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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 360 WEST
CARIBBEAN DRIVE GOOGLE CARIBBEAN CAMPUS PROJECT (PLANNING
PROJECT #2017-8042)**

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") require local agencies to consider environmental consequences of projects for which they have discretionary authority; and

WHEREAS, an Initial Study Checklist, Draft Transportation Environmental Impact Report and Final Transportation Environmental Impact Report (collectively, the "Transportation EIR") have been prepared for and by the City of Sunnyvale for the 360 West Caribbean Drive project ("the Project") pursuant to CEQA and the CEQA Guidelines (State Clearinghouse #2007052121); and

WHEREAS, Section 15152(b) of the CEQA Guidelines encourages agencies to tier environmental analysis for separate but related projects in order to eliminate repetitive discussions of the same issues and focus the later EIR on actual issues ripe for decision; and

WHEREAS, Section 15152(h) of the CEQA Guidelines provides that where multiple methods exist to streamline environmental review based on prior EIRs, lead agencies have discretion to select which method(s) to apply to a project's environmental review; and

WHEREAS, under CEQA Guidelines Section 15162, when a project EIR has been certified, "no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record," that substantial changes occur or are proposed that will require major revisions of the EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects, or that new information now exists indicating that the proposed project will have more significant effects than originally shown in the prior EIR; and

WHEREAS, under CEQA Guidelines Section 15183, "CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies"; and

WHEREAS, in accordance with Sections 15162 and 15183 of the CEQA Guidelines, the Transportation EIR for the Project tiers off of the Sunnyvale Land Use and Transportation Element Final Environmental Impact Report (LUTE EIR; State Clearinghouse No. 2012032003), the Santa Clara Valley Water District East and West Channels Flood Protection Project Final Environmental Impact Report (SCVWD EIR; State Clearinghouse No. 20130120410), and the 2016 Mathilda Avenue Improvements at SR 237 and US 101 Project EIR (“Caltrans EIR”; State Clearinghouse No. 2015082030); and

WHEREAS, as further described in Section 5 of Exhibit A attached hereto, the City prepared the Initial Study Checklist to determine whether preparation of an EIR was needed to analyze and mitigate, as appropriate, potentially significant effects of the proposed Project; and

WHEREAS, in the Initial Study Checklist, the City determined that only the Transportation resource category requires additional analysis in an EIR, because all other impacts from the proposed project would be less than significant, not peculiar to the parcel or to the project, analyzed and mitigated as a significant effect in one of the aforementioned prior certified EIRs, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, including City Standard Development Requirements and/or Council policies; and

WHEREAS, the Transportation EIR addresses the transportation impacts of the Project, which are further described in Section 5 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 3 of Exhibit A attached hereto; and

WHEREAS, the Transportation EIR is incorporated by this reference in this Resolution, and consists of those documents referenced in Section 4 of Exhibit A attached hereto; and

WHEREAS, a public hearing was held by the City Council on March 17, 2020, regarding the Project and the Transportation EIR, following notice duly and regularly given as required by law, and all interested persons expressing a desire to comment thereon or object thereto were heard, and the Transportation EIR was considered; and

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

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

1. The City Council hereby finds and certifies that the Transportation EIR has been completed in compliance with CEQA and the CEQA Guidelines; that the Transportation EIR adequately addresses the environmental issues of the Project; that the Transportation EIR was presented to the City Council; that the City Council has reviewed and considered the

information contained in the Transportation EIR prior to approving the Project; and that the Transportation EIR reflects the independent judgment and analysis of the City Council.

2. The City Council further finds that approval of the Project complies with CEQA because an Initial Study was prepared pursuant to Sections 15162 and 15183 of the CEQA Guidelines and found that with implementation of standard City development requirements, Council policies, and mitigation measures identified in the LUTE EIR, SCVWD EIR and Caltrans EIR, the proposed project will not result in any new environmental impacts beyond those evaluated in these environmental documents, other than a significant and unavoidable cumulative traffic impact that the intersection of Mathilda Avenue, Sunnyvale-Saratoga Road, and Talisman Drive.
3. The City Council hereby identifies the significant effects, adopts the mitigation measures, adopts the monitoring Mitigation Monitoring and Reporting Plan 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 Transportation EIR and other information available to the City Council, and are made in compliance with Sections 15091, 15092, 15093, and 15096 of the CEQA Guidelines and Sections 21081 and 21081.6 of CEQA.

Adopted by the City Council at a regular meeting held on _____, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CEQA FINDINGS OF FACT

and

**STATEMENT OF OVERRIDING
CONSIDERATIONS**

for the

Google Caribbean Campus Project

Planning Project #2017-8042



Sunnyvale

City Council

City of Sunnyvale

February 2020

Kimley»Horn

CONTENTS

1.0 Introduction	1
2.0 Project Description.....	2
2.1 Project Location and Setting.....	2
2.2 Project Summary.....	2
2.3 Project Objectives	3
3.0 Procedural Findings.....	4
4.0 Record of Proceedings.....	6
5.0 Findings Required Under CEQA	7
5.1 Summary of Findings	8
5.2 Mitigation Monitoring	29
5.3 Significant Irreversible Environmental Effects.....	29
5.4 Growth Inducement.....	29
6.0 Project Alternatives.....	31
6.1 Alternatives Considered But Ultimately Rejected	31
6.2 Alternatives Considered in the EIR	31
7.0 Statement of Overriding Considerations	34
8.0 Incorporation By Reference.....	36

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1.0 INTRODUCTION

The purpose of these findings is to satisfy the requirements of Sections 15091, 15092, and 15093 of the California Environmental Quality Act (CEQA) Guidelines, associated with approval of the Google Caribbean Campus Project (project).

The CEQA Statutes (California Public Resources Code [PRC] Sections 21000, et seq.) and Guidelines (California Code of Regulations Sections 15000, et seq.) state that if it has been determined that a project may or will have significant impacts on the environment, then an environmental impact report (EIR) must be prepared. Prior to approval of the project, the EIR must be certified pursuant to CEQA Guidelines Section 15090. This document summarizes the findings of fact and statement of overriding considerations for the project authorized by those provisions of the PRA and the CEQA Guidelines. When an EIR has been certified that identifies one or more significant environmental impacts, the approving agency must make one or more of the following findings, accompanied by a brief explanation of the rationale, pursuant to CEQA Guidelines Section 15091, for each identified significant impact:

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

CEQA Guidelines Section 15092 states that after consideration of an EIR, and in conjunction with making the Section 15091 findings identified above, the lead agency may decide whether or how to approve or carry out the project. A project that would result in a significant environmental impact cannot be approved if feasible mitigation measures or feasible alternatives can avoid or substantially lessen the impact.

However, in the absence of feasible mitigation, an agency may approve a project with significant and unavoidable impacts, if there are specific economic, legal, social, technological, or other considerations that outweigh the unavoidable adverse environmental effects. Section 15093 requires the lead agency to document and substantiate any such determination in a “statement of overriding considerations” as a part of the record.

2. PROJECT DESCRIPTION

2.1 PROJECT LOCATION AND SETTING

The project area is located within the northern portion of the City of Sunnyvale within the Moffett Park Specific Plan area. The proposed project would occur on 10 existing parcels and result in the construction of two new mid-rise buildings at two new addresses: one at 100 West Caribbean Drive and the second at 200 West Caribbean Drive. The project site is bound by West Caribbean Drive on the north, and lies between Mathilda Avenue on the west, Borregas Avenue on the east, and is bisected north to south by the Santa Clara Valley Water District's (Valley Water) West Channel.

The project is 40.44 acres, generally flat, and is bounded by West Caribbean Way on the north, Mathilda Avenue on the west, Borregas Avenue on the east, and Caspian Court and Bordeaux Avenue on the south. The built environment on the site consists of 13 existing single-story buildings used for industrial, office, and research and development, totaling approximately 710,381 square feet.

The project site is bisected from north to south by approximately 1,000 feet of the Valley Water's West Channel, which occupies approximately 4.9 acres of the project site. The West Channel is an open topped man-made flood control channel. It is culverted under West Java Drive south of the project site and culverted under West Caribbean Drive at the northerly site boundary. Within the project site the West Channel has steep vegetated banks and has a heavily disturbed dirt access road on the top of the levees.

2.2 PROJECT SUMMARY

The project proposes demolishing the existing 13 buildings located on the project site, existing surface parking lots, and removal of vegetation and trees on the approximately 40.5-acre site. The existing buildings consist of 710,381 square feet of office and manufacturing buildings.

The proposed project includes two new 5-story office buildings totaling 1,041,890 square feet. The proposed buildings would be located at 100 West Caribbean Drive and 200 West Caribbean Drive. Between the two buildings, 100 West Caribbean Drive would total 536,750 square and 200 West Caribbean Drive would total 505,140 square feet. Combined, the two buildings would have a FAR of 0.66. The project would also develop a parking structure and surface parking. The total number of parking spaces to be provided upon completion of the surface lots and parking structure would be 2,092 spaces. The project proposes new traffic signalization at the intersection of W. Caribbean Drive and the 200 W. Caribbean driveway. The proposed traffic signal intersection facilitates a connection to the Bay Trail located to the north of the project site. The proposed project will integrate measures to reduce reliance on automobiles and car-based commuting, including a Transportation Demand Management (TDM) trip reduction plan. The proposed project includes other amenities conducive to alternative

transportation including two shuttle drop-off areas as well as secured bicycle parking at both buildings. Other improvements include infrastructure and utility improvements, walkways, green areas and open spaces.

The proposed 100 and 200 West Caribbean Drive buildings would both be 5 stories, with an overall building height of 120 feet 5 inches, as measured from the finished floor to the highest elevation of the building. The proposed parking garage would be 5 levels, and the highest elevation would be 71 feet 6 inches, as measured from the finished floor to the top point of the garage.

The existing Valley Water West Channel (West Channel) bisects the campus such that 100 West Caribbean Drive lies to the east and 200 West Caribbean Drive lies to the west. The proposed project would excavate the existing storm channel, set back levees, grade a new low flow channel with associated floodplain benches, implement habitat restoration, construct two new bridge crossings (one pedestrian between the two buildings and one pedestrian engineered to support emergency vehicle access at a Caspian Drive extension), enhance the headwall at the box culvert to accommodate a sidewalk as requested by the City of Sunnyvale along West Caribbean Drive, and providing maintenance access for Valley Water.

The project also includes the demolition of a single story industrial/R&D building at 1362 Borregas Avenue, totaling 39,642 square feet which will be demolished to accommodate temporary construction parking for 745 cars in lieu of onsite construction parking.

Project requested City entitlements include the following:

- Major Moffett Park Design Review
- Associated ministerial permits such as demolition permits, grading permits, building permits, etc.

2.3 PROJECT OBJECTIVES

Taking into consideration the goals of the project applicant, the City has identified the following project objectives:

- Develop a project that is consistent with the existing Moffett Park Specific Plan.
- Develop a project that is consistent and compatible with the existing land uses in the surrounding area.
- Develop an office campus of sufficient size to accommodate Google's space needs.
- Develop an office campus of sufficient density to take advantage of the site's proximity to existing transit facilities.
- Construct office buildings that accommodate proposed project amenities and efficient/effective employee collaboration space.

- Provide adequate parking spaces to accommodate the parking needs of Google employees and visitors;
- Implement transportation demand management (TDM) programs to minimize vehicle trips and encourage pedestrian and bicycle use.
- Develop an environmentally sensitive office campus with LEED Gold certification as required by the City's green building requirements.
- Construct office buildings that reduced impervious surfaces and maximize on-site open space.
- Construct improvements to the portion of the Valley Water's West Channel to facilitate greater connectivity and public access.
- Be responsive to Valley District designs for the West Channel to comply with applicable flood protection requirements and improve flood protection.
- Realign the Valley District West Channel to enhance its natural habitat value.
- Develop a project that would create construction jobs and employment opportunities in the City of Sunnyvale.
- Develop a project of sufficient density to support the proposed project amenities and to be financially feasible.

3.0 PROCEDURAL FINDINGS

CEQA (PRC Section 21000 et seq.) requires state and local government agencies to consider the environmental consequences of projects for which they have discretionary authority. This document, which has been prepared in compliance with the requirements of CEQA and the CEQA Guidelines (California Code of Regulations Title 14 Section 15000 et seq.), sets forth the findings of the City of Sunnyvale (City), the lead agency under CEQA, regarding the proposed project. The document also presents a Statement of Overriding Considerations.

An Initial Study Checklist, Draft Traffic Environmental Impact Report and Final Traffic Environmental Impact Report (collectively, the "Transportation EIR") was prepared for and by the City of Sunnyvale for the proposed project. The analysis in the Transportation EIR was based on the analysis provided in the three previously certified EIRs: (1) the 2016 Land Use and Transportation Element ("LUTE EIR") of the Sunnyvale General Plan ("LUTE EIR") (State Clearinghouse No. 2012032003); (2) the 2013 Valley Water (VW) East and West Channels Flood Protection Project EIR ("VW EIR") (State Clearinghouse No. 2013012041); and (3) the 2016 Mathilda Avenue Improvements at SR 237 and US 101 Project ("Caltrans EIR") (State Clearinghouse No. 2015082030).

The CEQA Guidelines provide that where multiple methods exist to streamline environmental review based on prior EIRs, lead agencies have discretion to select which methods to apply to a project's environmental review. (CEQA Guidelines, § 15152(h).) Consistent with this approach, the Initial Study

Checklist included as a companion document within the Transportation EIR relies on CEQA Guidelines Sections 15183 and 15162 to streamline the proposed project's environmental review by identifying and analyzing potentially significant project impacts, if any, that have not already been analyzed and subject to mitigation measures in prior EIRs, and that cannot be mitigated through application of existing City policies, plans, SDRs, and/or Council Policies.

Under CEQA Guidelines Section 15183, "CEQA mandates that projects which are consistent with the development density established by existing zoning, a community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies." (PRC, § 21083.3; CEQA Guidelines § 15183(a).) The Initial Study Checklist included as a companion document within the Transportation EIR therefore relies on CEQA Guidelines Section 15183 and the LUTE EIR to streamline the proposed project's environmental review and to focus on the proposed project's potentially significant impacts that have not already been addressed as a significant effect in the LUTE EIR, or impacts that cannot be substantially mitigated by the imposition of uniformly applied City development policies or standards, including the City's Standard Development Requirements ("SDRs") and policies included in the City Policy Manual ("Council Policies").

Under CEQA Guidelines Section 15162, when a project EIR has been certified, "no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record," that substantial changes occur or are proposed that will require major revisions of the EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects, or that new information now exists indicating that the proposed project will have more significant effects than originally shown in the prior EIR. The Initial Study Checklist included as a companion document within the Transportation EIR therefore relies on CEQA Guidelines Section 15162 and the VW EIR and Caltrans EIR to streamline the proposed project's environmental review and to focus on the proposed project's potentially significant impacts that have not already been addressed as a significant effect in the VW EIR and Caltrans EIR.

To determine the scope of the Transportation EIR, the City prepared a Notice of Preparation (NOP). On May 1, 2019, the NOP for the proposed project was distributed to trustee and responsible agencies, members of the public, other interested parties, and the California Office of Planning and Research, State Clearinghouse. This began the 30-day public review period, which ended on May 31, 2019. A total of four comment letters from regional agencies were received. A scoping meeting was held on May 22, 2019 and additional comments were received. Comments received during the public scoping period were considered during the preparation of the Draft Transportation EIR (see below) and are included in their entirety in Appendix A to that document.

The Draft Transportation EIR, with an accompanying Notice of Completion (NOC), was circulated to the State Clearinghouse, trustee agencies, responsible agencies, other government agencies, and interested members of the public for a 45-day review period, extending from December 2, 2019 through January 16, 2020. On December 16, 2019, the City of Sunnyvale Planning Commission held a public hearing to

receive oral comment on the Draft Transportation EIR. Comments on the Draft Transportation EIR, a list of commenters, and the City's responses to comments are contained in the Final Transportation EIR, which was issued on February 14, 2020. In addition, the Final Transportation EIR contains the Draft Transportation EIR itself, responses to public comments, revisions to the EIR and a Mitigation Monitoring and Reporting Program. Pursuant to CEQA Guidelines §15088(b), the Final Transportation EIR was made available for review by trustee and responsible agencies that provided written comments on the Draft Transportation EIR for a 10-day period, extending from February 14, 2020 to February 24, 2020.

The Transportation EIR for the project consists of the following:

- A. Draft Transportation Environmental Impact Report ("Draft Transportation EIR"), issued December 2, 2019;
- B. All appendices to the Draft Transportation EIR, including the Initial Study Checklist;
- C. Final Transportation EIR, issued February 14, 2020, containing all written comments and responses on the Draft Transportation EIR, refinements and clarifications to the Draft Transportation EIR, the mitigation monitoring and reporting program, and technical appendices; 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.

The Final Transportation EIR did not provide any significant new information regarding proposed project or cumulative impacts or mitigation measures beyond that contained in the Draft Transportation EIR. The City therefore properly decided not to recirculate the Final Transportation EIR for additional public review.

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

- A. On February 24, 2020, the Planning Commission conducted a duly and properly noticed public hearing on the project and the Transportation EIR and recommended that the City Council certify the Transportation EIR and approve the Major Moffett Park Design Review.
- B. On March 17, 2020, at a duly and properly noticed public hearing, the City Council certified the EIR and adopted findings, Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations related to the Moffett Park Major Design Review.

4.0 RECORD OF PROCEEDINGS

The documents and other materials that constitute the record of proceedings on which the Council bases the Findings are located at the Sunnyvale Community Development Department, 456 West Olive Avenue, Sunnyvale, California 94086. The custodian for these documents and materials that constitute the record is the City of Sunnyvale Community Development Department. This information is provided in compliance with PRC Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

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

- A. All application materials for the project and supporting documents submitted by the applicant, including but not limited to those materials constituting the project and listed in Section 3.0 of these findings.
- B. The NOP, comments received on the NOP and all other public notices issued by the City in relation to the Transportation EIR (e.g., Notice of Availability).
- C. The Draft Transportation EIR, the Final Transportation EIR, all appendices to any part of the Transportation EIR, all technical materials cited in any part of the Transportation EIR, comment letters, oral testimony, responses to comments, as well as all of the comments and staff responses entered into the record orally and in writing between December 2, 2019 and February 16, 2020.
- D. All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants related to the Transportation EIR, its analysis and findings.
- E. Minutes and transcripts of the discussions regarding the project and/or project components at public hearings or scoping meetings held by the Planning Commission and the City Council.
- G. Staff reports associated with Planning Commission and Council Meetings on the project and supporting technical memoranda and any letters or other material submitted into the record by any party.
- H. Matters of common knowledge to the Planning Commission and 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.

5.0 FINDINGS REQUIRED UNDER CEQA

PRC section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 of the PRC goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles in PRC Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions.

The first such finding is that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Final Transportation EIR (CEQA Guidelines Section 15091[a][1]). For purposes of these finding, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level.

The second permissible finding is that such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding, and that such changes have been adopted by such other agency or can and should be adopted by such other agency (CEQA Guidelines Section 15091[a][2]).

The third potential conclusion is that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final Transportation EIR (CEQA Guidelines Section 15091[a][3]). “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors (CEQA Guidelines Section 15364).

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. Moreover, “feasibility” under CEQA encompasses “desirability” to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors” (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 410, 417).

In the process of adopting mitigation measures, the City has made a determination regarding whether the mitigation proposed in the Transportation EIR is “feasible.” In some cases, modifications may have been made to the mitigation measures proposed in the Transportation EIR to update, clarify, streamline, or revise those measures.

With respect to a project for which significant impacts are not avoided or substantially lessened, a lead agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons in support of the finding that the project benefits outweigh its unavoidable adverse environmental effects. In the process of considering the Transportation EIR for certification, the City has recognized that impact avoidance is not possible in all instances. To the extent that significant adverse environmental impacts will not be reduced to a less than significant level with the adopted mitigation, the City has found that specific economic, social, and other considerations support approval of the project. Those findings are reflected herein in Section 5, “Findings Required Under CEQA,” and in Section 7, “Statement of Overriding Considerations,” below.

5.1 SUMMARY OF FINDINGS

The Draft Transportation EIR identified a number of less than significant impacts associated with the project that do not require mitigation. The Draft Transportation EIR also identified a significant environmental effect (or impact) that may be caused in whole or in part by the project. Significant effects that cannot be mitigated to less than significant, and thus may be significant and unavoidable. For reasons set forth in Section 7, “Statement of Overriding Considerations,” however, the City has determined that overriding economic, social, and other considerations outweigh the significant, unavoidable effects of the project.

The findings of the City with respect to the project’s significant effects are set forth in the Final Transportation EIR and these Findings of Fact. The Summary of Findings does not attempt to regurgitate the full analysis of each environmental impact contained in the Final Transportation EIR. Please refer to the Draft Transportation EIR and the Final Transportation EIR for more detail.

The following provides a summary description of each potentially significant and significant impact, describes the applicable mitigation measures identified in the Final Transportation EIR and adopted by the City, and states the findings of the City regarding the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final Transportation EIR and associated record (described herein), both of which are incorporated by reference. The City hereby ratifies, adopts, and incorporates the analysis and explanation in the record into these findings, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Final Transportation EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

Some of the measures identified below are within the jurisdiction and control of other agencies. To the extent any of the mitigation measures are within the jurisdiction of other agencies, the City finds those

agencies can and should implement those measures within their jurisdiction and control (CEQA Guidelines Section 15091[a][2]).

5.1.1 FINDINGS REGARDING ERRATA AND EIR RECIRCULATION

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR when “significant new information” is added to the EIR after the lead agency gives public notice of the availability of the Draft EIR but before certification. “Information” may include project changes, changes to the environmental setting, or additional data or other information. The CEQA Guidelines do not consider new information to be significant unless the lead agency changes the EIR in a way that deprives the public of a meaningful opportunity to comment on a substantial adverse environmental effect or a feasible way to mitigate the impact that the agency or project proponent has declined to implement.

CEQA Guidelines Section 15088.5 states “significant new information” requiring recirculation may include:

- (1) A new significant environmental impact that had not previously been disclosed in the draft EIR would result from the project or from a new mitigation measure;
- (2) A substantial increase in the severity of an environmental impact that had already been identified unless mitigation measures would be adopted to reduce the impact to a level of insignificance;
- (3) A feasible project alternative or mitigation measure would considerably lessen the significant environmental impacts of the project, but the proponents will not adopt it; or
- (4) The draft EIR was so inadequate and conclusory that meaningful public review and comment were precluded.

Recirculation is not required if new information added to the EIR just clarifies or makes minor modifications to an otherwise adequate EIR.

The City made changes to the Draft Transportation EIR after this document was released, which are described in Chapter 3, “Revisions to the Draft Transportation EIR Text,” of the Final Transportation EIR. Minor changes were made to the Executive Summary and Project Description sections of the Draft Transportation EIR to clarify project components as they relate to the description of a temporary bridge crossing during construction as well as coordination with Valley Water District for future permitting related to flood control improvements to the West Channel. These changes are described in the Final Transportation EIR. No impacts identified in the Draft Transportation EIR would be substantially increased because of changes to the project or mitigation measures following recirculation. There are no new feasible alternatives or mitigation measures that are considerably different from those considered in the Draft Transportation EIR that the City has declined to adopt.

5.1.2 FINDINGS REGARDING LESS THAN SIGNIFICANT IMPACTS (NO MITIGATION REQUIRED)

The City agrees with the characterization in the Final Transportation EIR of all project-specific impacts identified as “less than significant” and finds that those impacts have been described accurately and are either less than significant or have no impact, as described in the Final Transportation EIR. Section 15091 of the CEQA Guidelines does not require specific findings to address environmental effects that an EIR identifies as having “no impact” or a “less than significant” impact.

The impacts where the project would result in either no impact or a less than significant impact, and which require no mitigation, are identified in the bulleted list below. Please refer to the Transportation EIR for more detail.

Transportation and Traffic

Impact Trans-1: Impacts on Intersection Operating Conditions

Impact Trans-2: Impacts on Freeway Segments

Impact Trans-3: Impacts on Freeway Ramp Operations

Impact Trans-4: Impacts on Project Access Driveways, Throat Lengths, and Sight Distance

Impact Trans-5: Impacts on Transit Facilities

Impact Trans-6: Impacts on Bicycle Facilities

Impact Trans-7: Impacts on Pedestrian Facilities

5.1.3 FINDINGS REGARDING IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

Section 15183(f) of the CEQA Guidelines provides that an effect of the project on the environment shall not be considered “peculiar” to the project for purposes of Section 15183 if the effect can be substantially mitigated by the imposition of uniformly applied development standards or policies.

In addition to serving as the environmental document for the adoption of the LUTE, the LUTE EIR was intended by the City to serve as the basis for compliance with CEQA for projects that are consistent with the development density established by the LUTE in accordance with PRC Section 21083.3 and Section 15183 of the CEQA Guidelines. These sections provide that if an environmental effect of a project is not peculiar to the parcel or the project, has been addressed as a significant impact in the EIR, or can be substantially mitigated by the imposition of uniformly applied development standards or policies, then an additional EIR need not be prepared on the basis of that effect.

The LUTE contains a number of goals, policies, and implementing actions that affirm the General Plan's vision for sustainable development, including Policy LT-2.1 (sustainable practices for the design, construction, maintenance, operation, and deconstruction of buildings), LT-2.1b (encourage green features), LT-2.1c (establish incentives that encourage green building practices beyond mandated requirements), and LT-3.4 (require large employers to develop and maintain transportation demand management programs to reduce employee vehicle trips).

Similarly, under CEQA Guidelines Section 15162, the Transportation EIR relies upon the VW EIR to address potential impacts associated with flood control improvements to the Sunnyvale West Channel as discussed by the project. The proposed improvements to the West Channel would be constructed to be compatible with the flood protection improvements at the upstream and downstream end of the channel. As such, the project will implement mitigation measures identified in the VW EIR to protect biological resources. The Transportation EIR also relies upon the Caltrans EIR to address impacts previously studied by Caltrans.

The Transportation EIR concludes that the project will not have any new or more severe impacts, including off-site and cumulative impacts, than were analyzed in the LUTE EIR, VW EIR, and Caltrans EIR, with the exception of cumulative transportation impacts at the intersection of Mathilda Avenue/Sunnyvale Saratoga Road-Talisman Drive.

The City hereby finds that feasible mitigation measures have been identified in the LUTE EIR and VW EIR and these mitigations measures will avoid or substantially lessen the following potentially significant and significant environmental impacts to a less than significant level. The potentially significant and significant impacts and the mitigation measures that will reduce them to a less than significant level are summarized below. Please refer to the Transportation EIR for more detail.

A. AIR QUALITY

Initial Study Impact 4.3-b: Cumulatively considerable net increase of criteria pollutants for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

As shown in on page 78 of the Initial Study Table 4.3-2: Mitigated Construction Period Emissions shows the projected emission for construction efforts. Temporary air emissions would result from particulate emissions (fugitive dust) from grading and building construction and exhaust emissions from the construction equipment and the motor vehicles of the construction crew. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. As shown in the table, construction emissions would not exceed the BAAQMD significance thresholds for ROG, NOX, PM10, and PM2.5.

The LUTE EIR Mitigation Measure 3.5.3 requires construction projects to implement BAAQMD's basic construction mitigation measures, which is a uniformly applied development standard because is it required by the CAP. The dust control measures that would be applied to the proposed project include the following:

- (1) all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
- (2) All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
- (3) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
- (4) All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph);
- (5) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
- (6) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points;
- (7) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation; and
- (8) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Mitigation Measure 3.5.3 from the LUTE EIR

Prior to the issuance of grading or building permits, the City of Sunnyvale shall ensure that the Bay Area Air Quality Management District's (BAAQMD) basic construction mitigation measures from Table 8-1 of the BAAQMD 2011 CEQA Air Quality Guidelines (or subsequent updates) are noted on the construction documents.

In the cases where construction projects are projected to exceed the BAAQMD's air pollutant significance thresholds for NOX, PM10, and/or PM2.5, all off-road diesel-fueled equipment (e.g., rubber-tired dozers, graders, scrapers, excavators, asphalt paving equipment, cranes, tractors) shall be at least California Air Resources Board (CARB) Tier 3 Certified or better.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measure, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

Initial Study Impact 4.3-C: Expose sensitive receptors to substantial pollutant concentrations

Impacts 3.5.4, 3.5.5, 3.5.6, and 3.5.8 of the LUTE EIR evaluated whether construction and operational activities would expose sensitive receptors to substantial pollutant concentrations of TACs. Sensitive receptors include residences, schools, medical facilities, family daycares, and places of worship. Construction-related TACs potentially affecting sensitive receptors include off-road diesel-powered equipment, and operational TACs include mobile and stationary sources of diesel particulate matter. Both impacts are identified in the LUTE EIR as potentially significant. Implementation of Mitigation Measure 3.5.5 and Mitigation Measure 3.5.6 from the LUTE EIR, in addition to BAAQMD permitting requirements, were determined to provide adequate reductions to these impacts and result in a less than significant impact under project conditions but found that the LUTE's contribution to significant cumulative impacts would be cumulatively considerable (LUTE EIR Impact 3.5.8).

The project site is surrounded by other development within the MPSP that consists of industrial, commercial, and other uses associated with the technology sector. The closest sensitive receptors to the proposed project are located at more than 3,000 feet from the project site. BAAQMD recommends that sensitive receptors within 1,000 feet of a project be considered. Based on this, a health risk assessment of the project construction activities was not conducted since sensitive receptors are located far from the site. Given the large distance and temporary nature of this impact, community risk caused by construction to sensitive receptors is considered less than significant. The proposed project would incorporate COAs to reduce impacts and the proposed project would conform with uniformly applied development policies and standards as detailed above. This would reduce the emissions of TACs, NOX, PM2.5, and PM10 during construction further reducing emissions of these particles and compounds.

Mitigation Measure 3.5.5 from the LUTE EIR

In the case when a subsequent project's construction span is greater than 5 acres and/or is scheduled to last more than two years, the subsequent project applicant shall be required to prepare a site-specific construction pollutant mitigation plan in consultation with BAAQMD staff prior to the issuance of grading permits. A project-specific construction-related dispersion modeling acceptable to the BAAQMD shall be used to identify potential toxic air contaminant impacts, including diesel particulate matter. If BAAQMD risk thresholds (i.e., probability of contracting cancer is greater than 10 in one million) would be exceeded, mitigation measures shall be identified in the construction pollutant mitigation plan to address potential impacts and shall be based on site-specific information such as the distance to the nearest sensitive receptors, project site plan details, and construction schedule. The City shall ensure construction contracts include all identified measures and that the measures reduce the health risk below BAAQMD risk thresholds. Construction pollutant mitigation plan measures shall include but not be limited to:

1. Limiting the amount of acreage to be graded in a single day.
2. Restricting intensive equipment usage and intensive ground disturbance to hours outside of normal school hours.

Notifying affected sensitive receptors one week prior to commencing on-site construction so that any necessary precautions (such as rescheduling or relocation of outdoor activities) can be implemented. The written notification shall include the name and telephone number of the individual empowered to manage construction of the project. In the event that complaints are received, the individual empowered to manage construction shall respond to the complaint within 24 hours. The response shall include identification of measures being taken by the project construction contractor to reduce construction-related air pollutants. Such a measure may include the relocation of equipment.

Mitigation Measure 3.5.6 from the LUTE EIR

The following measures shall be utilized in site planning and building designs to reduce TAC and PM2.5 exposure where new receptors are located within 1,000 feet of emissions sources:

- Future development that includes sensitive receptors (such as residences, schools, hospitals, daycare centers, or retirement homes) located within 1,000 feet of Caltrain, Central Expressway, El Camino Real, Lawrence Expressway, Mathilda Avenue, Sunnyvale-Saratoga Road, US 101, State Route 237, State Route 85, and/or stationary sources shall require site-specific analysis to determine the level of health risk. This analysis shall be conducted following procedures outlined by the BAAQMD. If the site-specific analysis reveals significant exposures from all sources (i.e., health risk in terms of excess cancer risk greater than 100 in one million, acute or chronic hazards with a hazard Index greater than 10, or annual PM2.5 exposures greater than 0.8 µg/m³) measures shall be employed to reduce the risk to below the threshold (e.g., electrostatic filtering systems or equivalent systems and location of vents away from TAC sources). If this is not possible, the sensitive receptors shall be relocated.
- Future nonresidential developments identified as a permitted stationary TAC source or projected to generate more than 100 heavy-duty truck trips daily will be evaluated through the CEQA process or BAAQMD permit process to ensure they do not cause a significant health risk in terms of excess cancer risk greater than 10 in one million, acute or chronic hazards with a hazard Index greater than 1.0, or annual PM2.5 exposures greater than 0.3 µg/m³ through source control measures.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measure, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

Initial Study Impact 4.3-D: Result in other emissions

Potential odors could arise from the diesel-fueled construction equipment used on-site, as well as from architectural coatings and asphalt off-gassing. Odors generated during construction activities would be temporary and are not considered to be a significant impact. Emissions produced during demolition, grading, and construction activities are short-term, as they would exist only during construction. Construction activity associated with the proposed project may generate detectable odors from heavy-

duty equipment exhaust. Construction-related odors would be short-term in nature and cease upon completion of the proposed project. Any impacts to existing adjacent land uses would be short-term and are considered less than significant.

According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The proposed project does not include any uses identified by the BAAQMD as being associated with odors. Thus, the proposed project would not be a source of objectionable odors and the surrounding development, which also consists of primarily commercial and office/R&D uses, is not a source of objectionable odors, and there is no cumulative impact related to objectionable odors.

Mitigation Measure 3.5.7 from the LUTE EIR

Avoid Odor Conflicts. Coordinate land use planning to prevent new odor complaints.

Consult with the BAAQMD to identify the potential for odor complaints from various existing and planned or proposed land uses in Sunnyvale. Use BAAQMD odor screening distances or city-specific screening distances to identify odor potential.

Prohibit new sources of odors that have the potential to result in frequent odor complaints unless it can be shown that potential odor complaints can be mitigated.

Prohibit sensitive receptors from locating near odor sources where frequent odor complaints would occur, unless it can be shown that potential odor complaints can be mitigated.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measure, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

B. BIOLOGICAL RESOURCES

Initial Study Impact 4.4-A: Impact either directly or through habitat modifications, any species identified as a candidate, sensitive, or special status species

Although no special status wildlife was observed, some special status species with the potential to occur include Burrowing Owl (*Athene cunicularia*), White-Tailed Kite (*Elanus leucurus*), San Francisco Common Yellowthroat (*Geothlypis trichas sinuosa*), Alameda Song Sparrow (*Melospiza melodia pusillula*), nesting birds, and roosting bats including Yuma myotis (*Myotis yumanensis*) and Mexican free-tailed bat (*Tadarida brasiliensis*). Within the channel two fish species including the Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) and North American green sturgeon (*Acipenser medirostris*) may occur. Only one rare or endangered plant, Congdon's Tarplant (*Centromadia parryi*), was determined to have potential to exist on the project site; however, the site surveys concluded Congdon's tarplant is not present.

As identified in LUTE EIR Impact 3.9.1, the urbanized portions of the City are largely built out and do not contain large areas of natural habitat, but some ruderal infill lots could support burrowing owl and Congdon's tarplant, and urban parks, open space, and riparian areas could support nesting birds. Active nests of all migratory birds, including raptors, are protected by state and federal law. Direct impacts on special-status species could occur as a result of construction of private development and/or public projects. The LUTE policies and actions include protections that address natural habitat conditions in the City. The City of Sunnyvale is also required to comply with all applicable federal and state laws and regulations pertaining to species and habitat protection. In addition, the VW EIR analyzed impacts associated with proposed improvements to the entire West Channel. This included the approximately 1,000-foot portion of the West Channel within the project site. The VW EIR did not study the exact same improvements as the proposed project; however, improvements to the West Channel would be similar and in the same area. Therefore, conformance with mitigation measures and BMPs from the VW EIR would be applied to the proposed project and would reduce impacts to less than significant.

As part of the flood control improvement program the VW EIR incorporated and was adopted with 12 mitigation measures and seventeen best management practices (BMPs) to reduce impacts to biological resources. The mitigation measures and BMPs reduced potential impacts to biological resources to less than significant. The mitigation measures would be implemented as part of the proposed project, would be implemented as appropriate, and are incorporated by reference. The mitigation measures are listed in the Draft Transportation EIR Initial Study (page 89) in Table 4.4-1: VW EIR Biological Resources Mitigation, included below. BMPs listed would be applicable to the proposed project and these are shown in Table 4.4-2: VW EIR Best Management Practices of the Draft Transportation EIR Initial Study (page 89). The BMPs contained in the VW EIR would be applied to the improvements to the West Channel as needed.

Table 4.4-1: VW EIR Biological Resources Mitigation

MM BIO-1: Implement Compensatory Mitigation for Temporal Loss of Vegetated Wetlands and Permanent Loss of Vegetated and Unvegetated Wetlands and Other Waters	MM BIO-2: Conduct Fish Removal during Project Site Dewatering Activities
MM BIO-3: Conduct Pre-Construction Surveys for Western Pond Turtles	MM BIO-4: Pre-Construction Surveys for Nesting Birds
MM BIO-5: Implement Buffer Zones for Nesting Birds	MM BIO-6: Conduct Pre-Construction Surveys for Burrowing Owls
MM BIO-7: Implement Buffer Zones for Burrowing Owls	MM BIO-8: Monitor Owls during Construction
MM BIO-9: Passively Relocate Burrowing Owls	MM BIO-10: Restoration of Temporary Impact Areas
MM BIO-11: Compensatory Mitigation for Burrowing Owls	MM BIO-13: Avoid Construction during Bat Maternity Season

Table 4.4-2: VW EIR Best Management Practices

BMP BIO-1: Avoid relocating mitten crabs	BMP BIO-2: Avoid and minimize impacts on native aquatic vertebrates
BMP BIO-3: minimize impacts to steelhead	BMP BIO-4: minimize access impacts
BMP BIO-5: Remove temporary fills as appropriate	BMP BIO-8: Avoid impacts to nesting migratory birds
BMP BIO-9: Use exclusion devices to prevent migratory bird nesting	BMP BIO-10: Minimize impacts to vegetation whenever clearing (or trimming) is necessary.
BMP BIO-11: Minimize root impacts to woody vegetation	BMP BIO-13: Plant local ecotypes of native plants and choose appropriate erosion-control seed mixes
BMP BIO-14: Maintain low-flow fish passage	BMP BIO-15: Restore riffle/pool configuration of channel bottom
BMP BIO-16: Avoid animal entry and entrapment	BMP BIO -17: Minimize predator attraction effects on wildlife.
* Only BMP's from the VW EIR that are applicable to the proposed project are listed above.	

Mitigation Measure BIO-2 from the VW EIR

Conduct Fish Removal during Project Site Dewatering Activities. Prior to dewatering activities in tidal reaches, a qualified biologist shall use nets to exclude fish from the construction area. During a falling tide, a block net (mesh size shall not exceed 9.5 mm to ensure that longfin smelt are adequately excluded from this area but do not become entangled) shall be placed at the upper end of the reach to be dewatered. Subsequently, qualified biologists shall walk from the upper to lower end of the reach with a net stretched across the channel to encourage fish to move out of the construction area. When the lower end of the construction area is reached, a second block net shall be installed to isolate the construction reach. This procedure shall be repeated a minimum of three times per dewatered tidal reach to assure no green sturgeon, steelhead, or longfin smelt remain within the construction area. Subsequently, a qualified biologist will supervise the controlled dewatering of the project reach. Fish exclusion barriers shall be left in place until project construction activities in a reach are complete. Upon the completion of construction activities, all temporary diversion structures will be removed and flows gradually restored to the channel. Following restoration of flow to the channel, the fish exclusion barriers shall be removed under the supervision of a qualified biologist.

Mitigation Measure BIO-3 from the VW EIR

Conduct Pre-Construction Surveys for Western Pond Turtles. A qualified biologist shall conduct a survey for western pond turtles and their nests within 48 hours prior to commencement of work within the channel banks in any given area where water is present. If a western pond turtle is found in an area where it could be injured or killed by project activities, the qualified biologist will relocate the turtle to an appropriate site outside the project area (e.g., the Lockheed Channel or North Moffett Channel).

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). The buffer zone will remain in place until the young have left the nest, as determined by a qualified biologist.

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 in-channel activity 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 out of the area where it could be impacted.

Mitigation Measure BIO-4 from the VW EIR

Pre-Construction Surveys for Nesting Birds. Pre-construction surveys for nesting birds shall be conducted by a qualified biologist to ensure that no nests will be disturbed during project implementation. Surveys shall be conducted no more than one week prior to the initiation of construction activities in any given area; because construction may be phased, surveys will be conducted prior to the commencement of each phase of construction. The survey can be limited to the portions of the Project Work Area where construction activities will occur as well as a 250-foot buffer for raptors and a 50-foot buffer for non-raptors. The Project Work Area includes the entire footprint of the Caribbean Campus Project's West Channel improvement area. During each survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., shrubs, ruderal grasslands, wetlands, and buildings) in and immediately adjacent to the impact areas for nests. If a lapse in project-related work of one week or longer occurs, another focused survey will be conducted before project work can be reinitiated.

Mitigation Measure BIO-5 from the VW EIR

Implement Buffer Zones for Nesting Birds. If an active nest is found sufficiently close to the Project Work Area (i.e., within 250 feet for raptors or 50 feet for non-raptors), a qualified biologist will determine the extent of a disturbance-free buffer zone to be established around the nest (typically 50 feet for non-raptors and 250 feet for raptors), to ensure that no nests of species protected by the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code will be disturbed during project implementation. The buffer distance is measured as the straight-line distance between an active nest and the activity, taking both horizontal and vertical distance into account. No new project-related activities (i.e., activities that were not ongoing when the nest was established; for example, routine maintenance activities would not be considered "new") shall be performed within the buffer until the young have fledged or the nest has been determined to be inactive by a qualified ornithologist.

Reductions in the standard buffers (i.e., to buffers less than 50 feet for non-raptors and less than 250 feet for raptors) may be allowed where circumstances suggest the birds will not abandon the active nest with a reduced buffer size. A qualified biologist will determine whether reducing the buffer is likely to substantially increase disturbance of nesting birds, taking into account the presence or absence of dense vegetation, type of construction work, topography, or structures that would block project activities from view; the life history and behavior of the bird species in question; and the nature of the proposed activity. If a reduced buffer is implemented, the biologist shall monitor bird behavior in relation to work activities. At a minimum, the biologist will monitor the baseline behavior of the birds for at least 30 minutes prior to the commencement of the activity (to determine the birds' behavior in the absence of the activity) and for at least one hour immediately following the initiation of the activity, when response by the nesting birds to the novel activity is expected to be greatest. If the birds exhibit abnormal nesting behavior which may cause reproductive failure (e.g., nest abandonment and loss of eggs and/or young), such as agitated/defensive flights and vocalizations directed towards project personnel, birds standing up from a brooding position, birds flushing from the active nest, or cessation of provisioning of young with food, the disturbance-free buffer shall immediately be adjusted out to the standard buffer distance (250 feet for raptors and 50 feet for non-raptors) until the birds have resumed their normal behavior (e.g., incubation or feeding of young). After 2 hours with all work confined to the area outside the standard buffer, work

would again be attempted in the area within the reduced buffer, and the process would be repeated to determine if the birds have habituated to the activity. If the process is repeated three times without the birds indicating that they are habituating to the activity, then the standard buffer will be maintained until the next day, when the process above would again be attempted. If the birds do not indicate that they are habituated to project activities during the initial 2 days of attempting work within a reduced buffer, the standard buffer shall be implemented. project activities within the reduced buffers shall not resume until the California Department of Fish and Wildlife (CDFW) has been consulted and both the qualified biologist and CDFW confirm that the birds' behavior has normalized, or until the nest is no longer active.

Mitigation Measure BIO-6 from the VW EIR

Conduct Pre-Construction Surveys for Burrowing Owls. Pre-construction surveys for burrowing owls shall be conducted prior to the initiation of all project activities within suitable burrowing owl habitat (i.e., ruderal/ grassland habitat with burrows of California ground squirrels). A qualified biologist will conduct an initial habitat survey, mapping areas with burrows (i.e., areas of highest likelihood of burrowing owl activity) and all burrows that may be occupied (as indicated by tracks, feathers, egg shell fragments, pellets, prey remains, or excrement) on the project site. This mapping will be conducted while walking transects throughout the entire project footprint, plus all accessible areas within a 250-foot radius from the project footprint. The centerline of these transects will be no more than 50 feet apart and will vary in width to account for changes in terrain and vegetation that can preclude complete visual coverage of the area. If suitable habitat is identified during the habitat survey, preconstruction surveys will be required. To maximize the likelihood of detecting owls, the preconstruction survey will last a minimum of three hours. The survey will begin 1 hour before sunrise and continue until 2 hours after sunrise (3 hours total) or begin 2 hours before sunset and continue until 1 hour after sunset. Additional time may be required for large project sites. A minimum of two surveys will be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed will be counted and their location will be mapped. Surveys will conclude no more than 2 calendar days prior to construction. Therefore, the project proponent must begin surveys no more than 4 days prior to construction (2 days of surveying plus up to 2 days between surveys and construction). To avoid last minute changes in schedule or contracting that may occur if burrowing owls are found, the project proponent may also conduct a preliminary survey up to 14 days before construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than 2 calendar days in advance of construction. Because project activities may be phased, these survey efforts may also need to be performed in phases to ensure that burrowing owls are not present in work areas when project activities commence. This measure applies to the staging areas as well as the project areas along the Sunnyvale Channels.

Mitigation Measure BIO-7 from the VW EIR

Implement Buffer Zones for Burrowing Owls. If burrowing owls are present during the non-breeding season (generally September 1 to January 31), a 250-foot buffer zone shall be maintained around the occupied burrow(s), if feasible. If maintaining such a buffer is not feasible, a reduced buffer and monitoring may be implemented as described under MM BIO-8, or else the owls should be passively relocated as described in MM BIO-9 below. During the breeding season (generally February 1 to August 31), a 250- foot buffer, within which no new project-related activities will be permissible, will be maintained between project activities and occupied nest. Owls present between February 1 and August 31 will be assumed to be nesting, unless monitoring evidence indicates that the owls are no longer nesting or the young owls are foraging independently, or only a single owl (rather than a breeding pair) is present

after July 1st and there is no evidence that young owls are present. If no active nesting is occurring, the buffer may be reduced or the owls may be relocated prior to August 31, in consultation with the CDFW.

Mitigation Measure BIO-8 from the VW EIR

Monitor Owls during Construction. Any owls occupying the Project Area are likely habituated to frequent human disturbances throughout the year in the form of maintenance activities and recreational use of the levee maintenance roads. As a result, they may exhibit a tolerance of greater levels of human disturbance than owls in more natural settings, and work within the standard 250-foot buffer during the nesting season may be able to proceed without disturbing the owls. Therefore, if nesting owls are determined to be present on the site, and project activities cannot feasibly avoid disturbance of the area within 250 feet of the occupied nest construction activities within the non-disturbance buffer will be allowed during the breeding season if the following criteria are met:

- The nest is not disturbed, and
- The project proponent develops an avoidance, minimization, and monitoring plan that will be approved by the CDFW prior to project construction, and that is based on the following criteria.
 - A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).
 - The same qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities.
 - If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site.
 - If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the CDFW.

Construction activities within the non-disturbance buffer during the non-breeding season will be allowed if the following criteria are met in order to prevent owls from abandoning important overwintering sites. Alternatively, the owl(s) may be passively evicted during the non-breeding season (see Mitigation Measure BIO-9).

- A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).
- The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.

- If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer.
- If the owls are gone for at least one week, a qualified biologist may excavate usable burrows to prevent owls from re-occupying the site. After all usable burrows are excavated, the buffer zone may be removed and construction may continue.

Mitigation Measure BIO-9 from the VW EIR

Passively Relocate Burrowing Owls. If construction will directly impact occupied burrows, a qualified biologist will passively evict owls from burrows during the nonbreeding season (September 1 to January 31). No burrowing owls will be evicted during the nesting season (February 1 through August 31) except with the CDFW's concurrence that evidence demonstrates 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). Eviction will occur through the use of one-way doors inserted into the occupied burrow and all burrows within impact areas that are within 250 feet of the occupied burrow (to prevent occupation of other burrows that will be impacted). One-way doors will be installed by a qualified biologist and left in place for at least 48 hours before they are removed. The burrows will then be backfilled to prevent re-occupation.

Although relocation of owls may be necessary to avoid the direct injury or mortality of owls during construction, relocated owls may suffer predation, competition with other owls, or reduced health or reproductive success as a result of being relegated to more marginal habitat. However, the benefits of such relocation, in terms of avoiding direct injury or mortality, would outweigh any adverse effects.

Mitigation Measure BIO-10 from the VW EIR

Restoration of Temporary Impact Areas. Impacted ruderal/grassland habitat in Project Work Areas will be restored onsite at a minimum ratio of 2:1 (2 acres of mitigation for every 1 acre disturbed) and shall be included in the Wetland and Jurisdictional Waters Mitigation and Monitoring Plan.

Mitigation Measure BIO-11 from the VW EIR

Compensatory Mitigation for Burrowing Owls. If direct impacts of occupied breeding habitat cannot be avoided (see MM BIO-8), compensatory mitigation will be provided in the form of habitat preservation and/or management. All ruderal/nonnative grasslands located within the portion of the Project Work Area located north of Caribbean Drive are considered occupied breeding habitat, because (1) burrowing owls have been widely documented to occupy the grassland habitats on the old landfills surrounding the City of Sunnyvale Recycling Center and Water Pollution Control Plant (WPCP), (2) known occupied habitat in these areas is contiguous with potentially suitable burrowing owl habitat within the Project Site, and (3) burrows and associated surrounding habitat are essential ecological requisites for burrowing owls throughout the year (CDFG 2012). Habitat compensation shall be provided for all project impacts that result in a permanent loss of ruderal/non-native grasslands north of Caribbean Drive at a ratio of 2:1, on an acreage basis.

Additional habitat compensation will be provided in the event that any burrowing owls require relocation from suitable nesting habitat. Mitigation will consist of preservation and/or management of owl habitat

at a ratio of 9.75 – 19.5 acres of suitable habitat for every pair (or single owl, if unpaired) that must be relocated from these areas, in accordance with California Burrowing Owl Consortium (1993) guidelines. The amount of mitigation habitat provided will depend on whether the mitigation habitat is occupied by burrowing owls (9.75 acres), adjacent to occupied habitat (13.0 acres), or suitable but unoccupied (19.5 acres). Compensatory mitigation is not required in the unlikely event that owls require relocation from portions of the channels south of Caribbean Drive, as these areas do not provide suitable breeding habitat.

Mitigation may be provided via the management of suitable habitat on either existing lands or lands that are acquired, purchase of credits in a mitigation bank (if one is available), or contribution of funds toward the management of the required amount of suitable habitat owned by another entity (e.g., partnering with the City of Sunnyvale to manage habitat on the old landfills north of Caribbean Drive). The mitigation site must be located in Santa Clara County, or in areas of San Mateo or Alameda counties adjacent to San Francisco Bay, so that the mitigation supports the maintenance of the South San Francisco Bay burrowing owl populations. If Google provides habitat mitigation either on existing lands or on lands that are acquired for mitigation purposes, a habitat mitigation and monitoring plan (HMMP) will be prepared detailing the following:

1. the areas to be preserved for owls;
2. the methods for managing on-site habitat for owls and their prey (including vegetation management to maintain low-statured herbaceous vegetation);
3. methods for enhancing burrow availability within the mitigation site (potentially including the provision of artificial burrows, although long-term management for ground squirrels will be important as well); and
4. measures to minimize adverse effects of development on owls on the site; and a monitoring program and adaptive management program; and
5. performance indicators and success criteria, including the maintenance of ground squirrel burrows at a density similar to densities on the old landfills that currently support burrowing owls, and the maintenance of low-statured herbaceous vegetation.

Mitigation Measure BIO-13 from the VW EIR

Avoid Construction during Bat Maternity Season. During the maternity season (April 1 through July 31), a 100-foot buffer, within which no new, construction-related activities shall occur, will be maintained around the West Channel undercrossing of Caribbean Drive. Modification of the headwalls at, and any other work within 100 feet of, this undercrossing shall occur outside the maternity season (i.e., this work will occur between August 1 and March 31) so no non-flying young will be present and any bats using the bridge will be able to disperse if they cannot tolerate this disturbance.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measures, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

Initial Study Impact 4.4-B: Impact any riparian habitat or other sensitive natural community

The West Channel contains four general habitat types and include tidal aquatic and estuarine wetland in the channel, ruderal riparian grassland on the banks of the levee, and developed/landscaped outside the levee. The channel contains a narrow tidal aquatic area and the adjacent habitats on the bank and levee have been subject to moderate to high levels of anthropogenic disturbance including channelization, hardening of streambanks, installation of culverts, and other human influences. The channel is confined on both sides by urban development and generally lacks native habitats associated with more natural channel systems and has a relatively low-quality habitat value. The channel consists of a narrow, linear channel, relatively steep banks dominated by ruderal riparian vegetation and lacks woody species. The top of the levee is unvegetated and has dirt access roads on both sides. Ruderal, nonnative grassland and scattered nonnative trees are located on the outboard sides of the channel.

The ruderal riparian habitat covers approximately 0.44 acres within the channel. Estuarine wetlands within the channel are classified by the National Wetlands Inventory as an estuarine and marine wetland. This classification refers to estuarine and intertidal wetlands occurring within a streambed that is completely dewatered at low tide but is regularly flooded and was originally excavated by humans. There is 0.17 acres of estuarine wetlands within the project site. These areas are discontinuous and contain patches of hydrophytic vegetation on the east and west sides of the channels. Species include California bulrush (*Schoenoplectus californicus*), and alkali brush (*Bolboschoneus maritmus*).

Tidal Aquatic habitat accounts for approximately 0.73 acres of the channel habitat types. Tidal aquatic habitat consists of the unvegetated muddy channel bed that is subject to tidal inundation, is located in the middle portion of the channel and at times is under open water.

Outside of the levee, the areas that would be disturbed for improvements to the West Channel consist of approximately 6.77 acres of developed land with parking lots, other pavement, existing commercial buildings, and landscaping. Landscaped areas consist of a variety of non-native trees, plants and shrubs and ground cover including lawns and ivy. These areas provide relatively low habitat quality and are used by species adapted to a heavily urbanized environment.

LUTE Draft EIR Impact 3.9.2 and 3.9.5 addressed potential impacts to wetlands from implementation of the LUTE. The analysis identifies that subsequent projects under the LUTE are required to comply with all applicable federal and state laws and regulations pertaining to species and habitat protection in addition to LUTE policies and actions and the City's Municipal Code. This impact was identified as less than significant under project and cumulative conditions (Impact 3.9.5). In addition, mitigation previously adopted as part of the VW EIR (Mitigation Measure BIO-1) concluded that the components of the measure would result in the creation, restoration, and/or enhancement of wetlands, and would reduce this potential impact to a less than significant.

Mitigation Measure BIO-1 from the VW EIR

Implement Compensatory Mitigation for Temporal Loss of Vegetated Wetlands and Permanent Loss of Vegetated and Unvegetated Wetlands and Other Waters. Mitigation for temporary or permanent impacts on unvegetated aquatic habitat shall be provided at a ratio of 1:1 (1 acre of mitigation for every 1 acre of disturbed) to compensate for the brief temporal loss of functions and values during project activities. Mitigation for temporary impacts on vegetated wetlands shall be provided at a ratio of 1.2:1. Mitigation for permanent impacts on vegetated wetlands shall be provided at a ratio of 2:1. Mitigation shall be provided via creation or restoration of wetlands/other waters onsite. A qualified biologist will develop a Wetland and Jurisdictional Waters Mitigation and Monitoring Plan, which shall contain the following components (or as otherwise modified by regulatory agency permitting conditions):

1. Summary of habitat impacts and proposed mitigation ratios.
2. Goal of the restoration to achieve no net loss of habitat functions and values.
3. Location of mitigation site(s) and description of existing site conditions.
4. Mitigation design:
 - Existing and proposed site hydrology
 - 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
 - Remedial measures/adaptive management, etc.
5. Monitoring plan (including final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.). At a minimum, success criteria will include quantifiable measurements of wetland vegetation type (e.g., dominance by native hydrophytes) and extent appropriate for the wetland restoration location, and provision of ecological functions and values equal to or exceeding those in the wetlands and waters that are impacted.
6. Contingency plan for mitigation elements that do not meet performance or final success criteria.

[The Applicant] shall implement the Wetland and Jurisdictional Waters Mitigation Monitoring Plan. Monitoring shall be conducted annually to document whether the success criteria are achieved, and to identify any remedial actions that must be taken if the identified success criteria are not met. Monitoring shall continue until the mitigation has been determined to be successful per project permit requirements (i.e., success criteria are achieved).

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measure, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

Initial Study Impact 4.4-C: Impact state or federally protected wetlands

The proposed project would include improvements within the West Channel which includes wetland areas. As part of the VW EIR, wetlands within the project site were mapped and impacts to wetlands that would occur with the proposed improvements were analyzed. The biological resources study prepared for the project site also evaluated wetland impacts. Mitigation Measure BIO-1 from the VW EIR requires the implementation of compensatory mitigation for temporal loss of vegetated wetlands and permanent loss of vegetated and unvegetated wetlands. In addition to Mitigation Measure BIO-1, six BMPs from the VW EIR would be applicable in regard to this impact and include: BMP BIO-4; BMP BIO-5; BMP BIO-10, BMP BIO 11, BMP BIO-13, and BMP BIO-15. Implementation of Mitigation Measures BIO-1 and the VW BMPs would further ensure impacts are less than significant.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measure and BMPs, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

Initial Study Impact 4.4-D: Interfere substantially with the movement of any native resident or migratory fish or wildlife species

The project site is developed in a high-density urban environment. The proposed project contains 13 existing industrial buildings, parking lots, landscaping, other hardscaped areas, and 1,000 feet of the West Channel. While landscaping and structures may provide refuge, foraging, and even breeding opportunities for some wildlife, species most likely to occur within the area are generally those that have wide tolerances for human activities and disturbances and would not consist of sensitive species.

The West Channel supports some open water and wetland habitat and provides connectivity to the Moffett Channel adjacent to the WPCP and eventual outfall to the south San Francisco Bay via the Guadalupe Slough. The habitat within the West Channel in the project area; however, is generally considered low quality. The VW EIR discusses this and notes the culvert crossings detract from habitat value. Other habitat associations include generally urban and ruderal vegetation, and because the channel is typically narrow and is confined on both sides by dense urban development its value for migrations and movement is limited.

Implementation of Mitigation Measures BIO-2, BIO-4, BIO-5, and BMP-33, BMP-38, BMP-3, BMP-14, and BMP-16 would reduce impacts to less than significant.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measures and BMPs, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

C. NOISE

Initial Study Impact 4.13-A: Generate a substantial temporary or permanent increase in ambient noise levels

The proposed project includes demolition of the existing structures and excavation of existing hardscape prior to initiation of grading. After grading occurs and the site is prepared, construction of the proposed project would begin. Construction activities are anticipated to last approximately 30 months and occur over a single phase. Impact 3.6.1 of the LUTE EIR identified less than significant impacts related to subsequent development generating noise levels that exceed City noise standards. The proposed land uses and development intensity is consistent with the LUTE. In addition, the LUTE EIR identified that compliance with Sunnyvale Municipal Code Chapter 16.08 (limitations on hours of construction activity) and Mitigation Measure 3.6.4 that requires projects to employ site-specific noise attenuation measures during construction to reduce the generation of construction noise would reduce this impact to a less than significant level.

Mitigation Measure 3.6.3 from the LUTE EIR

New development and public projects shall employ site-specific noise attenuation measures during construction to reduce the generation of construction noise and vibration. These measures shall be included in a Noise Control Plan that shall be submitted for review and approval by the City. Measures specified in the Noise Control Plan and implemented during construction shall include, at a minimum, the following noise control strategies:

- Equipment and trucks used for construction shall use 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;
- Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools; and
- Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or include other measures.

- Noise and vibration reducing pile-driving techniques shall be employed during construction and will be monitored to ensure no damage to nearby structures occurs (i.e., vibrations above peak particle velocity (PPVs) of 0.25 inches per second at nearby structures). These techniques shall include:
 - Installing intake and exhaust mufflers on pile-driving equipment;
 - Vibrating piles into place when feasible, and installing shrouds around the pile- driving hammer where feasible;
 - Implementing “quiet” pile-driving technology (such as pre-drilling of piles and the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
 - Using cushion blocks to dampen impact noise, if feasible based on soil conditions. Cushion blocks are blocks of material that are used with impact hammer pile drivers. They consist of blocks of material placed atop a piling during installation to minimize noise generated when driving the pile. Materials typically used for cushion blocks include wood, nylon and micarta (a composite material); and

At least 48 hours prior to pile-driving activities, notifying building owners and occupants within 600 feet of the project area of the dates, hours, and expected duration of such activities.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measures, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

Initial Study Impact 4.13-B: Impacts from the generation of excessive groundborne vibration or groundborne noise levels

Impact 3.6.3 of the LUTE EIR evaluated the potential for construction activities to generate excess groundborne vibration and identified that damage to older buildings can occur at 0.25 inches per second of peak particle velocity (PPV) and at 0.5 for conventional buildings. This impact was identified as potentially significant in the LUTE EIR. To reduce potential impacts the LUTE EIR incorporated Mitigation Measure 3.6.3, which requires noise and vibration reducing pile-driving techniques to be employed during construction and to be monitored to ensure no damage to nearby structures occurs (i.e., vibrations above PPVs of 0.25 inch per second at nearby structures). The LUTE EIR identified that implementation of this mitigation would reduce the construction vibration impact to a less than significant level.

Mitigation Measure 3.6.3 from the LUTE EIR

The project would implement Mitigation Measure 3.6.3 from the LUTE EIR listed above.

Level of Significance After Mitigation

Less Than Significant.

Finding on Proposed Mitigation

The City finds that, with implementation of the above mitigation measures, changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen this construction air quality impact identified in the Final Transportation EIR.

5.1.4 FINDINGS REGARDING ENVIRONMENTAL IMPACTS NOT FULLY MITIGATED TO LESS THAN SIGNIFICANT

The following cumulatively significant and potentially significant environmental impacts of the project are unavoidable and cannot be mitigated in a manner that would substantially lessen the environmental impact. The City finds that the project's environmental, economic, social, and other benefits outweigh and override the significant adverse cumulative impacts related to change in the environment. The City hereby elects to approve the project due to overriding considerations as set forth below in Section 7, "Statement of Overriding Considerations."

A. Transportation and Traffic

Cumulative Impact: Cumulative Plus Project Intersection Operations

Intersection #27 - Mathilda Avenue / Sunnyvale Saratoga Road-Talisman Drive – The Mathilda Avenue / Sunnyvale Saratoga Road - Talisman Drive intersection is projected to operate at unacceptable PM peak hour LOS F cumulative conditions. The addition of project generated trips is projected to increase the average delay of critical movements by four (4) or more seconds and increase the critical V/C ratio by 0.01 or more. Therefore, based on City of Sunnyvale intersection traffic impact criteria, the impacts of the proposed project at the Mathilda Avenue/Sunnyvale Saratoga Road - Talisman Drive intersection is projected to be significant in this regard.

Level of Significance After Mitigation

There is no feasible mitigation to reduce this impact to less than significant. To reduce impacts, restriping of the westbound approach to a two left-turn lane and one shared-left through-right lane would be needed to improve cumulative operations to an acceptable LOS for PM peak hour conditions. This improvement; however, is not considered feasible as it would require signal timing changes that would disrupt the current signal coordination of the Mathilda Avenue-Sunnyvale Saratoga Road corridor and create new and additional significant traffic impacts along the corridor. There is no other feasible mitigation that is available to reduce this impact because this project is located in a developed urban area and there is limited right-of-way available to add capacity to the intersection. Per Chapter 3.50 of the Sunnyvale Municipal Code, the proposed project would be required to pay the City's Transportation Impact Fee (TIF). The purpose of the TIF is to help provide adequate transportation-related improvements to serve cumulative development within the city. However, with payment of the fee, the impact at the intersection would remain. Therefore, this impact would be cumulatively significant and unavoidable.

Finding on Proposed Mitigation

Therefore, City finds that specific economic, legal, social, technological, or other considerations make mitigation at this intersection infeasible to fully reduce the impact to less than significant level.

5.2 MITIGATION MONITORING

A MMRP was prepared for the project and approved by the City (see Public Resources Code, Section 21081.6, subd. [a][1]; CEQA Guidelines Section 15097). The City will use the MMRP to track compliance with project mitigation measures discussed in the Transportation EIR and Initial Study. The MMRP will remain available for public review during the compliance period.

5.3 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL EFFECTS

The State CEQA Guidelines (Section 15126) require a discussion of the significant irreversible environmental changes which would be involved in a project should it be implemented. The irreversible and irretrievable commitment of resources is the permanent loss of resources for future or alternative purposes. Irreversible and irretrievable resources are those that cannot be recovered or recycled or those that are consumed or reduced to unrecoverable forms.

Implementation of the proposed project would result in the long-term commitment of resources of the project site to developed land use. The proposed project would likely result in or contribute to the following irreversible environmental changes:

1. Conversion of existing developed land, approximately 40.4 acres, to a more intensive land use, thus precluding other alternative land uses in the future.
2. Increased ambient noise associated with an increase in traffic.
3. Irreversible consumption of goods and services associated with the increased employee base.
4. Degradation of air quality associated with project construction and operation.
5. Irreversible consumption of energy and natural resources associated with construction and operation of the project.

The City finds that the project's use of these nonrenewable resources is expected to account for a minimal portion of the region's resources and would not affect the availability of these resources for other needs

within the region. Construction activities would not result in inefficient use of energy or natural resources. Long-term project operation would not result in substantial long-term consumption of energy and natural resources.

5.4 GROWTH INDUCEMENT

The proposed project would implement redevelopment within a 40.4-acre area of a larger strategic plan for growth within the Moffett Park area. The Moffett Park Specific Plan (MPSP) sets the framework for the growth and redevelopment in the areas and is consistent with the City of Sunnyvale General Plan (SGP). The SGP is the guiding development document for the City as a whole while the MPSP is specific

to Moffett Park and the proposed project area. The proposed project is consistent with both the vision and development guidance provided by the SGP and MPSP. While both documents anticipated and plan for growth and development within the MPSP and city overall, the growth-inducing effects of the proposed project were not specifically analyzed in the EIRs for those plans; however, the more recent City of Sunnyvale LUTE EIR evaluated the overall anticipated growth within the City including the anticipated build-out of the Moffett Park area consistent with the MPSP. This included the accounting of Moffett Park accommodating up to 7.6 million square feet of net new nonresidential development (total buildout of 24.33 million square feet). The LUTE EIR concluded that use of the area for new Class A office development consisting of corporate headquarters, office, and research/development facilities for high technology companies they growth would be consistent with the approved MPSP and it is the primary location for the next wave of economic growth in Silicon Valley.

5.4.1 Removal of a Barrier to Growth

The proposed project would not result in or require the construction or expansion of public facilities such as an expansion of water or wastewater treatment facilities or extension of water and sewer infrastructure offsite into areas where no infrastructure previously existed. In addition, the proposed project is an infill project in a developed, urban area, which, if implemented, would not remove any other obstacles that could encourage growth in an adjacent, undeveloped area.

5.4.2 Economic Growth

The proposed project would require demolition and construction and would require a maximum anticipated number of employees at a single time of up to 20 workers. Employees would commute to the site on a daily basis. In comparison to the City and County overall, the anticipated workforce represents a minimal increase in employment during the construction period. Construction workers are expected to travel to the project site from various locations throughout the Santa Clara valley, and the number of workers expected to relocate to the surrounding area is anticipated to be insignificant due to cost of living, cost of relocation, and the relative short-term period of employment. Because construction would be temporary, occurring over a relatively short period, it is not likely that it would require substantial numbers of people to relocate to the County or foster local economic growth. Therefore, the proposed project would not create a temporary or substantial increase in the demand for construction worker housing.

Development of the proposed project would have fiscal impacts on the City similar to other technology redevelopment projects occurring in the region. The proposed project would generate revenue in the form of property taxes and fees, which would be available to the County to fund public services. Additionally, revenue for capital improvements would also be generated by the proposed project directly through various forms of development fees, including but not limited to fire, facilities, traffic, schools, and parks. Nonetheless, while the increased revenue and moderate demand for new services would foster some economic growth, it is not anticipated to be at a level that would encourage or

facilitate economic effects that could result in other activities (such as installation of infrastructure improvements) that could significantly affect the environment.

6.0 PROJECT ALTERNATIVES

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remains any project alternatives that are both environmentally superior and feasible within the meaning of CEQA.

As noted under the heading “Findings Required under CEQA,” an alternative may be “infeasible” if it fails to achieve the lead agency’s underlying goals and objectives with respect to the project. Thus, “feasibility” under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors” of a project (City of Del Mar v. City of San Diego [1982] 133 Cal.App.3d 401, 417).

6.1 ALTERNATIVES CONSIDERED BUT ULTIMATELY REJECTED

6.1.1 Offsite Alternatives

Viable alternative locations for the project are limited to those that would feasibly attain most of the project objectives. The Moffett Park Specific Plan was adopted to specifically accommodate this type of development within the City of Sunnyvale to take advantage of redevelopment opportunities and existing transportation infrastructure. Other appropriately located and sufficient sized lots in the Moffett Park Specific Plan that would satisfy the project objectives would have the same or similar impacts as the proposed project. The proposed project would offer an office campus development in proximity to major transportation corridors as well as existing VTA transit stations. Other properties within the City of an adequate size, are not in suitable locations (specifically adjacent to US Highway 101, SR 237, and VTA transit lines), and would not be feasible to acquire within a reasonable time frame. Key objectives of the project include implementing the Moffett Park Specific Plan, develop a project consistent and compatible with the existing land uses in the surrounding area, and develop a project of sufficient density to take advantage of the site’s proximity to existing transit facilities. For these reasons, an alternative location was rejected from further analysis.

6.2 ALTERNATIVES CONSIDERED IN THE TRANSPORTATION EIR

The Final Transportation EIR evaluated two alternatives to the proposed project in detail as described below:

- Alternative 1: No Project Alternative
- Alternative 2: Single Building Alternative

Based on a comparison of the impacts of each alternative, Alternative 2, Single Building Alternative, was identified as the “environmentally superior” alternative; however, it would not achieve the proposed project’s objectives and/or offer no substantial benefits as compared to the project as proposed, for the reasons set forth below.

A. Alternative 1: No Project Alternative

The No Project Alternative assumes the proposed project would not be implemented and buildings and other improvements would not be constructed. The existing project site would remain unaltered and in its current condition. All infrastructure improvements including water, wastewater, drainage, and roadway improvements identified in the proposed project would not be constructed. Because the project site would remain unchanged, few or no environmental impacts would occur. This alternative serves as the baseline against which the effects of the proposed project and other project alternatives are evaluated. Under this alternative none of the proposed improvements would occur. The project would remain undeveloped.

- None of the impacts associated with the project would occur.
- No economic growth as per the Moffett Park Specific Plan would occur.
- No improvement to the West Channel and environmental enhancements of biological resources or functionality would occur.
- Increases in vehicular traffic would not occur.

The No Project Alternative would eliminate the potentially significant impacts associated with the environmental categories discussed. As documented in Chapter 4.1 of the Transportation EIR, traffic impacts associated with the proposed project would be significant and unavoidable for impacts associated with a cumulatively significant and unavoidable intersection impact at Mathilda Avenue/Sunnyvale Saratoga Road-Talisman Drive. The proposed project would not result in any other significant unavoidable impacts.

The “No Project” alternative fails to meet all of the stated objectives for the proposed project as described in Chapter 6.1 of the Transportation EIR.

B. Alternative 2: Single Building Alternative

The Single Building Alternative is proposed as an alternative that would reduce the amount of traffic generated from the proposed project. This alternative proposes one single office building or approximately half of the traffic generating development compared to the proposed project. Similar to the proposed project, all of the existing buildings onsite would be demolished. Under this alternative, the building located at 200 West Caribbean would not be constructed, nor would the proposed parking garage. This portion of the property would be developed for surface parking with up to 1,000 parking spaces to support the proposed building at 100 West Caribbean. As with the proposed project, this building would be approximately 536,750 square feet with a maximum building height of 120.5 feet. The building would support approximately 2,200 employees. Under this alternative the two proposed bridges over the Sunnyvale West Channel would not be constructed and none of the proposed improvements to the Sunnyvale West Channel would be constructed. The channel would remain in its current condition. Pedestrian access from the parking lots would be from existing sidewalks along Caribbean Avenue. The remaining development at the 100 West Caribbean site would be the same of the proposed project. The temporary construction office and construction parking would be located on the 200 West Caribbean site and a temporary construction office and construction parking located offsite would not be required or constructed.

The Single Building Alternative would reduce but not eliminate the significant and unavoidable traffic impacts associated with the proposed project. As documented in Chapter 4.1 of the Transportation EIR, traffic impacts associated with the proposed project would be significant and unavoidable for impacts associated with a cumulatively significant and unavoidable intersection impact at Mathilda Avenue/Sunnyvale Saratoga Road-Talisman Drive. The proposed project would not result in any other significant unavoidable impacts.

Attainment of Project Objectives

The Single Building Alternative fails to meet the following stated objectives for the proposed project:

- Develop an office campus of sufficient size to accommodate Google's space needs.
- Develop an office campus of sufficient density to take advantage of the site's proximity to existing transit facilities.
- Construct office buildings that accommodate proposed project amenities and efficient/effective employee collaboration space.
- Construct office buildings that reduce impervious surfaces and maximize on-site open space.
- Construct improvements to the portion of the Valley Water's (VW) West Channel to facilitate greater connectivity and public access.
- Be responsive to VW designs for the West Channel to comply with applicable flood protection requirements and improve flood protection.
- Realign the VW's West Channel to enhance its natural habitat value.

- Develop a project of sufficient density to support the proposed project amenities and to be financially feasible.

C. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Requirements under CEQA state that an Environmentally Superior Alternative be identified; that is, an alternative that would result in the fewest or least significant environmental impacts. If the No Project Alternative is the Environmentally Superior Alternative, CEQA requires that another alternative be chosen as the Environmentally Superior Alternative.

Alternative 2, Single Building Alternative, would provide the greatest reduction in potentially significant environmental effects when compared to the proposed project; however, it would not achieve the proposed project's objectives and/or offer no substantial benefits as compared to the project as proposed.

7.0 STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Section 21081 of the PRC and Section 15093 of the CEQA Guidelines, the City adopts and makes the following statement of overriding considerations regarding the remaining significant unavoidable impacts of the project, as discussed above, and the anticipated economic, social, and other benefits of the project.

Based on the record of proceedings, the City finds and determines that (1) the majority of the significant impacts of the project will be reduced to less than significant levels by implementation of the mitigation measures recommended in these findings; (2) the City's approval of the project as proposed will result in certain significant adverse environmental effects that cannot be avoided or reduced to a less than significant level even with the incorporation of all feasible mitigation measures into the project; and (3) there are no other feasible mitigation measures or feasible project alternatives that will further mitigate, avoid, or reduce to a less than significant level the remaining significant environmental effects.

In light of the environmental, social, economic, and other considerations identified in the findings for the project, the objectives of the project, and the considerations set forth below related to this project, the City chooses to approve the project because, in its view, the economic, social, technological, and other benefits resulting from the project substantially outweigh the project's significant and unavoidable adverse environmental effects.

The following statements identify the reasons why, in the City's judgment and based on substantial evidence, the benefits of the project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the project can be found in the preceding findings, which are herein incorporated by reference; in the project itself; and in the record of proceedings as defined above. Each of the overriding considerations set forth below constitutes a separate and

independent ground for finding that the benefits of the project outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

The City finds that the project, as conditionally approved, will have the following economic, social, technological, and environmental benefits, which constitute overriding considerations:

- The proposed project concentrates growth in existing urbanized areas as infill development and thereby results in fewer impacts from the construction of new infrastructure. The provision of infill office development is needed by the City and is anticipated under the Land Use and Transportation Element.
- The proposed project will replace thirteen obsolete tilt-up concrete industrial and manufacturing buildings with two five-story modern office buildings that are energy efficient and incorporate “green building” construction materials and design standards. Specific sustainable/LEED strategies will include solar PV at the parking garage, vegetated green roofs, indoor/outdoor connectivity, integral daylighting and shading, energy efficiency and extensive use of healthy materials.
- The proposed project will replace the existing, auto-oriented workplaces with a campus that integrates measures to reduce reliance on automobiles and car-based commuting, including a Transportation Demand Management (TDM) trip reduction plan, two shuttle drop-off areas, secured bicycle parking at both buildings, pedestrian walkways, green areas and open spaces.
- The design of the project will benefit and enhance the Moffett Park area. The massing of the proposed office buildings is located on the south side of the sites, closer to transit, and the buildings step down from five to one story as the buildings move north. The design includes green roofs with pedestrian access to each level of the building. The quality materials, green roof and roof trail and stepping of the mass of the building provides a soft architectural transition to the bay, which is unique in Moffett Park.
- The proposed project will improve the existing Valley Water West Channel, restoring the flood plain and wildlife habitat, removing non-native species and re-planting native vegetation and over 1,000 trees throughout the site.
- The proposed project will create a publicly accessible route along the West Channel that will connect to the Bay Trail, with a signalized intersection to assist bikes and pedestrians crossing Caribbean. The project will also provide 18 dedicated parking spaces for members of the public using the Bay Trail.
- The proposed project will include a dedication of an easement along North Mathilda Avenue and W. Caribbean Drive to accommodate sidewalks and Class 1 bikeway.
- The proposed project will promote greater use of existing light rail services by placing new office buildings within 0.32 mile of the Borregas Light Rail station (which connects to the Mountain View Caltrain Station), thereby reducing local and regional Vehicles Miles Traveled (VMT), which translates into air quality and greenhouse gas emissions benefits and increases in resources and energy efficiency, as recognized by California Department of Transportation (Caltrans), Santa Clara Valley Transportation Authority (VTA), Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG).

- The proposed project will increase the number of employment opportunities that can be served by mass transit in the MPSP area.
- The proposed project will increase local government revenues through additional business taxes, impact fees for transportation improvements and affordable housing, and a voluntary \$2.2 million payment to the City's Community Benefits Fund.
- The project will create short-term construction jobs that will provide income to local residents.

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

1. General Plan

- Goal C-4: *Sustain a strong local economy that contributes fiscal support for desired City services and provides a mix of jobs and commercial opportunities.*
- Goal 5.1C: *Endeavor to maintain a balanced economic base that can resist downturns of any one economic sector.*
- Policy 5.1C.3 *Maintain an attractive business community.*
- Policy 5.1C.4 *Promote business opportunities and business retention in Sunnyvale.*
- Policy 5.1C.5 *Support land use policies that provide a diversified mix of commercial/industrial development.*

2. MPSP

- Guiding Principle 1.0: *Positively influence the Sunnyvale business climate and enhance economic vitality by providing comprehensive land use policies and permitting processes that encourage development of additional needed Class A office space to diversify the industrial base of Sunnyvale.*
- Guiding Principle 4.0: *Provide opportunity for strategic retention and attraction of business and private investment.*
- Guiding Principle 5.0: *Focus areas of higher intensity development in areas adjacent to public transportation facilities.*
- Guiding Principle 8.0: *Increase utilization of public transit through coordinated land use, transportation, and infrastructure planning.*
- Guiding Principle 9.0: *Incorporate the principles of "smart growth" into all planning decisions.*
- Guiding Principle 10.0: *Incorporate sustainable design and green building concepts into private and public projects.*

Guiding Principle 11.0: *Preserve Moffett Park for Industrial Uses into the future and prevent erosion of its industrial base to non-compatible uses.*

8.0 INCORPORATION BY REFERENCE

In addition to the Final Transportation EIR, the following documents are incorporated into these Findings by reference in its entirety:

- City of Sunnyvale Land Use and Transportation Element Draft Environmental Impact Report (SCH No. 2012032003)
- Valley Water East and West Channels Flood Protection Project Final Environmental Impact Report (SCH No. 2013012041)
- Mathilda Avenue Improvements at SR 237 and US 101 Project ("Caltrans EIR") (State Clearinghouse No. 2015082030)

Without limitation, this incorporation is intended to elaborate on the scope and nature of project and cumulative impacts, related mitigation measures, the basis for determining the significance of impacts, and the comparative analysis of alternatives.

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