

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, MAKING FINDINGS CONCERNING ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED (“CEQA”), FOR THE BASEBALL STADIUM IN THE DIRIDON/ARENA AREA PROJECT FOR WHICH A FINAL AND SUPPLEMENTAL FINAL ENVIRONMENTAL IMPACT REPORT HAVE BEEN PREPARED IN ACCORDANCE WITH CEQA

WHEREAS, pursuant to Title 21 of the San José Municipal Code, the Redevelopment Agency of the City of San José hereinafter referred to as "Applicant", on November 9, 2005, filed applications for the preparation of an environmental impact report as required for a proposed major league baseball stadium project, located on multiple properties bounded by West Santa Clara Street, South Autumn Street, the Union Pacific Railroad tracks and Los Gatos Creek, as more fully described in the Final Environmental Impact Report entitled “Baseball Stadium in the Diridon/Arena Area” (“the “Final EIR” or “FEIR”) and as such stadium proposal was further modified as described in the supplemental environmental impact report for that stadium project entitled “Supplemental Environmental Impact Report - Baseball Stadium in the Diridon/Arena Area (Modified Project),” (the “Final SEIR” or “FSEIR”), both of which environmental documents are made a part hereof by this reference as though fully set forth herein; and

WHEREAS, the Final EIR for the Baseball Stadium in the Diridon/Arena Area was certified by the Planning Commission on February 28, 2007; and

WHEREAS, no appeal of the certification of the Final EIR by the Planning Commission was filed with the City of San Jose as provided for under Title 21 of the San José Municipal Code; and

WHEREAS, the Final SEIR for the Baseball Stadium in the Diridon/Arena Area (Modified Project) was certified by the City Council on June 15, 2010; and

WHEREAS, the City Council is the decision-making authority for a proposed sale of real property to the Athletics Investment Group (AIG), LLC; and

WHEREAS, the City Council intends to consider approval of actions related to the baseball stadium project in the Diridon/Arena area as that project is more fully identified and described in the FEIR, as revised and supplemented by the FSEIR (the "Project"); and

WHEREAS, CEQA requires that in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects, the decision-making body must make certain findings regarding those significant effects on the environment identified in the environmental documents; and

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL hereby finds that it has independently reviewed and analyzed the FEIR, as revised and supplemented by the FSEIR, and all other information in the record and has considered the information contained therein including the written and oral comments received at the public hearings on the FEIR, the FSEIR, and on the Project, prior to acting upon or approving the Project, and has found that the FEIR, as revised and supplemented by the FSEIR, represents the independent judgment and analysis of the City of San José as Lead Agency for the Project, and designates the Director of Planning, Building and Code Enforcement at his office at 200 East Santa Clara Street, Third Floor, San José, California 95113-1905 (the "Director's Office"), as the custodian of documents and records of proceedings on which this decision is based (the FEIR as revised and supplemented by the FSEIR are sometimes collectively referred to herein as the "Final Certified EIR"); and

THAT THE CITY COUNCIL does hereby make the following findings with respect to the significant effects on the environment of the Project as it is described in the FEIR, as revised and supplemented by the FSEIR, both of which documents can be found in their entirety at the Director's Office identified above:

I. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS

A. LAND USE

1. Impact LU-1:

Fireworks displays occurring during stadium events could present a hazard to the safe operation of the San José International Airport.

Mitigation Measure LU-1:

In addition to obtaining the required City permit, fireworks sponsors shall coordinate events in advance with airport staff, the air traffic control tower, and the FAA (if requested by FAA) to ensure that the activity (timing, height, and materials) does not pose a hazard to the safe operation of the San José International Airport.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact LU-1, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to coordinate events in advance with Airport staff, the air traffic control tower, and the FAA (if requested by FAA), in addition to obtaining the required City permits, is feasible and would reduce the Project's potentially hazardous impact on the safe operation of the San José International Airport to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), the City finds that Mitigation Measure LU-1 will be incorporated into the Project via conditions of approval, and would reduce Impact LU-1 to a less-than-significant level.

B. TRANSPORTATION, CIRCULATION, AND PARKING

1. Impact TRANS-1 (SEIR):

State Route 87 would experience a significant impact from Project traffic along four of the analyzed segments; I-280 would experience a significant impact from Project traffic along five of the analyzed segments; I-680 would experience a significant impact from Project traffic along one of the analyzed segments; and I-880 would experience a significant impact from Project traffic along five of the analyzed segments.

Mitigation Measure TRANS-1 (SEIR):

To lessen the impacts to the identified freeway segments, Transportation Demand Management (TDM) measures will be implemented to lessen the impacts to the identified freeway segments, although the measures would not reduce the impact to a less than significant level. Potential TDM measures include the following:

- Provide incentives for carpoolers (e.g., four or more people per vehicle) such as preferential parking.
- Charge for parking or increase set parking rates if already charging for parking.
- Provide on-site ticket sales for transit services (e.g., bus, LRT, Caltrain, etc.).

- Make information readily available regarding ridesharing/carpooling programs and transit services, and designate an on-site TDM coordinator to assist with this task.
- Develop a stadium employee trip reduction program that includes the following for employees: shuttle service to transit, subsidized transit passes and Eco-passes, cash-out program for non-drivers, carpooling/ridesharing program, bike lockers, and on-site showers.

Finding:

An increase in traffic associated with the Project will substantially and adversely affect roadway segments. The Final Certified EIR identified TDM measures that could have the effect of lessening congestion on freeway segments. However, even with implementation of these mitigation measures, congestion would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

2. Impact TRANS-2 (SEIR):

The Project option that would narrow Park Avenue from four to two lanes involves a General Plan Transportation Diagram Amendment that would result in significant long-term transportation impacts upon build out of the current San José 2020 General Plan.

Mitigation Measure TRANS-2 (SEIR):

There is no feasible mitigation available to reduce this impact given that the transportation model assumes that all planned roadways and other planned transportation improvements have been built to their maximum capacity, therefore the impact is significant and unavoidable.

Finding:

The General Plan Transportation Diagram Amendment related to the Project option that would narrow Park Avenue from four lanes to two lanes will substantially and adversely affect long-term transportation. The SEIR acknowledged that there is no feasible mitigation to reduce this impact. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is

acceptable based on specific beneficial considerations found herein in Section V below.

C. AIR QUALITY

1. Impact AIR-1:

Construction period activities could generate significant dust, exhaust, and organic emissions.

Mitigation Measure AIR-1:

Implementation of the following steps would reduce the construction period air quality impacts to a less-than-significant level.

- (a) The following multi-part mitigation shall be incorporated into the construction plans and implemented for the proposed Project. The City shall review the construction plans to ensure these measures have been incorporated:
- Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;
 - Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
 - Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
 - Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
 - Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;
 - Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
 - Enclose, cover, water at least twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site;
 - Limit traffic speed on unpaved roads to 15 mph;

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
 - Replant vegetation in disturbed areas as quickly as possible;
 - Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;
 - Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas;
 - Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph; and
 - Limit the area subject to excavation grading, and other construction activity at any one time.
- (b) Any temporary haul roads to soils stockpiles areas used during construction of projects shall be routed away from existing neighboring land uses. Any temporary haul roads shall be surfaced with gravel and regularly watered to control dust or treated with an appropriate dust suppressant.
- (c) Water sprays shall be utilized to control dust when material is being added or removed from soils stockpiles. If a soils stockpile is undisturbed for more than one week, it shall be treated with a dust suppressant or crusting agent to eliminate wind-blown dust generation.
- (d) All neighboring properties located within 1,000 feet of property lines of a construction site shall be provided with the name and phone number of a designated construction dust control coordinator who will respond to complaints within 24 hours by suspending dust-producing activities or providing additional personnel or equipment for dust control as deemed necessary. The phone number of the BAAQMD pollution complaints contact shall also be provided. The dust control coordinator shall be on-call during construction hours. The coordinator shall keep a log of complaints received and remedial actions taken in response. This log shall be made available to City staff upon its request.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
 - Enclose, cover, water at least twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site;
 - Limit traffic speed on unpaved roads to 15 mph;
 - Install sandbags or other erosion control measures to prevent silt runoff to public roadways;

- (e) In order to address particulate emissions from diesel-powered equipment and vehicles, the following measures shall be implemented: (i) properly maintain vehicle and equipment engines; (ii) minimize the idling time of diesel powered construction equipment; (iii) consider requiring construction equipment that is fueled by alternative energy sources; and (iv) consider requiring add-on control devices such as particulate traps.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact AIR-1, as identified in the Final Certified EIR. The City finds that requiring the construction contractor to implement the construction period dust and emission-control measures outlined in Mitigation Measure AIR-1 is feasible and would reduce the Project's construction period air quality impacts to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure AIR-1 will be incorporated into the Project via conditions of approval and would reduce Impact AIR-1 to a less-than-significant level.

2. Impact AIR-2:

Regional emissions of criteria air pollutants from new development would exceed BAAQMD thresholds.

Mitigation Measure AIR-2:

The BAAQMD CEQA Guidelines document identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the Project:

- Maximize the use of existing transit facilities and incorporate additional facilities (e.g., bus bulbs/turnouts, benches, shelters) into the Project's design.
- Provide bicycle lanes and/or paths, connected to community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide secure and conveniently located bicycle storage.
- Implement feasible transportation demand management (TDM) measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.

The implementation of an aggressive trip reduction program with the appropriate incentives for non-auto travel can reduce Project impacts by approximately 10 to 15 percent. A reduction of this magnitude would provide a reduction in emissions, however project emissions would still exceed the significance threshold. There is no mitigation available with currently feasible technology to reduce the Project's regional air quality impact by an additional 75 percent to a less-than-significant level. Therefore, the Project's regional air quality impacts would remain significant and unavoidable.

Finding:

Regional emissions of criteria air pollutants associated with the Project will substantially and adversely exceed BAAQMD thresholds. The Final Certified EIR identified measures related to vehicle trip reductions. However, even with implementation of these mitigation measures, regional emissions would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

3. Impact AIR-3:

Fireworks displays may cause spikes in air pollution.

Mitigation Measure AIR-3:

The City shall require that the point of launch and the fallout area for fireworks be located so as to ensure the safety of the public from the discharge of pyrotechnic devices, exposure to toxic air pollutants or any other hazard from fireworks displays.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact AIR-3, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to restrict the point of launch and the fallout area for fireworks is feasible and would reduce the Project's pyrotechnic-related air quality and hazard impacts to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure AIR-3 will be incorporated into the Project via conditions of approval, and would reduce Impact AIR-3 to a less-than-significant level.

D. NOISE

1. Impact NOISE-1:

Increases in traffic noise to surrounding roadways would be significant.

Mitigation Measure NOISE-1:

With affected property owner's consent, prior to opening day of the stadium measures shall be taken to reduce significant noise impacts associated with increased traffic for residences located along W. San Fernando Street from Autumn Street to Delmas Avenue or Autumn Street from W. San Fernando Street to W. Santa Clara Street, which measures may include but are not limited to installation of dual-pane windows, mechanical air conditioning and improved ceiling and wall insulation.

Finding:

Traffic noise associated with the Project will substantially and adversely effect adjacent residences. The Final Certified EIR identified measures related to noise reductions. However, even with implementation of these mitigation measures, traffic-related noise would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

2. Impact NOISE-2:

Baseball game events could result in noise impacts on adjacent residential uses.

Mitigation Measure NOISE-2a:

The stadium public address system shall be comprised of a distributed speaker system on-site, which would locate speakers around each section of the ballpark to minimize the need for extra-loud and high-mounted units.

Mitigation Measure NOISE-2b:

After the ballpark design is finalized and prior to the first ballpark event, the Project Applicant shall conduct a detailed acoustic study for the City of San José to confirm the predictions of the long-term noise levels at noise sensitive uses within the 60 dBA Leq contour line shown in Figure IV.B-2 of the ballpark, which have been made in the SEIR portion of the Final Certified EIR. The study shall be used to determine noise attenuation measures to achieve a 45 dBA Leq interior noise

level at nearby residences located within the 60 dBA Leq contour line. Attenuation measures at the stadium shall include, but not be limited to, distributed speakers for the public address system and limitations placed on sound levels associated with various activities. Measures shall be taken with affected property owner's consent at receptor locations, which measures may include but are not limited to installation of dual-pane windows, mechanical air conditioning, sound walls and improved ceiling and wall insulation.

Necessary remedial measures shall be implemented, or otherwise assured to be implemented within one year to the satisfaction of the City Manager. Implementation of mitigation measures NOISE-2a and NOISE-2b would reduce impacts associated with baseball games. However, impacts would remain significant and unavoidable.

Finding:

As noted above, the FSEIR portion of the Final Certified EIR sets forth a substitute Mitigation Measure NOISE-2b that refines the provisions of that measure as originally set forth in the 2007 FEIR.

Public address system noise associated with the Project will substantially and adversely affect adjacent residential uses. The FSEIR identified ballpark design and other noise attenuation measures related to operational noise reductions. However, even with implementation of these mitigation measures, public address system noise would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

3. Impact NOISE-3:

Proposed on-site concert events could result in noise impacts on adjacent residential uses.

Mitigation Measure NOISE-3:

A maximum sound level of 95 dB Leq shall be maintained at the sound board for concerts.

Implementation of the multipart mitigation measure NOISE-2 would reduce impacts from concert noise. However, noise impacts would remain significant and unavoidable.

Finding:

Concert-related noise associated with the Project will substantially and adversely affect adjacent residential uses. The FSEIR portion of the Final Certified EIR identified ballpark design and other noise attenuation measures related to operational noise reductions. However, even with implementation of these mitigation measures, concert-related noise would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

4. Impact NOISE-4:

Explosions associated with fireworks displays at the proposed Project would create significant peak noise impacts.

Mitigation Measure NOISE-4:

Implementation of refined Mitigation Measure NOISE-2b as presented in the FSEIR portion of the Final Certified EIR (p. 76) would reduce impacts from fireworks displays for residences located adjacent to the proposed stadium Project. Implementation of refined Mitigation Measure NOISE-2b as presented in the FSEIR would help to minimize this impact but not reduce it to a less-than-significant level.

Finding:

Noise due to fireworks associated with the Project will substantially and adversely affect adjacent sensitive uses. The Final Certified EIR identified measures related to noise reductions. However, even with implementation of these mitigation measures, fireworks-related noise would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

5. Impact NOISE-5:

Construction period activities could create significant short-term noise impacts.

Mitigation Measure NOISE-5a:

The following measures shall be implemented during construction of the proposed Project:

- All construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.
- Project Applicant will develop a Construction Impact Mitigation Plan with input from City and neighbors to determine a construction activity schedule including construction days and hours of construction.
- Unnecessary idling of internal combustion engines will be prohibited.
- All stationary noise generating construction equipment, such as air compressors and portable power generators, will be located as far as practical from existing residences.

Mitigation Measure NOISE-5b:

In the event that pile-driving and/or other extreme noise generating construction vehicles or equipment are required, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any pile-driving or extreme noise generating activities:

- Implement “quiet” pile-driving technology, where feasible, in consideration of geotechnical and structural requirements and conditions;
- Utilize noise control blankets on the building structure as it is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receptor(s) by temporarily improving the noise reduction capability of those buildings; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements once the measures are in place.
- Residents within 1,000 feet of the pile-driving activity will be notified of the schedule for their use while they are in use. Portable acoustical barriers will be installed around pile driving equipment.
- A name, address, and phone number of a contact person will be posted on the site to handle noise complaints.

Implementing the basic measures required by Mitigation Measure NOISE-5a would reduce potential impacts from construction activities. In addition, Mitigation Measure NOISE-5b would further reduce the potential impacts from pile driving

activities and other extreme noise generating construction activities in the vicinity of the construction site. However, even with the implementation of these mitigation measures, noise associated with the construction of the proposed Project would be considered significant and unavoidable.

Finding:

Noise due to construction period activities associated with the Project will substantially and adversely affect adjacent sensitive uses. The Final Certified EIR identified measures related to noise reductions. However, even with implementation of these mitigation measures, construction period noise would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

E. BIOLOGICAL RESOURCES

1. Impact BIO-1:

Construction of the proposed Project would result in the removal of 45 ordinance-size trees.

Mitigation Measure BIO-1:

Loss of ordinance size trees will be mitigated by implementation of landscaping plans approved by the City of San José, in conformance with the City of San José Landscape and Irrigation Guidelines and City of San José Planning Department specifications. For private projects, the City of San José requires tree replacement for those trees greater than 18 inches in diameter with 24-inch box trees at a ratio of 4:1 (trees planted to trees removed). Trees planted within the riparian corridor shall be native trees grown from Los Gatos Creek watershed stock. The Project Applicant would commit to meeting the tree replacement ratio, but given the footprint of redevelopment on the site, replacement trees may be planted beyond the Project site in the Project area.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact BIO-1, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to implement a landscaping plan is feasible and would reduce the impact resulting from a loss of ordinance size trees to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure BIO-1 will be incorporated into

the Project via conditions of approval, and would reduce Impact BIO-1 to a less-than-significant level.

2. Impact BIO-2:

Construction activities adjacent to the Los Gatos Creek riparian corridor may disturb nesting Cooper's hawks and other raptors.

Mitigation Measure BIO-2:

Surveys to determine the presence of active raptor nests on or adjacent to (i.e., along Los Gatos Creek) to the construction area shall be conducted by a qualified biologist no more than 30 days prior to the initiation of construction-related activities, including removal of existing vegetation or facilities. If raptors are observed nesting on or near the site, exclusion zones will be established around all active nests. The size of the exclusion zone will be determined based on consultation with the CDFG, which typically requires a zone of 100 to 300 feet around the nest. No activity will be allowed inside the exclusion zone until a qualified biologist has determined that the young have successfully fledged from the nest or that the nest is no longer active.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact BIO-2, as identified in the Final Certified EIR. The City finds that adhering to the protocol set forth in Mitigation Measure BIO-2 is feasible and would adequately protect nesting Cooper's hawk and other raptors that may be present within or in the immediate vicinity of construction activities occurring on or adjacent to the Project site. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure BIO-2 will be incorporated into the Project via conditions of approval, and would reduce Impact BIO-2 to a less-than-significant level.

F. GEOLOGY, SOILS AND SEISMICITY

1. Impact GEO-1:

Seismically-induced ground shaking at the Project could result in damage to life and/or property.

Mitigation Measure GEO-1:

Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared by a licensed professional and submitted to the City of San José Public Works Department for review and

confirmation that the proposed development fully complies with the California Building Code (Seismic Zone 4). The report shall determine the Project site's geotechnical conditions and address potential seismic hazards such as liquefaction. The report shall identify building techniques appropriate to minimize seismic damage. In addition, the following requirement for the geotechnical and soils report shall be met:

- Analysis presented in the geotechnical report shall conform to the California Division of Mines and Geology recommendations presented in the Guidelines for Evaluating Seismic Hazards in California.

All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact GEO-1, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to complete a design-level final geotechnical investigation, and the incorporation of recommendations from this report into the Project design, requiring identified building techniques, is feasible and would minimize seismic damage to the proposed structures. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure GEO-1 will be incorporated into the Project via conditions of approval, and would reduce Impact GEO-1 to a less-than-significant level.

2. Impact GEO-2:

Structures or property at the Project could be adversely affected by expansive soils or by settlement of Project site soils.

Mitigation Measure GEO-2:

In locations underlain by expansive soils and/or non-engineered fill, the designers of stadium foundation and other improvements (including the electrical substation, sidewalks, roads, and underground utilities) shall consider these conditions. The design-level geotechnical investigation to be prepared by a licensed professional and approved by the City of San José Public Works Department (required in Mitigation Measure GEO-1), shall include measures to minimize potential damage related to expansive soils and non-uniformly compacted fill. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlement.

All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed to reduce impacts associated with shrink-swell soils to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact GEO-2, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to complete a design-level final geotechnical investigation, and the incorporation of recommendations from this report into the Project design, is feasible and would minimize potential expansive soils and settlement damage to the proposed structures. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure GEO-2 will be incorporated into the Project via conditions of approval, and would reduce Impact GEO-2 to a less-than-significant level.

3. Impact GEO-3:

Differential settlement at the Project site could result in damage to Project buildings and other improvements.

Mitigation Measure GEO-3:

Prior to issuance of a grading permit, a site-specific grading plan shall be prepared by a licensed professional and submitted to the City of San José Public Works Department (see Mitigation Measure GEO-1). The plan shall include specific recommendations for mitigating potential settlement associated with fill placement and areas of different fill thickness.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact GEO-3, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to submit a site-specific grading plan to the City of San José Public Works Department is feasible and would minimize potential differential settlement damage to the proposed structures. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure GEO-3 will be incorporated into the Project via conditions of approval, and would reduce Impact GEO-3 to a less-than-significant level.

4. Impact GEO-4:

Liquefaction at the Project site could result in damage to buildings and other improvements.

Mitigation Measure GEO-4:

Project design shall be in accordance with the recommendations contained in a site-specific geotechnical report prepared by a licensed professional and reviewed and approved by City of San José Public Works Department. (See Mitigation Measure GEO-1). The San José Public Works Department shall be the approval authority for all final design and engineering plans. Project design and construction shall be in conformance with current best standards for earthquake resistant construction in accordance with the California Building Code (Seismic Zone 4), applicable local codes, and the generally-accepted standard of geotechnical practice for seismic design in Northern California. The design-level geotechnical investigation shall include measures to minimize that potential damage related to liquefaction.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact GEO-4, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to complete a site-specific geotechnical investigation, and the incorporation of recommendations from this report into the project design, requiring identified building techniques, is feasible and would minimize liquefaction damage to the proposed structures. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure GEO-4 will be incorporated into the Project via conditions of approval, and would reduce Impact GEO-4 to a less-than-significant level.

G. HYDROLOGY AND WATER QUALITY

1. Impact HYD-1:

Alteration of the local drainage patterns could potentially result in exceedance of the capacity of downstream stormwater conveyance structures, resulting in localized flooding.

Mitigation Measure HYD-1:

As a condition of approval of the final grading and drainage plans for the Project, it shall be demonstrated through detailed hydraulic analysis that implementation of the proposed drainage plans would include drainage components that are designed in compliance with City of San José standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the City of San José Department of Public Works. Any improvements deemed necessary by the City shall be made a part of the conditions of approval.

Implementation of this mitigation measure would reduce potential impacts associated with increased peak runoff volumes to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact HYD-1, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to prepare a detailed hydraulic analysis for review by the City of San José Public Works is feasible and would reduce potential flooding impacts to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure HYD-1 will be incorporated into the Project via conditions of approval, and would reduce Impact HYD-1 to a less-than-significant level.

2. Impact HYD-2:

Construction activities and post-construction site uses could result in degradation of water quality in the receiving waters by reducing the quality of stormwater runoff.

Mitigation Measure HYD-2a:

Construction-Period Impact Mitigation. The Project Applicant shall comply with the City of San José's Post-Construction Urban Runoff Management Policy (Policy Number 6-29), which requires:

... all new and redevelopment projects to implement Post-Construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs) to the maximum extent practicable. This Policy also establishes specified design standards for Post-Construction TCMs for Major Projects and minimum Post-Construction BMPs for all Land Uses of Concern, including Expansion Projects. This Policy further establishes the criteria for determining the situations in which it is impracticable to comply with the Major Project design standards, including the criteria for evaluating the equivalency of Alternative Compliance Measure(s)

In addition, the Project Applicant shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of the Project. The SWPPP must be maintained on-site and made available to City inspectors and/or RWQCB staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.

An important component of the stormwater quality protection effort is the knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of stormwater quality protection, Project site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.

The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, which must include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are “not visually detectable in runoff.”

BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control (i.e., keeping sediment on the site). End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

Mitigation Measure HYD-2b:

Operation-Period Impact Mitigation. The design-level storm water control plan shall demonstrate through detailed hydraulic analysis that implementation of the proposed drainage plan would result in treatment of the appropriate percentage of the runoff from the Project site (in compliance with the County NPDES permit). The amount of runoff that is typically required to be treated is about 85 percent of the total average annual runoff from the site. The qualified professionals (a professional engineer with experience in the design of stormwater BMPs that is acceptable to the City) preparing the design-level storm water control plan shall consider additional measures designed to mitigate water quality degradation of runoff from all portions of the completed development. In general, passive, low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred. The City shall ensure that the Project design includes features and operational BMPs to reduce potential impacts to surface water quality associated with operation of the

Project to the maximum extent practicable. These features shall be included in the storm water control plan and final development drawings.

The final design team for the development Project shall review and incorporate as many concepts as practicable from Start at the Source, Design Guidance Manual for Stormwater Quality Protection and the California Stormwater Quality Association's Stormwater Best Management Practice Handbook, Development and Redevelopment. The final design team should also consider installing "end-of-pipe" treatment systems, including, but not limited to, baffle boxes, catch basins, and hydrodynamic vortex-type separators. Any use of end-of-pipe treatment systems must be accompanied by a viable maintenance program. Specifically:

- Drainage from the stadium playing surface and seating areas should be treated prior to discharge to Los Gatos Creek.
- The enclosed parking areas shall not be drained to the stormwater conveyance system. The garages should be dry-swept or, if washdown water is used, the effluent should be discharged to the sanitary sewer system under permit from the San José/Santa Clara Water Pollution Control Plant.

The City of San José Department of Public Works shall review and approve the SWPPP and drainage plan prior to approval of the grading plan. City staff may require more stringent stormwater treatment measures, at their discretion. Implementation of this mitigation would reduce the level of significance of this impact to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact HYD-2, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to prepare and implement a Stormwater Pollution Prevention Plan, and requiring the implementation of operational period BMPs according to the protocol outlines in Mitigation Measure HYD-2a and HYD-2b, is feasible and would reduce potential impacts related to stormwater runoff through the Project construction and operational periods to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure HYD-2a and HYD-2b will be incorporated into the Project via conditions of approval, and would reduce Impact HYD-2 to a less-than-significant level.

3. Impact HYD-3:

Dewatering may contain contaminants and if not properly managed could cause impacts to construction workers and the environment.

Mitigation Measure HYD-3:

The SWPPP shall include provisions for the proper management of construction-period dewatering activities. At minimum, all dewatering shall be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary to ensure that only clear water is discharged to the storm or sanitary sewer system, as appropriate. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater shall be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the project proponent shall acquire the appropriate permit(s) prior to discharge of the dewatering effluent. Discharge of the dewatering effluent would require a permit from the RWQCB (for discharge to the storm sewer system) and/or the San José/Santa Clara Water Pollution Control Plant (for discharge to the sanitary sewer system).

Proper implementation of the mitigation measure described above would reduce this impact to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact HYD-3, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to prepare a Stormwater Pollution Prevention Program, which shall include provisions for the proper management of construction-period dewatering activities, is feasible and would reduce impacts associated with dewatering to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure HYD-3 will be incorporated into the Project via conditions of approval, and would reduce Impact HYD-3 to a less-than-significant level.

H. HAZARDS AND HAZARDOUS MATERIALS

1. Impact HAZ-1:

Development of the Project could expose construction workers and/or the public to hazardous materials from contaminants in soil and groundwater during and following construction activities.

Mitigation Measure HAZ-1a:

As a condition of approval for any permit for demolition, grading, or construction at any parcel at the Project site, a Phase I Environmental Site Assessment shall be

conducted by a qualified professional (e.g., a California-registered environmental assessor) to identify current or historical land uses that have or may have included the storage or generation of hazardous materials and the potential for releases of hazardous materials to have occurred that might impact the site. The assessments shall be performed in conformance with the current standard of care established by ASTM and EPA for Phase I Environmental Assessments and shall be submitted to the City Environmental Services Department (ESD) Environmental Compliance Officer for review and approval. The Phase I ESA assessments shall identify the potential presence of any environmental impacts to the Project site related to any historic and/or present uses of hazardous materials at the Project site and/or at any sites in the vicinity of the Project site, and present recommendations for further investigation of the site, if warranted.

Recommendations for investigation shall be implemented in Phase II investigations at the Project site. The Phase II(s) shall include sampling of site soils and groundwater in areas of suspected contamination, based on the findings of the Phase I assessments. Additional groundwater samples shall be collected to establish baseline groundwater quality at the Project site and determine if previously unreported off-site contamination has migrated and affected the Project site. The Phase II investigations shall also characterize the chemical quality of undocumented fill materials at the Project site. Soil and groundwater sampling results shall be compared to RWQCB Environmental Screening Levels (ESLs) for commercial/industrial land uses for shallow soils for sites underlain by a potential drinking water source. The Phase II investigations shall be submitted to the ESD Environmental Compliance Officer for review and approval.

If hazardous materials are identified in site soils or groundwater in excess of RWQCB ESLs for commercial/industrial land uses, a Human Health Risk Assessment (HHRA) shall be performed by a qualified environmental professional. The HHRA shall describe measures that must be implemented to ensure that any potential added health risks to construction workers, maintenance and utility workers, site users, and the general public as a result of hazardous materials are reduced to a cumulative risk of less than 1×10^{-6} (one in one million) for carcinogens and a cumulative hazard index of 1.0 for non-carcinogens, or as required by a regulatory oversight agency. The HHRA would be subject to review and/or approval by the City ESD Environmental Compliance Officer and/or regulatory oversight agencies.

The potential risks to human health in excess of these goals would be reduced either by remediation of the contaminated soils or groundwater (e.g., excavation and off-site disposal and/or extraction/treatment of groundwater) and/or implementation of institutional controls and engineering controls (IC/EC). IC/EC

may include the use of hardscape (buildings and pavements), importation of clean soil in landscaped areas to eliminate exposure pathways, and deed restrictions. If IC/EC are implemented, an Operations and Maintenance Program must be prepared and implemented to ensure that the measures adopted are maintained throughout the life of the Project. If IC/EC are implemented, the Operations and Maintenance Program would be subject to review and approval by the City ESD Environmental Compliance Officer and/or regulatory oversight agencies.

Mitigation Measure HAZ-1b:

Prior to approval for any demolition, grading, or construction permits at the Project site, a Construction Risk Management Plan (CRMP) shall be prepared with provisions to protect construction workers, the nearby public, and future workers and nearby residents from health risks from residual contaminants in site soils and groundwater during Project construction and subsequent maintenance activities. The CRMP shall summarize previous environmental investigations and health risk assessments conducted for the Project site (Mitigation Measure HAZ-1a). The CRMP shall include provisions for protection of human health both for the construction phase of the development as well as for the operational phase.

In accordance with State and federal laws and regulations, the CRMP shall describe required worker health and safety provisions for all workers potentially exposed to contaminated soil and groundwater. The CRMP shall include all necessary controls to mitigate short-term risks from releases of constituents of concern to the environment in the form of dust, vapors, and/or water runoff during construction activities. Real-time air monitoring for contaminants of concern shall be required during all activities with the potential to disturb contaminated materials at the site. Action levels for contaminants of concern shall be established, with detailed descriptions of corrective actions to be taken in the event that the action levels are reached during monitoring.

The CRMP shall also provide procedures to be undertaken in the event that previously unreported contamination or subsurface hazards are discovered during construction; incorporate construction safety measures for excavation and other construction activities; establish detailed procedures for the safe storage, stockpiling, use, and disposal of contaminated soils and groundwater and other hazardous materials at the project site; provide emergency response procedures; and designate personnel responsible for implementation of the CRMP during the construction and operational phases of the Project.

The CRMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction, utility

trenching, and maintenance at the Project site shall be enforced in perpetuity. The CRMP shall be submitted to the City ESD Environmental Compliance Officer for review and approval. If regulatory oversight is required for site remediation, the CRMP would also be subject to review and approval by regulatory oversight agencies.

Implementation of this two-part measure would reduce this impact to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact HAZ-1, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to prepare a Phase I Environmental Site Assessment and a Construction Risk Management Plan is feasible and would reduce impacts associated with construction period hazards to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure HAZ-1a and HAZ 1-b will be incorporated into the Project via conditions of approval, and would reduce Impact HAZ-1 to a less-than-significant level.

2. Impact HAZ-2:

Improper use or transport of hazardous materials during construction activities could result in releases affecting construction workers and the general public.

Mitigation Measure HAZ-2:

The CRMP for the Project site shall include emergency procedures and the management and disposal of contaminated soils and groundwater (see Mitigation Measure HAZ-1b). Use, storage, disposal, and transport of hazardous materials during construction activities shall be performed in accordance with existing local, State, and federal hazardous materials regulations.

Implementation of this measure would reduce this impact to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact HAZ-2, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to prepare a Construction Risk Management Plan, which includes emergency procedures and the management and disposal of contaminated soils and groundwater, is feasible

and would reduce impacts associated with construction period hazards to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure HAZ-2 will be incorporated into the Project via conditions of approval, and would reduce Impact HAZ-2 to a less-than-significant level.

3. Impact HAZ-3:

Demolition of any structures containing lead-based paint, asbestos-containing building materials, or other hazardous materials could release airborne particles of hazardous materials, which may affect construction workers and the public.

Mitigation Measure HAZ-3:

As a condition of approval for any demolition permit for a structure at the Project site, a lead-based paint and asbestos-containing material survey shall be performed at the structure by a qualified environmental professional. Based on the findings of the survey, identified asbestos hazards shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the BAAQMD. Federal and State construction worker health and safety regulations shall be required during renovation or demolition activities, and any required worker health and safety procedures shall be incorporated into the Project CRMP (per Mitigation Measure HAZ-1b). If loose or peeling lead-based paint are identified, they shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations. Other hazardous wastes generated during demolition activities, such as fluorescent light tubes, mercury switches, and computer displays, shall be managed and disposed of in accordance with existing hazardous waste regulations.

Implementation of this measure would reduce this impact to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact HAZ-3, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to prepare a lead-based paint and asbestos-containing material survey, according to the requirements of Mitigation Measure HAZ-3, is feasible and would reduce impacts associated with construction period hazards to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure HAZ-3 will be incorporated into the Project via conditions of approval, and would reduce Impact HAZ-3 to a less-than-significant level.

4. Impact HAZ-4:

Future land uses at the Project site may potentially create a significant hazard to the public or the environment as a result of routine transport, use, production, upset, or disposal of hazardous materials.

Mitigation Measure HAZ-4:

Compliance with existing hazardous materials plans, programs, and permits would serve to mitigate potential hazardous materials impacts related to proposed future land uses.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact HAZ-4, as identified in the Final Certified EIR. The City finds that requiring the Project applicant to comply with existing hazardous materials plans, programs, and permits is feasible and would reduce impacts associated with operational period hazards to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure HAZ-4 will be incorporated into the Project via conditions of approval, and would reduce Impact HAZ-4 to a less-than-significant level.

I. CULTURAL AND PALEONTOLOGICAL RESOURCES

1. Impact CULT-1:

The KNTV Broadcast Facility, 645 Park Avenue, appears eligible for listing in the California Register and as Candidate for City Landmark (CCL) and would sustain direct impacts due to the proposed Project.

Mitigation Measure CULT-1a:

Documentation. The building shall be documented to Historic American Buildings Survey (HABS) Level 3 standards, according to the Outline Format described in the Historic American Buildings Survey Guidelines for Preparing Written Historical Descriptive Data. Photographic documentation shall follow the Photographic Specifications – Historic American Building Survey, including 15-20 archival quality large-format photographs of the exterior and interior of the building and its architectural elements. Construction techniques and architectural details shall be documented, especially noting the measurements of structural members, hardware, and other features that tie the architectural elements to a specific date. A copy of the documentation, with original photo negatives and prints, shall be placed in a historical archive or history collection accessible to the general public. Five copies of the documentation with archival photographs shall be produced for

distribution to local and regional repositories. One copy shall be provided to the Northwest Information Center of the California Historical Resources Information System, Sonoma State University, Rohnert Park, California. A brochure shall also be prepared that includes a brief historical overview and photographs of the buildings and is made available for distribution to local libraries, museums, and schools.

If only documentation were undertaken for mitigation, impacts to this resource would be significant and unavoidable.

Mitigation Measure CULT-1b:

Incorporation. If preservation or relocation is not possible, the building, or portions thereof, shall be incorporated into the ballpark Project to the extent feasible, following the Secretary of the Interior's Standards to ensure that the building retains its integrity and historical significance.

Mitigation Measure CULT-1c:

Relocation. If feasible, the building shall be stabilized and relocated to another nearby site appropriate to its historic character. After relocation, preservation, rehabilitation, and restoration, as appropriate, shall follow the Secretary of the Interior's Standards to ensure that the building retains its integrity and historical significance.

Mitigation Measure CULT-1d:

Salvage. If relocation, preservation, or incorporation are not possible, the building shall be offered to an appropriate agency or museum, such as History San José, for salvage of its architectural elements.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact CULT-1, as identified in the Final Certified EIR. The City finds that requiring that the KNTV Broadcast Facility be incorporated into the ballpark Project (Mitigation Measure CULT-1b) or stabilized and relocated to another appropriate site (Mitigation Measure CULT-1c) would reduce impacts to historic cultural resources to a less-than-significant level. However, implementation of the documentation measure (CULT-1a) or salvage measure (CULT-1d) would leave this impact significant and unavoidable.

2. Impact CULT-2 (FEIR):

Impact CULT-2: The Sunlite Baking Company building, 145 South Montgomery, appears eligible for listing in the National and California registers and as a Candidate City Landmark and would sustain direct impacts due to the proposed project.

Mitigation Measure CULT-2a (FEIR):

Documentation. The building shall be documented to Historic American Buildings Survey (HABS) Level 3 standards, according to the Outline Format described in the Historic American Buildings Survey Guidelines for Preparing Written Historical Descriptive Data.² Photographic documentation shall follow the Photographic Specifications – Historic American Building Survey, including 15-20 archival quality large-format photographs of the exterior and interior of the building and its architectural elements. Construction techniques and architectural details shall be documented, especially noting the measurements of structural members, hardware, and other features that tie the architectural elements to a specific date. A copy of the documentation, with original photo negatives and prints, shall be placed in a historical archive or history collection accessible to the general public. Five copies of the documentation with archival photographs shall be produced for distribution to local and regional repositories. One copy shall be provided to the Northwest Information Center of the California Historical Resources Information System, Sonoma State University, Rohnert Park, California. A brochure shall also be prepared that includes a brief historical overview and photographs of the buildings and is made available for distribution to local libraries, museums, and schools.

If only documentation were undertaken for mitigation, impacts to this resource would be significant and unavoidable.

Mitigation Measure CULT-2b (FEIR):

Relocation. If feasible, the building shall be stabilized and relocated to another nearby site appropriate to its historic character. After relocation, preservation, rehabilitation, and restoration, as appropriate, shall follow the Secretary of the Interior's Standards to ensure that the building retains its integrity and historical significance.

Mitigation Measure CULT-2c (FEIR):

Salvage. If relocation is not possible, the building shall be offered to an appropriate agency or museum, such as History San Jose, for salvage of its architectural elements.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact CULT-2 (FEIR), as identified in the Final Certified EIR. The City finds that requiring that the Sunlite Baking Company building be stabilized and relocated to another appropriate site (Mitigation Measure CULT-2b (FEIR)) would reduce impacts to historic cultural resources to a less-than-significant level. However, implementation of the documentation measure (CULT-2a (FEIR)) or salvage measure (CULT-2c (FEIR)) would leave this impact significant and unavoidable.

3. Impact CULT-2 (First Amendment to the FEIR):

The structure at 65 Cahill Street, adjacent to the Project area, is a City Landmark and listed in the National Register.

Mitigation Measure CULT-2a (First Amendment to the FEIR):

Prior to demolition or alteration of the proposed Project area buildings, HABS documentation of the exterior of the 1935 National Register Southern Pacific Depot and its setting shall be prepared. A brief historical overview of the Depot and its relationship to the Project area shall be prepared to accompany the photographic documentation. A brochure shall be prepared that presenting the history of the Depot, and made available for distribution to local libraries, museums, and schools.

Mitigation Measure CULT-2b (First Amendment to the FEIR):

The Project Applicant shall retain and work with a historic preservation architect to minimize Project impacts to the Diridon Station.

Mitigation Measure CULT-2c (First Amendment to the FEIR):

The Project will be referred back to the Historic Landmarks Commission for review, comment and recommendation.

Mitigation Measure CULT-2d (First Amendment to the FEIR):

The Project Applicant shall consult with the Peninsula Corridor Joint Powers Board and the City to determine if these proposed mitigations are sufficient or if additional mitigations are necessary.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact CULT-2, as identified in the Final Certified EIR. The City finds that implementing this multi-part mitigation measure would leave this impact less than significant.

4. Impact CULT-3:

The Project area may contain buried archaeological resources.

Mitigation Measure CULT-3:

Due to high sensitivity for both prehistoric and historical archaeological resources, a qualified archaeologist shall monitor all ground-disturbing activities within the Project area for historical and prehistoric archaeological resources. Monitoring shall continue until, in the archaeologist's judgment, cultural resources are not likely to be encountered. A cultural resources monitoring plan shall be prepared prior to the issuance of a grading or building permit and subsequently implemented. The monitoring plan shall describe how Project construction will be monitored to reduce impacts to cultural resources which may be identified within the Project site. The monitoring plan shall also include a review of Sanborn fire insurance maps, historical photographs, and other appropriate historical materials to identify potentially archaeologically sensitive areas for monitoring. Limited subsurface testing may be appropriate prior to construction to identify archaeological deposits.

If deposits of prehistoric or historical archaeological materials are encountered during Project activities, all work within 25 feet of the discovery shall be redirected until the archaeological monitor can review the finds and make recommendations. Monitoring shall continue until, in the archaeologist's judgment, archaeological resources are no longer likely to be encountered. It is recommended that such deposits be avoided by Project activities. If such deposits cannot be avoided, they shall be evaluated for their California Register eligibility. Archaeological monitors must be empowered to halt construction activities within 25 feet of the discovery to review the possible archaeological material and to protect the resource while it is being evaluated. If the deposits are not eligible, avoidance is not necessary. If the

deposits are eligible, they will be avoided or adverse effects must be mitigated. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the archaeological materials discovered. The report shall be submitted to City of San José Planning, Building, and Code Enforcement Director, and the NWIC.

Prehistoric materials can include flaked-stone tools (e.g. projectile points, knives, choppers) or obsidian, chert, basalt, or quartzite tool-making debris; bone tools; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other refuse.

Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Fill soils used for construction purposes should not contain archaeological materials.

The HP Pavilion parking structure option contains three archaeological “locations or areas” (BART Extension to Milpitas, San José, and Santa Clara Draft Supplemental Environmental Impact Report [January 2007], Appendix F, Map 36, Features H52, H53A, and H53B) identified as containing archaeological deposits that may qualify as historical or unique archaeological resources under CEQA. Preconstruction archaeological test excavation shall occur at these “locations or areas” prior to ground disturbing construction. The purpose of the excavation shall be to identify the nature, extent, and status under CEQA of these archaeological features. The excavation shall also inform recommendations for the treatment of the features, should they be intact and qualify as significant.

Feasible measures shall be implemented to avoid, reduce, or offset significant impacts to resources that so qualify. Feasible measures may include, but are not limited to, capping the resource to prevent further localized ground disturbance; documentation on state of California DPR 523 form records; or data recovery excavation pursuant to a research design approved by the City. The measures will avoid further impacts to the resource, minimize the amount of Project-related disturbance necessary, or provide documentation of the data potential that would be lost through the deposit’s destruction. The test excavation shall be directed by an individual who meets the Secretary of the Interior’s Professional Qualifications Standards for historical and prehistoric archaeology. If prehistoric archaeological resources are suspected, a Native American monitor shall observe the excavation.

A report shall be prepared that documents the methods and results of the excavations, and shall be submitted to the City of San José and the Northwest Information Center.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact CULT-3, as identified in the Final Certified EIR. The City finds that implementing this mitigation measure would leave this impact less than significant.

5. Impact CULT-4:

Ground disturbance associated with the demolition, grading, site preparation and construction of the proposed Project may disturb human remains, including those interred outside of formal cemeteries.

Mitigation Measure CULT-4:

If human remains are encountered, work within 25 feet of the discovery shall be redirected and the County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report shall be submitted to City of San José Planning, Building, and Code Enforcement director, and the NWIC.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact CULT-4, as identified in Final Certified EIR. The City finds that requiring the construction contractor adhere to established protocol regarding the treatment of identified human remains is feasible, and would adequately protect such remains, if encountered. Mitigation Measure CULT-4 represents standard protocol for minimizing potential impacts to human remains and allows for consultation with Native American groups to determine the need for

additional protection of resources. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measure CULT-4 will be incorporated into the Project via conditions of approval, and would reduce Impact CULT-4 to a less-than-significant level.

6. Impact CULT-5:

Ground disturbing activities within the Project area could adversely impact paleontological resources.

Mitigation Measure CULT-5a:

A qualified paleontologist shall be present during initial Project ground-disturbance involving disturbances at or below 5 feet from original ground surface. The paleontologist shall determine if further monitoring of Project ground-disturbing activities below the soil layer is necessary or if periodic site inspections are appropriate. If periodic site inspections are recommended, each subsequent inspection shall determine if more thorough paleontological monitoring is necessary. Prior to Project ground-disturbing activities, pre-field preparation by a qualified paleontologist shall take into account specific details of Project construction plans for the Project area as well as information from available paleontological, geological, and geotechnical studies. Limited subsurface investigations may be appropriate for defining areas of paleontological sensitivity prior to ground disturbance.

If paleontological resources are encountered during Project activities, all work within 25 feet of the discovery shall be redirected until the paleontological monitor can evaluate the resources and make recommendations. If paleontological deposits are identified, it is recommended that such deposits be avoided by Project activities. Paleontological monitors must be empowered to halt construction activities within 25 feet of the discovery to review the possible paleontological material and to protect the resource while it is being evaluated. If avoidance is not feasible, adverse effects to such resources shall be mitigated. Mitigation can include data recovery and analysis, preparation of a report and the accession of fossil material recovered to an accredited paleontological repository, such as the UCMP.

Monitoring shall continue until, in the paleontologist's judgment, paleontological resources are no longer likely to be encountered. Upon Project completion, a report shall be prepared documenting the methods and results of monitoring. Copies of this report shall be submitted to the City of San José Planning, Building, and Code Enforcement Director and to the repository to which any fossils were transmitted.

Mitigation Measure CULT-5b:

If paleontological resources are encountered during Project activities, and a paleontologist monitor is not present, all work within 25 feet of the discovery shall be redirected until a qualified paleontologist has evaluated the discoveries, prepared a fossil locality form documenting the discovery and made recommendations regarding the treatment of the resources. If the paleontological resources are found to be significant, adverse effects to such resources shall be avoided by Project activities. If Project activities cannot avoid the resources, adverse effects shall be mitigated. At a minimum, mitigation shall include data recovery and analysis, preparation of a report, and the transmittal of any fossil material recovered to a paleontological repository, such as the UCMF. Upon completion of Project activities, a report documenting the methods and findings of the mitigation shall be prepared and copies submitted to City of San José Planning, Building, and Code Enforcement Director as well as to the paleontological repository to which fossils were transmitted.

Project personnel should not collect or move any paleontological materials and associated materials. Fill soils used for construction purposes should not contain paleontological materials.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact CULT-5, as identified in the Final Certified EIR. The City finds that requiring the assessment of and reporting for any paleontological resources encountered during ground disturbing activities is feasible and would reduce impacts to unidentified paleontological resources to a less-than-significant level. Requiring monitoring and site assessments by a qualified paleontologist are accepted ways to protect paleontological resources that may occur on a development site. Pursuant to CEQA Guidelines Section 15091(a)(1), the City finds that Mitigation Measures CULT-5a and CULT-5b will be incorporated into the Project via conditions of approval, and would reduce Impact CULT-5 to a less-than-significant level.

J. VISUAL AND AESTHETIC RESOURCES

1. Impact VIS-1:

The proposed Project would alter the visual character of historic San José Diridon Station.

Mitigation Measure VIS-1:

Implementation of Mitigation Measure CULT-2a and CULT-2b would somewhat reduce this impact. However, the alteration of the station's visual setting and feeling would remain a significant impact.

Finding:

The alteration of the visual character of historic San José Diridon Station associated with the Project will substantially and adversely affect visual resources. The Final Certified EIR identified measures to reduce these impacts. However, even with implementation of these mitigation measures, visual resources impacts would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

2. Impact VIS-2:

The removal of all ordinance sized trees on the Project site would substantially damage scenic resources.

Mitigation Measure VIS-2:

Mitigation Measure BIO-1 requires the loss of ordinance sized trees would be mitigated by implementation of landscaping plans to be reviewed and approved by the City of San José. For private projects, the City of San José requires tree replacement for those trees greater than 18 inches in diameter with 24-inch box trees at a ratio of 4:1. The Project Applicant would commit to meeting the tree replacement ratio, but given the footprint of redevelopment on the Project site, replacement trees may be planted beyond the Project site in the Project area. Implementation of Mitigation Measure BIO-1 would reduce impacts to scenic resources through the loss of trees to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact VIS-2, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to implement Mitigation Measure BIO-1 is feasible and would reduce visual impacts associated with the removal of ordinance sized trees to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), the City finds that Mitigation Measure VIS-2 will be incorporated into the Project via conditions of approval, and would reduce Impact VIS-2 to a less-than-significant level.

K. SHADE/SHADOW AND LIGHT/GLARE

1. Impact SHADE-1:

Throughout most of the year in the morning hours, the proposed Project would increase the shade and shadow cast on the historic San José Diridon Station.

Mitigation Measure SHADE-1:

Implementation of Mitigation Measure CULT-2a and CULT-2b would somewhat reduce this impact. However, shadows cast over the Diridon Station, particularly those that would occur during winter mornings (as exemplified by the shadow simulation for December 21), would remain a significant impact.

Finding:

The increase of shade and shadow cast on the historic San José Diridon Station associated with the Project will have a substantial and adverse effect. The Final Certified EIR identified measures to reduce these impacts. However, even with implementation of these mitigation measures, shade and shadow impacts would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

2. Impact SHADE-2:

Obtrusive light and glare resulting from nighttime operation of the proposed stadium Project could present a nuisance to surrounding land uses, specifically nearby residences and the Lick Observatory.

Mitigation Measure SHADE-2a:

The proposed Project shall incorporate lighting controls at the proposed stadium Project to reduce the potential nuisance associated with obtrusive light and glare resulting from nighttime stadium operation. Lighting banks shall be placed and designed to minimize obtrusive spill light and glare as much as possible (e.g. shielding at the source) and shall be directed towards the playing field and away from the sky.

Mitigation Measure SHADE-2b:

After nighttime events, when nighttime stadium cleanup is necessary, the field lights shall be reduced to one-third of their standard intensity and shall remain on no more than one hour after the event to provide lighting for cleanup activities.

Finding:

Obtrusive light and glare associated with the Project will substantially and adversely affect surrounding land uses. The Final Certified EIR identified lighting control measures to reduce these impacts. However, even with implementation of these mitigation measures, light and glare impacts would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

3. Impact SHADE-3:

Light and glare associated with the proposed scoreboards and lighting structures and fireworks displays could interfere with the safe operation of the San José International Airport during nighttime events.

Mitigation Measure SHADE-3:

As discussed in the Land Use sections of the Final Certified EIR, a Determination of No Hazard from the FAA would be required for the proposed Project prior to development approval. In addition, implementation of Mitigation Measure LU-1 requires FAA consultation (if required by FAA) for the coordination of fireworks displays. Implementation of this mitigation measure, as well as Mitigation Measures SHADE-2a and SHADE-2b, discussed above, would reduce this significant impact to a less-than-significant level.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact SHADE-3, as identified in the Final Certified EIR. The City finds that requiring the Project applicant to obtain a Determination of No Hazard from the FAA, as well as implement Mitigation Measures LU-1, and SHADE-2a and SHADE-2b are feasible and would reduce impacts associated with hazardous light and glare to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), the City finds that Mitigation Measure SHADE-3 will be incorporated into the Project via conditions of approval, and would reduce Impact SHADE-3 to a less-than-significant level.

L. UTILITIES

1. Impact UTIL-1:

The water demand of the proposed Project could cause a reduction in water pressure for surrounding land uses being served at the lower end of the pressure range.

Mitigation Measure UTIL-1:

Prior to the issuance of a certificate of occupancy, the Project Applicant shall work with City for the Project Applicant to either 1) install one new well in an easement within the area with access to the existing water lines, or 2) install inter-zone regulators at two existing SJWC facility stations to supply water from an adjacent, higher pressure zone.

The SJWC preferred mitigation would be a new well facility located near the stadium Project (possibly in an easement on the southerly portion of the Project site adjacent to Los Gatos Creek). The well site would be required to meet all setbacks and requirements of the California Department of Health Services and the SCVWD. This well would pump water from the same basin as all of the SJWC's existing wells, the Santa Clara Valley Groundwater Subbasin. A new well would require approximately 5 feet by 5 feet of space for the above-ground well head with sufficient over-head space for well drilling and pump maintenance. The pump would be located in the well and would connect to existing water transmission line adjacent to the site.

An alternative to providing an additional well would be installing inter-zone regulators at two of the SJWC's existing facility locations. This would not require additional space, but would require additional piping, telemetry, and site modifications funded by the Project Applicant. This option is not preferred by the SJWC as it would reduce operational flexibility.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact UTIL-1, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to implement one of the two options as outlined in Mitigation Measure UTIL-1 is feasible and would reduce impacts associated with water demand to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), the City finds that Mitigation Measure UTIL-1 will be incorporated into the Project via conditions of approval, and would reduce Impact UTIL-1 to a less-than-significant level.

2. Impact UTIL-2:

The solid waste generated during the demolition, land clearing and construction could interfere with waste diversion goals mandated by the California Integrated Waste Management Act.

Mitigation Measure UTIL-2:

Prior to the demolition of any structure on the Project site, the Project Applicant shall prepare a waste management plan for the recycling of construction and demolition materials to City's satisfaction. The waste management plan shall ensure that a minimum of 50 percent (by weight) of construction, demolition, and land clearing waste is recycled or salvaged.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact UTIL-2, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to prepare and implement a waste management plan is feasible and would reduce impacts associated with solid waste to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), the City finds that Mitigation Measure UTIL-2 will be incorporated into the Project via conditions of approval, and would reduce Impact UTIL-2 to a less-than-significant level.

3. Impact UTIL-3:

The proposed Project may require the relocation of the existing PG&E substation.

Mitigation Measure UTIL-3:

The Project Applicant shall work with City and PG&E to provide a new substation and transmission and distribution infrastructure.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen Impact UTIL-3, as identified in the Final Certified EIR. The City finds that requiring the Project Applicant to work with City and PG&E to provide a new substation and transmission and distribution infrastructure is feasible and would reduce impacts associated with utility relocation to a less-than-significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), the City finds that Mitigation Measure UTIL-3 will be incorporated into the Project via conditions of approval, and would reduce Impact UTIL-3 to a less-than-significant level.

M. GLOBAL CLIMATE CHANGE

1. Impact GCC-1:

Construction and operation of the Project would result in greenhouse gas emissions that would have a significant physical adverse impact and cumulatively contribute to global climate change.

Mitigation Measure GCC-1:

To lessen the Project's greenhouse gas emissions and potential impact on climate change, measures shall be implemented to lessen the impacts, although the measures would not reduce the impact to a less than significant level. Unless determined to be infeasible by the City, the following measures shall be incorporated into the design and construction of the Project:

Construction and Building Materials

- Use locally produced and/or manufactured building materials of at least 10 percent for construction of the Project;
- Recycle/reuse at least 50 percent of demolished construction material; and
- Use "Green Building Materials," such as those materials which are resource efficient, and recycled and manufactured in an environmentally friendly way.

Energy Efficiency Measures

- Design, construct and operate all newly constructed and renovated commercial structures, including the Baseball Stadium as certified to "LEED Silver" or higher per the City of San José (Policy 6-32, effective October 7, 2008);
- Design buildings to facilitate use of solar energy for electricity, water heating and/or space heating/cooling;
- Provide a landscape and development plan for the project that takes advantage of shade, prevailing winds, and landscaping;
- Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems;
- Install light colored "cool" roofs and cool pavements;
- Install energy efficient heating and cooling systems, appliances and equipment, and control systems; and
- Install energy-efficient, solar or light emitting diodes (LEDs) for outdoor lighting, as appropriate.

Water Conservation and Efficiency Measures

- Devise and implement a comprehensive water conservation strategy appropriate for the Project and location. The strategy may include the following, plus other innovative measures that might be appropriate:
- Create water-efficient landscapes within the development, including drought tolerant landscaping;
- Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls;
- Design buildings to be water-efficient. Install water-efficient fixtures and appliances, including low-flow faucets, dual-flush toilets and waterless urinals;
- Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff; and
- Install a separate, non-potable distribution system (i.e. "purple pipe") to accommodate the use of recycled water for landscape irrigation needs of large areas with irrigated landscaping.

Transportation and Motor Vehicle Measures

- Develop and implement a transportation demand management (TDM) program that includes trip reduction components such as free transit passes, a dedicated employee transportation coordinator, and carpool matching program;
- Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters);
- Provide bicycle lanes and/or paths, incorporated into the proposed street systems and connected to a community-wide network; and
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.

Finding:

Greenhouse gas emissions (GHG) associated with the Project will substantially and adversely contribute to global climate change. The FSEIR portion of the Final Certified EIR identified measures related to construction and building materials, energy efficiency, water conservation and efficiency, and transportation and motor vehicles to be incorporated into the design and construction of the project. However, even with implementation of these mitigation measures, GHG emissions would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding

Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

II. CUMULATIVE IMPACTS

A. TRANSPORTATION, CIRCULATION, AND PARKING

1. Cumulative Impact:

Improvements to mitigate significant cumulative impacts on freeway segments are infeasible due to right-of-way constraints and the land use impacts associated with acquiring additional right-of-way as described under Project conditions in the Traffic, Circulation and Parking section of the Final Certified EIR. Therefore, these impacts would be significant and unavoidable.

Finding:

Impacts to transportation and traffic associated with the Project and other planned developments will be cumulatively significant. The FSEIR portion of the Final Certified EIR identified measures related to traffic impact reductions. However, even with implementation of these mitigation measures, cumulative impacts related to transportation, circulation and parking would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

B. AIR QUALITY

1. Cumulative Impact:

Construction and operation of the proposed Project, in conjunction with other planned developments within the cumulative study area and the subregion, would contribute to the existing non-attainment status. Thus, the proposed Project would exacerbate non-attainment of air quality standards within the subregion and air basin and contribute to adverse cumulative air quality impacts.

Cumulative Mitigation Measure:

Mitigation Measures AIR-1 and AIR-2 would help to address the Project's contribution to this cumulative impact. Mitigation Measure AIR-1 would reduce the Project's cumulative contribution to construction period impacts to a less-than-significant impact. However, the Project's contribution to cumulative ozone precursor emissions would remain significant and unavoidable.

Finding:

Pollutant emissions associated with the Project and other planned developments will cumulatively contribute to the existing non-attainment. The Final Certified EIR identified measures related to emissions reductions. However, even with implementation of these mitigation measures, pollutant emissions would not be reduced to less-than-significant levels. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

C. NOISE

1. Cumulative Impact 1:

The increase in noise levels from Project-related traffic of more than 3 dBA is substantial and the Project would contribute to the cumulative increase in traffic noise.

Cumulative Mitigation Measure 1:

No additional mitigation measures, beyond those identified in the Noise section of the Final Certified EIR, would reduce the Project's contribution to a less-than-significant level. Therefore, this cumulative impact would remain significant and unavoidable.

Finding:

Noise due to traffic associated with the Project and other planned developments will cumulatively contribute to an increase in noise. The Final Certified EIR identified measures related to noise reductions. However, even with implementation of these mitigation measures, cumulative noise would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

2. Cumulative Impact 2:

The increase in ambient noise from Project operations would contribute to the cumulative noise increase.

Cumulative Mitigation Measure 2:

Mitigation measures identified in the Noise sections of the Final Certified EIR, would reduce the impacts of baseball game event noise. However, no additional mitigation measures would reduce the Project's contribution to cumulative noise levels in the downtown area to a less-than-significant level. Therefore, this cumulative impact would remain significant and unavoidable.

Finding:

Noise due to operations associated with the Project and other planned developments will cumulatively contribute to an increase in ambient noise. The Final Certified EIR identified measures related to noise reductions. However, even with implementation of these mitigation measures, cumulative ambient noise would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

D. CULTURAL RESOURCES

1. Cumulative Impact:

As discussed in subsection 4.5 of the Initial Study, both the 2006 Stadium Proposal and the modified stadium Project proposal could result in the removal of two structures, the KNTV and Sunlite Baking Company buildings, that are considered historical resources under CEQA. In addition, both the 2006 Stadium Proposal and the modified stadium Project would alter the character of the setting of the Diridon Station, a City Landmark listed on the National Register. The alteration of the setting and character of a structure listed on the National Register is a significant unavoidable impact that would result from the modified Project. These impacts to historic resources would have a cumulatively considerable impact on historic resources within the Diridon Area. The modified Project in combination with the updated list of cumulative projects would have the same level of impact as the 2006 Stadium Proposal.

Projects on the updated cumulative project list may also result in the alteration of historic structures. While it is unlikely that the individual impacts associated with these projects and the modified Project would combine to create a cumulative impact of greater severity upon any one historic period or type of resource (the BART station, for example, would be underground and its parking structure, if any, is proposed for the same area as the parking structure for the modified Project), the cumulative alteration or loss of historic structures within the City, especially the

Downtown Area, would be significant. The combined impacts to historic resources that would result from implementation of the modified Project and the cumulative projects listed would result in a cumulatively significant loss of historic resources. The modified Project, like the 2006 Stadium Proposal, would contribute to that cumulatively significant impact.

No significant unavoidable impacts related to archeological or paleontological resources would result from the modified Project. No additional mitigation measures, beyond those identified in the Cultural and Paleontological Resources sections of the Final Certified EIR, would reduce impacts to historic resources to a less-than-significant level. The alteration of a historic resource within the Project site vicinity would result in a significant unavoidable cumulative impact.

Finding:

Impacts to historic resources associated with the Project and other planned developments will cumulatively contribute to a significant impact. The FSEIR portion of the Final Certified EIR identified measures related to impact reductions. However, even with implementation of these mitigation measures, cumulative impacts related to historic resources would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

E. AESTHETICS

1. Cumulative Impact:

As noted in the Visual and Aesthetic Resources sections of the Final Certified EIR and in subsection 4.1 of the Initial Study, the alteration of the visual setting and feeling of historic buildings within the Project vicinity would cause indirect damage to scenic resources (i.e., Diridon Station) in the area resulting in significant unavoidable visual resources impacts for both the 2006 Stadium Proposal and the modified Project. This, in combination with the alteration of other existing visually significant historic structures, would be a significant unavoidable cumulative impact. Also, the modified Project would remove ordinance-size trees from the Project site (although fewer than the 2006 Stadium Proposal). Ordinance-size trees are considered significant visual resources; however, the removal of ordinance-size trees would not be a cumulatively considerable impact. No additional mitigation measures, beyond those identified in the Visual and Aesthetic Resources sections of the Final Certified EIR would reduce impacts to historic visual resources to less-than-significant levels.

The modified Project, along with cumulative projects, would increase the amount of shade and shadow cast in and around the Project site, including shade and shadows that would fall upon Diridon Station, a historic visual resource. While the impact of most shade and shadows would not be cumulatively considerable for the reasons provided in the Final Certified EIR, shade and shadows that fall upon Diridon Station would be a cumulatively considerable significant impact. Implementation of mitigation measures identified in the Final Certified EIR, including Mitigation Measures CULT-2a and CULT-2b, would reduce the impact on Diridon Station; however, the cumulative impact would remain significant and unavoidable, as it was for the 2006 Stadium Proposal.

The modified Project, along with cumulative projects, would increase the amount of light and glare in and around the Project site. Implementation of mitigation measures identified in the Final Certified EIR, including Mitigation Measure CUMULATIVE SHADE-1, would reduce the impact; however, the cumulative impact would remain significant and unavoidable, as it was for the 2006 Stadium Proposal.

The modified Project in combination with the updated list of cumulative projects, including BART to Silicon Valley, the HSR, and Diridon Station Area Plan, would not create additional cumulatively considerable significant impacts beyond those described in the Final Certified EIR. The removal of ordinance-size trees would remain a less-than-significant impact for the reasons provided in the Final Certified EIR, which includes the requirement to replace trees at a 4:1 ratio. The indirect impacts to a scenic resource (i.e., Diridon Station) and the impacts caused by shade and shadow and light and glare would remain significant and unavoidable.

Finding:

Obtrusive shade and shadow and light and glare associated with the Project and other planned developments will cumulatively contribute to an impact on surrounding land uses. The SEIR portion of the Final Certified EIR identified measures related to lighting control reductions. However, even with implementation of these mitigation measures, cumulative shade and shadow and light and glare impacts would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

F. SHADE/SHADOW AND LIGHT/GLARE

1. Cumulative Impact:

Obtrusive light and glare resulting from nighttime operation of the proposed stadium Project, in conjunction with other planned developments within the cumulative study area, could present a nuisance to surrounding land uses, specifically nearby residences and the Lick Observatory.

Cumulative Mitigation Measure:

Mitigation Measures SHADE-2a and 2b would help to address the Project's contribution to this cumulative impact. However, this cumulative impact would remain significant and unavoidable.

Finding:

Obtrusive light and glare associated with the Project and other planned developments will cumulatively contribute to an impact on surrounding land uses. The Final Certified EIR identified measures related to lighting control reductions. However, even with implementation of these mitigation measures, cumulative light and glare impacts would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

G. GLOBAL CLIMATE CHANGE

1. Cumulative Impact:

Climate change and the emission of greenhouse gases (GHG) by the modified Project are addressed in FSEIR portion of the Final Certified EIR. The construction and operation of the modified Project would result in GHG emissions that would have a significant physical adverse impact and cumulatively contribute to global climate change. While implementation of Mitigation Measure GCC-1 would reduce GHG emissions and the severity of the impact on global climate change, no additional mitigation measures are available to reduce this impact to a less-than-significant level. This impact is considered significant and unavoidable.

Finding:

Impacts to global climate change associated with the Project and other planned developments will be cumulatively significant. The FSEIR portion of the Final

Certified EIR identified measures related to greenhouse gas reductions. However, even with implementation of these mitigation measures, cumulative impacts related to global climate change would not be reduced to a less-than-significant level. Therefore, this impact would remain significant and unavoidable. However, pursuant to Section 21091(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on specific beneficial considerations found herein in Section V below.

III. ALTERNATIVES TO THE PROPOSED PROJECT

A. NO DEVELOPMENT ALTERNATIVE

1. Description

The No Development alternative is the circumstance under which the Project does not proceed, and the comparison involves the effects of the property remaining in its existing state versus the effects which would occur if the Project were implemented. The multiple-block site would maintain its commercial, light industrial, transportation, utility and office uses. The fire training center south of Park Avenue would continue to operate in its current location. None of the 17 buildings on the Project site would be demolished. Autumn Street would maintain its current alignment, and Otterson and Montgomery Streets would not be vacated.

2. Comparison to Proposed Project

While this alternative would be environmentally superior in the technical sense that the impacts associated with the 2006 Stadium Proposal would not occur, it would also fail to achieve any of the Project's objectives summarized in the Final Certified EIR. The same conclusion is reached for the 2010 modified Project in the FSEIR portion of the Final Certified EIR.

3. Finding:

The No Development Alternative would not achieve any of the Project objectives. Overall, the No Development Alternative would be environmentally superior to the Project because it would avoid all new environmental impacts. However, the No Development Alternative would not construct a downtown baseball stadium in the event that Major League Baseball revises the territory for the A's baseball team. For this reason, although the No Development Alternative would reduce or eliminate the environmental impacts associated with the Project, the City rejects the No Development Alternative because it fails completely to achieve any of the Project objectives.

B. EXISTING PLAN ALTERNATIVE

1. Description

The Existing Plan alternative would involve the development of the Project site in accordance with the development outlined in the Diridon/Arena Strategic Development Plan, the Midtown Specific Plan and the Burbank/Del Monte Neighborhood Improvement Plan. The Project site north of Park Avenue would be developed with transit oriented mixed use development. Transit Oriented Mixed Use in the Diridon/Arena Strategic Development Plan is adopted from the Midtown Specific Plan and is defined as follows:

The primary use is high-density residential – up to 150 dwelling units per acre. Residential units can be combined with office, retail, restaurant, child care, and public/quasi-public, and entertainment uses. Ground floor pedestrian oriented uses are encouraged, with emphasis on uses that support area residents. Neighborhood park space should be developed to support the residential uses.

The development area north of Park Avenue would be approximately 14.5 acres. The Existing Plan Alternative would not include the relocation of the PG&E substation and would not include residential or office or commercial development east of S. Autumn Street. Up to 725 dwelling units, 700,000 square feet of office, 200,000 square feet of retail, and 300 hotel rooms would be developed on the Project site as part of this alternative.

A public park would be developed between S. Autumn Street and Los Gatos Creek.

That portion of the Project site located south of Park Avenue, currently the location of the Fire Training Facility, would be developed with a neighborhood park and playing fields.

2. Comparison to Proposed Project

This alternative would have greater impacts than the proposed Project related to traffic and air quality, but it would have fewer impacts related to: land use; population, employment and housing; noise; visual resources; shade/shadow and light/glare. The same conclusion is reached for both the original 2006 stadium Project as well as the 2010 modified Project described in the FSEIR portion of the Final Certified EIR. However, it would not meet the City's objectives for the proposed Project, which is to develop a Major League Baseball stadium and associated facilities.

3. Finding:

The Existing Plan Alternative would not achieve any of the Project objectives. Overall, this alternative would have greater impacts than the proposed Project related to traffic and air quality, but it would have fewer impacts related to: land use; population, employment and housing; noise; visual resources; shade/shadow and light/glare. Because the Existing Plan Alternative would not construct a downtown baseball stadium in the event that Major League Baseball revises the territory for the A's baseball team, the City rejects the Existing Plan Alternative for failing to achieve any of the Project objectives.

C. SUBMERGED STADIUM ALTERNATIVE

1. Description

The Submerged Stadium alternative would involve the excavation of 75 to 80 percent of the Project site by 24 to 28 feet to submerge the stadium and achieve a consequent reduction in overall height by the same 24 to 28 feet. The parking garage would also be submerged to a similar level. Pedestrian access to the interior of the stadium facilities would vary from the proposed (at-grade) concept, but this alternative assumes that the remainder of the Project's characteristics would not change.

With the below grade design, approximately 556,600 additional cubic yards of soil would need to be removed from the Project site.

2. Comparison to Proposed Project

This alternative generally represents the next-best alternative after the No Development alternative in terms of the fewest environmental impacts. The Submerged Stadium alternative would have greater short-term impacts than the originally proposed Project or the modified Project related to: construction traffic, noise and air quality; hydrology and water quality; and cultural resources. If the HP Pavilion parking option were selected, the 2010 modified Project would have greater short-term impacts related to hazards and hazardous materials than the Submerged Stadium alternative or the original 2006 Stadium Project proposal. The Submerged Stadium alternative would have reduced long-term impacts related to: land use; operational noise; visual resources; shade/shadow and light/glare. It would meet the City's objectives to the same extent as the 2006 Stadium Proposal and the modified Project.

3. Finding:

The Submerged Stadium Alternative would achieve key Project objectives. Overall, this alternative would have greater short-term impacts than the proposed Project

related to construction traffic, noise and air quality; hydrology and water quality; and cultural resources, but it would have reduced long-term impacts related to land use; operational noise; visual resources; shade/shadow and light/glare. Because the Submerged Stadium Alternative would have greater impacts related to traffic, noise and air quality; hydrology and water quality; and cultural resources, the City rejects the Submerged Stadium Alternative.

D. FMC/COLEMAN AVENUE LOCATION ALTERNATIVE

1. Description

In order to most clearly distinguish the trade-off in potential impacts – both beneficial and adverse – several alternate locations for the Project have been selected. The **FMC/Coleman Avenue Location** alternative evaluates the same development program as the proposed Project, but at another location within the City of San José. The FMC/Coleman Avenue Location alternative is an approximately 92.5-acre site, located at 1125 Coleman Avenue, bounded by Coleman Avenue to the northeast, Newhall Street to the southeast, Southern Pacific Railroad lines to the southwest and the jurisdictional boundary of the City of Santa Clara to the northwest. Surrounding land uses include industrial uses to the southwest and northwest, the San José International Airport to the northeast and mixed industrial/residential uses to the southeast. This site was analyzed (for another type of development project) in the environmental impact report prepared for the FMC/Coleman Avenue Planned Development Rezoning (July 2003).¹

This alternate location would not include the relocation of the PG&E Substation.

2. Comparison to Proposed Project

Among the alternative locations, the FMC/Coleman Avenue Location alternative would generally lead to the fewest impacts. The FMC/Coleman Avenue Location alternative would not have any greater impacts than the 2006 Stadium Proposal or the modified Project, and it would have fewer impacts related to: land use; noise; biological resources; cultural resources; visual resources; shade/shadow and light/glare.

Although the FMC/Coleman Avenue Location alternative presents the fewest environmental impacts of the off-site alternatives, the site is currently under consideration for development of a soccer stadium. If development of the soccer stadium does not move forward, this alternative could be feasible. However, if the soccer stadium does move forward, a combined soccer stadium and major league

¹ City of San Jose. 2003. Final Environmental Impact Report for FMC/Coleman Avenue Planed Development Rezoning (PDC98-104). July.

ballpark is not a desirable option. From both a functional and economic perspective, the uses are incompatible. The shapes of the baseball and soccer fields are entirely different, with the soccer field closely resembling the rectangular size and shape of an American football field. A baseball field is essentially a triangle with different dimensions from a soccer field. These two sports require field designs with different patron seating areas and sight lines. Soccer's primary and most expensive seating is mid-field on either side of the field. Baseball's primary seating is focused on the infield and that is where the largest concentration of seating and highest priced seating is also located.

3. Finding:

The FMC/Coleman Avenue Location Alternative could achieve key Project objectives in the absence of a soccer stadium. However, the soccer stadium site already has an approved zoning, and the developer is currently pursuing a development permit for that proposal. The City rejects this alternative because a combined facility for soccer and baseball would not meet the project objectives for dedicated facilities for either project.

E. DEL MONTE LOCATION ALTERNATIVE

1. Description

The Del Monte Location alternative evaluates the same development program as the proposed Project, but at another location within the City of San José. The Del Monte Location alternative is an approximately 17.5-acre site at 801 Auzerais Street, generally south of W. San Carlos Street, west of Los Gatos Creek, north of W. Home Street and east of Sunol Street and the Vasona LRT line. Surrounding land uses include industrial uses to the north, south and east, and commercial, industrial and residential uses to the west, across Los Gatos Creek. This site was analyzed (for another type of development project) in the environmental impact report prepared for the KB Home Monte Vista Residential Planned Development Zoning Project (March 2005).²

This alternate location would not include the relocation of the PG&E Substation.

2. Comparison to Proposed Project

Impacts associated with the Del Monte Location Alternative would mostly be similar to the modified Project. However, impacts related to noise, due to the

² City of San Jose. 2005. Final Environmental Impact Report, KB Home Monte Vista Residential Planned Development Zoning Project (Del Monte Plant #3 Site). PDC 03-071. March.

existing ambient noise environment in the vicinity of the Del Monte Location, would be reduced.

3. Finding:

The Del Monte Location Alternative is not available, because the site has been redeveloped with residential uses, and is therefore rejected.

F. BERRYESSA FLEA MARKET LOCATION ALTERNATIVE

1. Description

The Berryessa Flea Market Location alternative evaluates the same development program as the proposed Project, but at another location within the City of San José. The Berryessa Flea Market Location alternative is an approximately 120-acre site at 1590 Berryessa Road, generally south of Chessington Drive and Bellemade Street, north of Mabury Street, west of the Caltrain tracks and east of Coyote Creek. Surrounding land uses include industrial uses to the east, west and south, and residential uses to the north. This site was analyzed (for another type of development project) in the environmental impact report prepared for the San José Flea Market General Plan Amendment (November 2002).³

The Berryessa Flea Market Location would not include the relocation of the PG&E substation.

2. Comparison to Proposed Project

Impacts associated with the Berryessa Flea Market Location Alternative would mostly be similar to the modified Project. Impacts related to traffic could be reduced if this alternative were built after completion of a BART extension. However, new significant and unavoidable impacts related to cultural resources could be introduced under this alternative.

3. Finding:

The Berryessa Flea Market Location Alternative would achieve key project objectives. Overall, this alternative would have similar impacts as those of the modified Project, but it could present new significant and unavoidable impacts related to cultural resources without additional research. For this reason, the City rejects the Berryessa Flea Market Location Alternative.

³ City of San Jose. 2002. Final Environmental Impact Report for San Jose Flea Market General Plan Amendment (GP02-04-02). November.

G. REED AND GRAHAM LOCATION ALTERNATIVE

1. Description

The Reed and Graham Location alternative evaluates the same development program as the proposed Project, but at another location within the City of San José. The Reed and Graham Location alternative is an approximately 16-acre site at 854 Savaker Avenue, generally bound by Los Gatos Creek to the west, I-280 to the south, railroad lines to the west and Savaker Avenue to the north. Surrounding land uses include industrial uses to the north, south and east, and residential uses to the west, across Los Gatos Creek. This site was analyzed as an alternative in the environmental impact report prepared for the KB Home Monte Vista Residential Planned Development Zoning Project (March 2005).⁴

The alternate location would not include the relocation of the PG&E Substation.

2. Comparison to Proposed Project

Impacts associated with the Reed and Graham Location Alternative would be similar to the modified Project. However, impacts related to noise, due to the existing ambient noise environment in the vicinity of the Reed and Graham Location, would be reduced. In addition, impacts to cultural resources would be reduced or eliminated. However, greater significant and unavoidable impacts related to traffic and transportation could be introduced under this alternative.

3. Finding:

The Reed and Graham Location Alternative would achieve the key Project objectives. Overall, this alternative would have similar impacts as those of the modified Project, but it could present greater significant and unavoidable impacts related to traffic and transportation. For this reason, the City rejects the Reed and Graham Location Alternative.

IV. MITIGATION MONITORING AND REPORTING PROGRAM

Attached to and adopted with this Resolution, and incorporated herein by reference, is the Mitigation and Monitoring or Reporting Program for the Project (Exhibit A). The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

⁴ City of San Jose. 2005. Final Environmental Impact Report, KB Home Monte Vista Residential Planned Development Zoning Project (Del Monte Plant #3 Site). PDC 03-071. March.

V. STATEMENT OF IMPACTS AND BENEFICIAL CONSIDERATIONS

The City Council of the City of San José adopts and makes the following Findings regarding the significant impacts of the Project and the anticipated benefits of the Project.

A. SIGNIFICANT UNAVOIDABLE IMPACTS

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated impacts as disclosed in the Final Certified EIR prepared for this Project. The impacts would not be reduced to a less than significant level by feasible changes or alterations to the Project.

B. OVERRIDING CONSIDERATIONS

After review of the entire administrative record, including, but not limited to, the Final Certified EIR, the staff report, Applicant submittals, and the oral and written testimony and evidence presented at public hearings, the City Council finds that specific economic, legal, social, technological and other anticipated benefits of the Project outweigh the unavoidable adverse environmental impacts, and therefore justify the approval of this Project. The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible (including the incorporation of feasible mitigation measures), and finds that the remaining significant, unmitigated or unavoidable impacts of the Project described above are acceptable because the benefits of the Project outweigh them. The City Council finds that each of the overriding considerations expressed as benefits and set forth below constitutes a separate and independent ground for such a finding. The Project will result in the following substantial benefits, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Project:

C. BENEFITS OF THE PROJECT

1. The Project will generate immediate and long-term revenue to the City's general fund, especially by providing a major new source of sales tax revenue (approximately \$1,500,000 net General Fund revenue annually) thereby furthering the City's economic development goals, especially the General Plan Goal of a Fiscally Strong City.

2. The Project will benefit businesses in the downtown area by spurring \$130 million in annual economic output driven by spending from new visitors to downtown.
3. The Project will create new job opportunities for different income and job skill levels in the near and long-term, including construction jobs. Up to approximately 350 new construction-related jobs would be created for each of the three years of the construction period, and up to 2,100 jobs would be created upon completion of the Project.
4. The Project will take advantage of a site that is readily accessible by freeways and major transportation facilities, including Caltrain, Valley Transportation Authority buses and light rail. Access to the site will be further enhanced with the planned BART and High Speed Rail connections at Diridon Station.
5. The Project will help to further General Plan Major Strategy #9, Destination Downtown, by adding an urban amenity that contributes to making Downtown San Jose a premier entertainment destination.
6. The Project furthers the City's Economic Development 2010, specifically Strategy #12, to Develop a Distinctive Set of Sports, Arts, and Entertainment Offerings, Aligned With San Jose's Diverse, Growing Population by providing a venue for a Major League Baseball team, commensurate with the City's status as the largest city in the Bay Area and a "big ten" U.S. city.

7. The Project would act as an anchor for the southern portion of the Diridon Station Area, and along with the HP Pavilion would act as a focal point for development of an entertainment zone within the Downtown Area.

ADOPTED this day of , 2011 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk