 feet of the find until a qualified paleontologist can assess the nature and importance of the find and, if necessary, develop appropriate treatment measures in conformance with Society of Vertebrate Paleontology standards, and in consultation with the City of Sunnyvale (or, for the WPF, the District).

Finding. The implementation of the above PEIR mitigation measure will reduce the significant paleontological resources impact to a **less than significant** level.

9.4 Impact. The project could result in disturbance of human remains.

Mitigation. In the event of discovery or recognition of any human remains during construction activities, such activities within 100 feet of the find will cease until the Santa Clara County Coroner has been contacted to determine that no investigation of the cause of death is required. The NAHC will be contacted within 24 hours if it is determined that the remains are Native American. The NAHC will then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the City of Sunnyvale (or, for the WPF, the District) for the appropriate means of treating the human remains and any grave goods.

Finding. The implementation of the above PEIR mitigation measure will reduce impacts associated with disturbance of human remains to a **less than significant** level.

10. Aesthetics

10.1 Impact. The Master Plan would change the existing visual character of the site.

Mitigation. The design of the access road and levee will include landscape plantings. Planting design will retain safety, structural integrity, and functionality of the access road and levee, and accessibility for maintenance, inspection, monitoring, and flood control. Design of the landscape plantings and vegetation management program will be coordinated with a civil engineer and landscape architect, along with the City of Sunnyvale, to ensure that landscaping and maintenance practices chosen are ecologically compatible, feasible, and compatible with flood damage protection. The levee planting

plans chosen for implementation will be certified by a registered professional engineer to ensure reliable operation and maintenance of the access road and levee and reviewed by a qualified biologist to ensure compatibility of the plants with the existing plant mosaic.

The Master Plan will also include fencing around the proposed equalization tanks and pump station. The fencing will be of sufficient height to block views of these facilities (i.e., six to eight feet above grade) and include aesthetic treatment to make the structure less visually obtrusive and blend in with the surrounding background. Possible aesthetic treatment can include architectural features such as color application, surface texture and pattern treatment.

Finding. The implementation of the above PEIR mitigation measure will reduce aesthetic impacts to a **less than significant** level.

11. Growth Inducement Potential and Secondary Effect of Growth

- 11.1** The project would support planned growth in the WPCP and District service areas that would result in secondary effects on the physical environment. Implementation of the project's wastewater treatment capacity improvements could also support a degree of population and/or employment above that planned for in Sunnyvale's adopted General Plan.

Mitigation. Prior to implementation of Stage 2 of the conventional activated sludge and Stage 2 of solids thickening and dewatering facilities and processes, Stage 2 of the MBR facilities and Stage 2 of WPF solids thickening and dewatering facilities, or construction of a fifth digester, the City will initiate a new investigation of flows and loads capacity requirements to ensure that these facilities are appropriately sized to accommodate projected capacity needs consistent with (then) adopted plans and policies. Upon completion of construction of the above-noted facilities, the City will require that CEQA documents on development projects evaluate nitrogen deposition impacts on serpentine habitat and associated special-status species, and mitigate significant project-specific and cumulative impacts to less-than-significant levels. The analysis requirements and specific mitigation strategy(ies) will depend on the environmental setting at the time the Master Plan or WPF improvements are implemented, characteristics of the proposed development, and its relative contribution to the significant impact.

Finding. The project would indirectly support growth by removing obstacles to growth, thereby enabling growth under the approved general plans within the WPCP service areas to occur. Mitigation would ensure that the Master Plan would not result in additional or more severe impacts associated with growth beyond that evaluated in the CEQA documents prepared for the City's current General Plan. However, CEQA documents prepared by other agencies within the WPCP service area have identified significant and unavoidable impacts associated with growth, which the Master Plan would support. This impact would remain **Significant and Unavoidable**.

VII. SUMMARY OF UNAVOIDABLE SIGNIFICANT ADVERSE EFFECTS.

The following significant adverse effect of the project is found to be unavoidable despite the adoption by the City Council of all feasible mitigation measures identified in the PEIR: emissions that would conflict with the 2010 Clean Air Plan, emissions that would contribute to air quality violations, emissions that would have a considerable contribution to cumulative air quality impacts in the region, cumulative impacts to wildlife, and some secondary effects of growth.

VIII. PROJECT ALTERNATIVES

A. Legal Requirements.

Section 15126.6(a) 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." Based on the analysis in the PEIR, the Project would be expected to result in significant and unavoidable impacts to Air Quality, Biological Resources, and Secondary Effects of Growth. The PEIR alternatives were designed to avoid or reduce these significant unavoidable impacts, while attaining the proposed objectives of the Project. The City Council has reviewed the significant impacts associated with the reasonable range of alternatives as compared to the Project, and in evaluating the alternatives has also considered each alternative's feasibility, taking into account a range of economic, environmental, legal, and other factors. In evaluating the alternatives, the City Council has also considered the important factors listed in the Statement of Overriding Considerations listed in Section IX below.

Public Resources Code Section 21081(a)(3) provides that when approving a project for which an environmental impact report has been prepared, a public agency may find that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report and, pursuant to Section 21081(b) with respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment as more fully set forth in Article IX below.

B. Alternative 1: No Project Alternative

1. **Description.** The No Project Alternative is defined as a continuation of existing conditions, as well as conditions that are reasonably expected to occur in the event that the proposed project is not implemented. If the Master Plan were not implemented, conditions at the site would generally be expected to remain largely the same. Existing facilities would remain in operation and continue to age. Consequently, the reliability of the WPCP would likely decline. Because the WPCP must provide adequate wastewater treatment in compliance with applicable permits and for projected increases in flows and

loads, it is reasonable to expect that the City would ultimately have to either retrofit existing facilities or construct new facilities to continue to meet existing and changing requirements, including those pertaining to limits for nitrogen in discharges, disinfection byproducts, constituents of emerging concern, air quality, and standby power.

2. **Comparison to the Proposed Project.** To the extent that existing conditions within the Master Plan area persist into the future, then none of the environmental impacts attributable to the Master Plan would occur. Assuming reliability of the WPCP declines in the future, the No Project Alternative would increase the potential for upset conditions which, if they occurred, would result in adverse effects on effluent water quality and beneficial uses of receiving waters, and potential permit violations. Likewise, the WPCP would remain vulnerable to damage resulting from tidal flooding and/or seismic activity, which in addition to damaging the WPCP could result in water quality degradation if untreated or partially treated wastewater is released. The environmental impacts of continued use of the existing facilities could include degradation of habitat and other beneficial uses of Moffett Channel, Guadalupe Slough, and the San Francisco Bay if pollutants are not effectively removed by the aging facilities.
3. **Finding.** The No Project Alternative would avoid most environmental impacts identified for the proposed WPCP improvements, including the significant and unavoidable impacts on air quality and biological resources, and the significant but mitigable impacts associated with traffic, noise, biological resources, hydrology, water quality, hazards and hazardous materials, cultural resources, and aesthetics. However, it is likely that the secondary effects of growth (both significant and unavoidable and significant but mitigable) would still occur with or without implementation of the Master Plan. This alternative does not, however, meet the majority of the project objectives, and therefore is not considered feasible.

C. Alternative 2: Realigned Access Road

1. **Description.** The intent of this alternative is to reduce impacts to threatened and endangered species habitat and wetlands/waters of the United States along Moffett Channel attributable to proposed Master Plan improvements to the existing pond access road, which also functions as a levee. With the project as proposed, implementation of diurnal equalization and emergency storage would include raising the existing levee approximately 5-6 feet to address sea level rise for the design life of the facility. To accommodate the raising of the levee, the existing access road and portions of the berms adjacent to Pond 1 would need to be fortified and widened. Under the Realigned Access Road Alternative, these improvements would be realigned to the west, reducing the amount of fill placed in Moffett Channel. A greater portion of the Cargill Channel (part of the Don Edwards San Francisco Bay National Wildlife Refuge) would be filled than is proposed for the Master Plan. Additional improvements to the existing above-ground primary effluent pipeline, which currently is adjacent to the western edge of the access road, would be implemented to ensure the structural integrity of the pipeline. All other aspects of the Master Plan would be the same as the proposed project.

2. **Comparison to the Proposed Project.** By shifting the alignment of the access road to the west, into a greater portion of Cargill Channel, the amount of fill placed within Moffett Channel would be reduced. Direct impacts to aquatic habitat in Cargill Channel would be greater than under the Master Plan; however, while salt- and brackish-water invertebrates and fish are present in the Cargill Channel, special-status fish species are not likely to be present due to the poor connection with San Francisco Bay. The narrow strip of salt marsh along the edge of the Cargill Channel is so limited in extent, and is separated from more extensive tidal marsh along Moffett Channel, that it provides relatively low-quality habitat for salt marsh animals. As habitat quality is poorer in Cargill Channel than Moffett Channel, and impacts to special status fish species would decline because these species are more likely to be present in Moffett Channel than in Cargill Channel, the potential impacts of this alternative on special-status wildlife species would be reduced compared to the Master Plan. Similarly, shifting the alignment of the access road to the west would incrementally reduce the adverse effect on visual character due to vegetation removal in Moffett Channel. This alternative would also reduce the potential for erosion, siltation, and flooding in Moffett Channel. Other impacts of Alternative 2 would be the same as or similar to impacts identified for the Master Plan, including traffic and noise generated during construction and operation of the WPCP, air quality impacts, potential for hazardous materials exposure, impacts to special-status plant habitat, the effects on the Alviso Historic District cultural landscape, changes in flooding patterns (except in Moffett Channel as noted above) and potential for flood damage to structures, indirect impacts on nesting birds and the movement of native birds, and tree removal.
3. **Finding.** This alternative would reduce the extent of potentially significant impacts to biological resources and floodwater conveyance along Moffett Channel, as well as incrementally reducing adverse effects on visual character associated with vegetation removal. However, this alternative would not reduce any significant and unavoidable impacts of the Project. Other impacts would generally be similar to those identified for the Master Plan. This alternative would likely result in higher costs, reducing its ability to meet objectives related to costs or flexibility to respond to financial uncertainty, but would otherwise meet most of the basic objectives of the Master Plan. However, this alternative does not meet the project objectives to the same extent as the project.

D. Alternative 3: Diurnal Equalization/Emergency Storage in Pond 2

1. **Description.** The intent of this alternative is to reduce impacts to threatened and endangered species habitat and wetlands/waters of the U.S. and state near Moffett Channel. These impacts of the Master Plan are associated with improvements to the existing pond access road and the diurnal equalization and emergency storage basins in Pond 1. Under this alternative, the City would construct the proposed diurnal equalization tanks and emergency storage basins in Pond 2, which would be accessed via a new access

road and bridge across the Cargill Channel. The existing berm between the Cargill Channel and the Pond 2 recirculation channel would require fortification along the outer edge of the proposed diurnal equalization and emergency storage basins for tidal flood protection, as would the location where the bridge would make landfall. Under the Master Plan as proposed, Pond 1 would be taken out of operation to accommodate construction of diurnal equalization and emergency storage facilities. Given the amount of treatment provided by Pond 2, it would not be possible to take Pond 2 out of service during construction. Under current conditions, return flow from the oxidation ponds is pumped from Pond 2 back to the main plant for additional treatment via a pump station located along the southeastern edge of Pond 2. Construction of diurnal equalization and emergency storage facilities in Pond 2 would require alterations to Pond 2's return flow facilities (pumping plant relocation and return flow pipeline extension, and installation of one or more temporary pipelines and pump stations to convey flows from the ponds to the main plant during construction). In addition, roughly half of the pipes that move water from the recirculation channel would need to be sealed off; this would affect pond hydraulics and the relative distribution of wastewater to the two ponds, potentially affecting effluent water quality. Modifications to the recirculation system would be necessary to prevent these changes in pond hydraulics. The remaining improvements proposed for implementation of the diurnal equalization and emergency storage would be similar to those described for the Master Plan, but would occur at the Pond 2 site. The area proposed for restoration following decommissioning of Ponds 1 and 2 would be similar in concept and acreage to that proposed under the Master Plan, as the size of the area used in Pond 2 would be the same as proposed for Pond 1 in the Master Plan.

Although the City operates pipelines adjacent to and across the Cargill Channel that convey effluent between the main plant and the oxidation ponds, the channel is owned by the U.S. Fish and Wildlife Service (USFWS). This alternative would require agreement between the City of Sunnyvale and the USFWS (as would the project as proposed and Alternative 2) as well as the support of numerous other resource agencies (including the US Army Corps of Engineers, RWQCB, the District, the Bay Conservation and Development Commission, and Coastal Conservancy).

2. **Comparison to the proposed project.** This alternative would entail far less activity along Moffett Channel than would the Master Plan. As a result, impacts related to raising the existing access road and filling Moffett Channel, such as impacts on special-status wildlife species, wetland habitat, protected trees, nesting birds, and visual quality would be reduced compared to the Master Plan. This alternative also reduces the area of Cargill Channel that would be affected. The extent of impacts on suitable habitat for special-status plants along Cargill Channel would thus be reduced relative to the Master Plan. However, direct impacts to the levee adjacent to these channels as part of access road construction would potentially increase impacts on western pond turtles compared to the Master Plan. With regard to aesthetics, constructing diurnal equalization and emergency storage in Pond 2 and attendant access road improvements would disrupt views of surrounding landscape, but effects would be less extensive (due to location of and extent of disturbed area associated with access road) than with the Master Plan. The diurnal equalization and emergency storage basins would be protected from tidal flooding

because they would be constructed to an appropriate elevation and protected by the fortified berm along the outer edge of the basins, and construction of the new access road and bridge would include the same considerations regarding 100-year flood hazard and future sea level rise as the Master Plan. Because Pond 2 provides more treatment capacity than Pond 1, would have to remain in service during construction, and would require modifications to return flow and pond circulation facilities, Alternative 3 would increase the risk of process upsets, which in turn could result in permit violations and adverse impacts on receiving water quality and beneficial uses. Similar to the Master Plan, about 400 acres of the oxidation ponds would be available for restoration with this alternative, and thus would have a similar beneficial effect.

Other impacts of Alternative 3 would be the same as or similar to impacts identified for the Master Plan, including traffic and noise generated during construction and operation of the WPCP, air quality impacts, water quality impacts (except as related to increased likelihood of risk of upset), effects on the Alviso Historic District cultural landscape, changes in flooding patterns and potential for flood damage to structures, and interference with the movement of native birds.

3. **Finding.** This alternative would reduce the extent of potentially significant impacts to biological resources and floodwater conveyance along Moffett Channel. The extent of change to visual character of the landscape would be less extensive than with the Project. However, construction of the diurnal equalization tanks and emergency storage basins within Pond 2 would incrementally increase the likelihood of occurrence of upset conditions and potential permit violations due to associated engineering and treatment challenges and would potentially affect western pond turtles. This alternative would not reduce any significant or unavoidable impacts of the Project. Other impacts would generally be similar to those identified for the Master Plan. This alternative would likely result in higher costs, reducing its ability to meet objectives related to costs or flexibility to respond to financial uncertainty, but would otherwise meet most of the basic objectives of the Master Plan. However, this alternative does not meet the project objectives to the same extent as the project. This alternative, implemented with Alternative 5, is the environmentally superior alternative.

E. Alternative 4: Diurnal Equalization and Emergency Storage in SCVWD Pond A4

1. **Description.** Like Alternative 3, the intent of this alternative is to reduce impacts attributable to proposed Master Plan improvements to the existing pond access road and provision of flood protection for the proposed diurnal equalization and emergency storage basins in Pond 1. However, under this alternative the diurnal equalization and emergency storage basins and attendant flood protection would instead be constructed within SCVWD Pond A4, much closer to the main plant than either the proposed project or Alternative 3. Constructing these facilities closer to the main plant is preferable to a site within either Pond 1 or Pond 2, where the facilities would be almost completely surrounded by water and wetlands (managed ponds and Moffett Channel). Locating the facilities as close as practicable to the land mass would be advantageous in terms of constructability, ease of operations and maintenance, long-term flood protection and shoreline resilience, and restoration (particularly if the Cargill Channel and the balance of

SCVWD Pond A4 were restored as well), and would be more conducive to integrated flood control and restoration concepts such as a horizontal levee or seepage slope.

Under this alternative, a new access road and associated pipeline connections for the diurnal equalization and emergency storage facilities would be constructed at the northeast corner of the main plant. As with the proposed project, the City would also construct an equalization pump station and plant water supply pipeline for washdown uses for the diurnal equalization and emergency storage facilities. The acreage of the area proposed for restoration by the City following decommissioning of Ponds 1 and 2 would be greater than proposed under the Master Plan. The remaining improvements would be similar to those described in Chapter 3 for the Master Plan.

2. **Comparison to the proposed project.** While this alternative would lessen some impacts, it would worsen others. Compared to the Master Plan, this alternative would substantially increase the loss of open water habitat that is considered waters of the U.S. and/or state, because SCVWD Pond A4 is considered jurisdictional waters of the U.S. and/or state, whereas Ponds 1 and 2 are not expected to be considered jurisdictional. This alternative would lessen impacts on special-status wildlife species, specifically salt marsh mammals and marsh-associated birds and other nesting birds compared to the Master Plan (because it would lessen impacts on Moffett Channel), and would lessen impacts on Western pond turtle and special-status fish species (because it would lessen impacts in the vicinity of Sunnyvale West Channel). However, impacts to pond-associated birds would be incrementally greater than with the proposed project because a portion of SCVWD Pond A4 would be developed. This alternative would also reduce potential impacts to protected trees since fewer trees would need to be removed compared to the proposed project. Constructing diurnal equalization and emergency storage in SCVWD Pond A4 and constructing the attendant access road would disrupt views of the surrounding landscape, but effects would be incrementally less extensive (due to the location and extent of disturbance associated with the access road) than with the Master Plan. With respect to water quality, because the area proposed for restoration would be somewhat greater, the potential for mercury resuspension and methylation would be greater as well. In addition, construction of diurnal equalization and emergency storage facilities in Pond A4 would avoid the increased risk of upset and resultant water quality impacts associated with construction in Ponds 1 or 2.
3. **Finding.** While this alternative would reduce significant impacts on biological resources in Moffett Channel and Sunnyvale West Channel, construction of diurnal equalization and emergency storage in SCVWD Pond A4 would increase the extent of loss of open water and wetland habitat. The area available for restoration would be greater, with associated increases in potential mercury resuspension and methylation. The extent of change to visual character of the landscape would be less extensive than with the Project, however. All other impacts associated with this alternative would be similar to those associated with the proposed project. This alternative would not reduce any significant unavoidable impacts of the Project. This alternative would likely result in higher costs, reducing its ability to meet objectives related to costs or flexibility to respond to financial uncertainty, but would otherwise meet most of the basic objectives of the Master Plan. The City does not own or otherwise control SCVWD Pond A4; as such, the feasibility of

this alternative depends on the cooperation and concurrence of the District (owner of SCVWD Pond A4), and various permitting agencies. The use of SCVWD Pond A4 would require an agreement between the City of Sunnyvale and the District. In addition, this potential alternative—as well as the proposed project and Alternatives 2 and 3—should be considered in conjunction with plans for regional flood protection, currently in the early stages of planning.

F. Alternative 5: Construction Emissions Reduction Alternative

1. **Description.** The intent of this alternative is to reduce significant unavoidable impacts associated with construction-phase NO_x and other criteria pollutant emissions. Criteria pollutant emissions could not be estimated for Stage 1A, Existing WPCP Rehabilitation, Stage 4A, Split Flow Conventional Activated Sludge Expansion (Diurnal Equalization), and Stage 5A (Decommissioning of Ponds 1 and 2); consequently, emissions occurring during construction of these improvements were assumed to be significant and unavoidable. Based on experience with projects of comparable scale and type, NO_x, and potentially ROG, emissions are considered more likely to exceed significance thresholds than emissions of other criteria pollutants generated during construction.

The Construction Emissions Reduction Alternative would require of all contractors that off-road equipment greater than 50 horsepower be equipped with engines that meet or exceed U.S. EPA “Tier 4” emission standards. The Tier 4 emissions standards for off-road engines began implementation in model year 2008 for certain engines and for all engines types in 2012. Recent analysis indicates that 22 percent of the statewide off-road equipment fleet is equipped with Tier 4 engines as of 2014. This alternative would also include the development of a Construction Emissions Minimization Plan as part of the project. The contents of the Plan would include but not be limited to:

- i. Certification by the City or contractor that all off-road equipment greater than 50 horsepower will have engines that meet U.S. EPA Tier 4 emissions standards
- ii. Require that all construction equipment, diesel trucks, and generators operate on clean diesel fuels. These products can reduce NO_x emissions by 14.5 percent and are available within 6 miles of the project site
- iii. Truck idling time limits and signage
- iv. Equipment maintenance and tune up requirements
- v. Construction equipment usage reporting requirements
- vi. City certification of compliance with the Plan
- vii. Avoid overlapping construction stages requiring extensive haul of materials (greater than 10,000 cubic yards)

The construction timeframes and stages proposed for implementation of the Master Plan would likely be extended because there is less equipment available that meets the highest Clean Air Act emissions standards (e.g., Tier 4 engines) and it may therefore be less available due to demand for such equipment, and because this alternative requires that

some construction stages (i.e., those involving substantial earthwork and attendant truck trips) be implemented in succession rather than concurrently, to avoid exceeding daily emissions limits. All other aspects of the Master Plan would be the same. This alternative could be combined with Alternatives 2, 3, or 4.

2. **Comparison to the proposed project.** NO_x, ROG, and particulate matter emissions, and associated impacts on public health and the environment, would be reduced under this alternative compared to the project. In particular, construction-phase NO_x emissions for all Master Plan improvements including 1A, Existing WPCP Rehabilitation, 4A, Split Flow Conventional Activated Sludge Expansion (Diurnal Equalization), and 5a, Decommissioning of Ponds 1 and 2, could be reduced to less-than-significant levels. All other proposed aspects of the Master Plan would remain the same, and impacts would be the same as or similar to those identified for the Master Plan with the exception of air quality impacts during construction. However, since construction duration could increase, the duration of the period during which some impacts could occur (e.g., impacts associated with construction traffic, construction noise, and accidental release of hazardous materials) could increase.
3. **Finding.** Alternative 5 would reduce the potential for air quality violations to less-than-significant levels by requiring the use of construction equipment engines that meet or exceed U.S. EPA Tier 4 emissions standards, but could result in longer construction duration with subsequent increases in associated impacts. All other impacts would be similar to those resulting from the proposed project. This alternative, implemented with Alternative 3, is the environmentally superior alternative. However, this alternative would likely result in higher costs, reducing its ability to meet objectives related to costs or flexibility to respond to financial uncertainty, and would also prolong the overall construction schedule, potentially increasing costs, prolonging other construction phase impacts, and delaying attainment of other Master Plan objectives (such as meeting regulatory requirements). For these reasons, this alternative is considered infeasible.

IX. STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council of the City of Sunnyvale adopts and makes the following Statement of Overriding Considerations regarding the significant, unavoidable impacts of the Project and the anticipated benefits of the Project.

The Council has carefully balanced the benefits of the Project against any adverse impacts identified in the PEIR that could not be feasibly mitigated to a level of insignificance. Notwithstanding the identification and analysis of impacts that are identified in the PEIR as being significant and which have not been eliminated, lessened or mitigated to a level of insignificance, the Council, acting pursuant to CEQA Guidelines Section 15092 and 15093, hereby determines that significant effects on the environment found to be unavoidable in Section VII above (temporary effects on air quality during construction, loss of ruddy duck habitat upon pond restoration, and secondary effects of growth), are acceptable due to overriding concerns described herein. Based on the objectives identified in the proposed project and PEIR, the Council has determined that the Project should be approved, and the unmitigated environmental impacts attributable to the Project are outweighed by the following specific environmental,

technological, economic, fiscal, and other overriding considerations, each one being a separate and independent basis upon which to approve the Project. Substantial evidence in the record demonstrates that the City would drive the benefits listed below from adoption and implementation of the Project.

- A. The Project incorporates all feasible mitigation measures to reduce potential environmental impacts to the greatest extent feasible. No feasible mitigation measures have been identified to mitigate the significant and unavoidable adverse effects of the Project.
- B. The Plant has operated continuously since its construction in 1956. The Master Plan improvements would upgrade, replace, and repair facilities and equipment at the Plant to meet new safety and technology standards, including improving protection from flood or earthquake damage, thus addressing repair and replacement needs identified in condition assessments completed by the City in 2009.
- C. The improvements to treatment processes in the Project, including the phasing of the improvements, are designed to ensure ongoing compliance with current and future water quality regulations, as well as with biosolids quality and air quality requirements. Protection of public and environmental health is the purpose of the City's compliance with these requirements.
- D. Phasing of the Project would maximize the useful life of existing facilities while protecting the WPCP from flooding risks associated with sea level rise.
- E. The potential environmental benefits of decommissioning and restoration of the oxidation ponds could include creation of habitat and protection of the Plant and surrounding low-lying areas from flooding and other hazards associated with sea level rise. Decommissioning and restoration of the ponds would also be consistent with regional flood protection and restoration planning in the South Bay.
- F. Technological improvements proposed in the Project would not only ensure water quality requirements are met currently and into the future, but would allow the City flexibility to expand recycled water supplies, consistent with the City's long-term goal to reuse 100 percent of all wastewater generated at the WPCP as stated in the 2000 Recycled Water Master Plan.
- G. Proposed improvements to facilities associated with power generation, waste heat use, standby power, and power distribution at the Plant would reduce reliance on natural gas, consistent with the 2014 Climate Action Plan goal of increasing the amount of renewable energy produced in Sunnyvale.

The above statements of overriding considerations are consistent with, and substantially advance, the following goals and policies of the City's General Plan:

Goals EM-7: Continue to operate and maintain the water pollution control plant, using cost effective methods, so that all sewage and industrial wastes generated within the city receive

sufficient treatment to meet the effluent discharge and receiving water standards of regulatory agencies.

Policy EM-7.1: Monitor water pollution control plant operations and maintenance to meet regulatory standards.

Policy EM-7.4: Produce quality recycled water and seek to maximize the use of this resource.

Policy SN-1.2: Take measures to protect life and property from the effects of a 1 percent (100 year) flood.

Policy SN-1.4: Monitor and plan for hydraulic changes due to global warming, earthquakes, and/or subsidence.

Based on the detailed findings made above, the City Council hereby finds that environmental, technological, legal, and economic considerations outweigh the remaining environmental effects of approval and implementation of the Project, and the City Council hereby concludes that the Project should be approved.

X. MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program ("MMRP") 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.

XI. THE RECORD

The environmental analysis provided in the PEIR 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 for the Project and supporting documents prepared for the Master Plan, 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 PEIR (e.g., Notice of Availability).
- C. The Draft PEIR, the Final PEIR, all appendices to any part of the PEIR, all technical materials cited in any part of the PEIR, 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 February 29, 2016 and April 14, 2016, 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 PEIR, 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 Department of Public Works and the City Council.
- F. Staff reports associated with Department of Public Works and 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 which they consider, such as the Sunnyvale General Plan, any other applicable specific plans or other similar plans, and the Sunnyvale Municipal Code.

XII. 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 and statement of overriding considerations are based are located and in the custody of the Department of Public Works, 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).

XIII. 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.