
Findings of Fact and Statement of Overriding Considerations

Sunbow Sectional Planning Area Plan Amendment for the Sunbow II, Phase 3 Project Environmental Impact Report SCH No. 2020110148

City of Chula Vista
276 Fourth Avenue
Chula Vista, California 91910

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Table of Contents

<u>SECTION</u>	<u>PAGE NO.</u>
1 INTRODUCTION	1
1.1 Purpose	1
1.1.1 Record of Proceedings	2
1.1.2 Custodian and Location of Records.....	3
1.2 Project Description	3
1.2.1 Project Objectives	5
1.2.2 Discretionary Actions.....	6
2 CEQA FINDINGS OF INDEPENDENT JUDGEMENT	7
2.1 Independent Review and Analysis.....	7
2.2 Summary of Impacts	7
2.3 Impacts Determined to Be Significant and Unavoidable	8
2.3.1 Greenhouse Gas Emissions	8
2.4 Impacts Determined to Be Less Than Significant with Mitigation.....	12
2.4.1 Biological Resources	13
2.4.2 Cultural and Tribal Cultural Resources.....	26
2.4.3 Geology and Soils	29
2.4.4 Hazards and Hazardous Materials	31
2.4.5 Public Services.....	36
2.4.6 Recreation	39
2.4.7 Wildfire	41
3 FINDINGS ON PROJECT ALTERNATIVES	44
3.1 Alternatives Considered and Eliminated During the Scoping/Project Planning Process.....	44
3.2 Alternatives Selected for Further Analysis	44
3.2.1 Alternative 1: No Project/No Build Alternative.....	45
3.2.2 Alternative 2: Existing Land Use Designation Alternative.....	46
3.2.3 Alternative 3: Reduced Development Alternative	47
3.2.4 Environmentally Superior Alternative	48
4 GENERAL CEQA FINDINGS	49
4.1 Findings Regarding Recirculation.....	49
4.2 Legal Effects of Findings	50
5 STATEMENT OF OVERRIDING CONSIDERATIONS.....	51
6 CONCLUSION	54

TABLE

Table 1. Sunbow II, Phase 3 Sectional Planning Area Plan Land Use Summary4

1 Introduction

This statement of Findings of Fact (Findings) addresses the environmental effects associated with the Sunbow Sectional Planning Area (SPA) Plan Amendment for the Sunbow II, Phase 3 Project (project or proposed project), as described in the Final Environmental Impact Report (EIR) SCH No. 2020110148 (Final EIR) for the project. These Findings are made pursuant to the California Environmental Quality Act (CEQA) (California Public Resources Code [PRC] Section 21000 et seq.), specifically PRC Sections 21081, 21081.5, and 21081.6, and the CEQA Guidelines (14 CCR 15000 et seq.), specifically Sections 15091 and 15093. The Final EIR examines the full range of potential effects of construction and operation of the proposed project, identifies standard mitigation practices that could be employed to reduce, minimize, or avoid those potential effects, and evaluates alternatives to the proposed project. The Final EIR is incorporated into these Findings by reference.

1.1 Purpose

PRC Section 21081, and CEQA Guidelines Section 15091 require that the lead agency, in this case the City of Chula Vista (City), prepare written findings for identified significant effects, accompanied by a brief explanation of the rationale for each finding. Specifically, CEQA Guidelines Section 15091 states, in part, that:

- a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In accordance with PRC Section 21081, and CEQA Guidelines Section 15093, whenever significant effects cannot be mitigated to below a level of significance, the decision-making agency is required to balance, as applicable, the benefits of the project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of a project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered “acceptable.” In that case, the decision-making agency may prepare and adopt a Statement of Overriding Considerations, pursuant to the CEQA Guidelines.

Section 15093 of the CEQA Guidelines states the following:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable

adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The Final EIR for the project identified potentially significant effects that could result from the proposed project. The City finds that the inclusion of certain mitigation measures as part of the approval of the proposed project would reduce most, but not all, of those effects to less-than-significant levels. Those impacts that are not reduced to less-than-significant levels are identified and overridden due to specific benefits of the project (see Section 5, Statement of Overriding Considerations).

As required by CEQA, the City, in adopting these Findings, also adopts a Mitigation Monitoring and Reporting Program (MMRP) for the proposed project. The City finds that the MMRP, which is incorporated by reference and made part of these Findings, meets the requirements of PRC Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the proposed project.

In accordance with the CEQA Statutes and Guidelines, the City adopts these Findings for the proposed project. Pursuant to PRC Section 21082.1(c)(3), the City also finds that these Findings reflect the City’s independent judgment as the lead agency for the proposed project.

1.1.1 Record of Proceedings

For the purposes of CEQA, the Findings herein set forth the record of proceedings for the proposed project both oral and written and consist of those items listed in CEQA Section 21167.6(e), along with other miscellaneous items contained within the City’s files that are relevant to the consideration of the proposed project. The record of proceedings for the City’s decision on the proposed project consists of the following documents, at a minimum and without limitation, which are incorporated by reference and made part of the record supporting these Findings:

- The Notice of Preparation, Notice of Availability, and all other public notices issued by the City in conjunction with the proposed project.
- Comments received on the NOP.
- The Draft EIR for the proposed project and all technical appendices and documents relied upon or incorporated by reference.
- All written comments submitted by agencies, organizations, and members of the public during the public review comment period on the Draft EIR, and the City’s responses to those comments.
- The Final EIR for the proposed project.
- The MMRP for the proposed project.

- All reports, studies, memoranda, maps, staff reports, and other planning documents relating to the proposed project prepared by the City or consultants to the City with respect to the City's compliance with the requirements of CEQA.
- All documents submitted to the City by other public agencies and members of the public in connection with the Draft and Final EIR.
- Minutes and verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the proposed project.
- Documentary or other evidence submitted to the City at such information sessions, public meetings, and public hearings.
- All resolutions adopted by the City regarding the proposed project, and all staff reports, analyses, and summaries related to the adoption of those resolutions.
- Matters of common knowledge related to the proposed project, including, but not limited to, federal, state, and local laws and regulations.
- Any documents expressly cited in these Findings, in addition to those cited above, and any other materials required for the Record of Proceedings by CEQA Section 21167.6(e).

1.1.2 Custodian and Location of Records

The documents and other materials that constitute the Record of Proceedings for the City's actions related to the project are located at the City of Chula Vista, 276 Fourth Avenue, Chula Vista, California 91910. The City is the custodian of the Record of Proceedings for the proposed project.

1.2 Project Description

The proposed project is primarily a residential project with associated infrastructure and open space areas. The proposed land uses are summarized in Table 1 and shown in Figure 4-2, Proposed Chula Vista General Plan Land Use; Figure 4.3, Proposed Sunbow General Development Plan Land Use; and Figure 4-4, Proposed Sunbow II, Phase 3 SPA Plan Land Use, all included in Chapter 4, Project Description, of the Final EIR. Development would be centered within the southeastern portion of the site. The approximately 67.5-acre development area would be composed of 44.2 acres of residential uses to include 718 multi-family residential units, a 0.9-acre Community Purpose Facility (CPF), 5.9 acres of public streets, 4.3 acres of Poggi Creek conservation easements, 16.5 acres of manufactured slopes and basins, and a 0.3-acre wetland avoidance area. Approximately 63.6 acres designated MSCP Preserve are also within the project site. Under the proposed project, the Industrial Park area (Planning Area 23) would be modified to Medium-High and High Residential, Community Purpose Facility, Open Space and Open Space Preserve land uses (see Figures 4-2 and 4-3 of the Final EIR). Direct access to the project site would be provided by two proposed public streets, Street A and Street B. Street A would extend south from Olympic Parkway, through the project site, and then curve to the east and connect with Street B. Street B would also extend south from the eastern portion of Olympic Parkway, adjacent to the project site.

The proposed project also includes a Chula Vista Multiple Species Conservation Plan (MSCP) Boundary Adjustment (BLA), an MSCP Minor Amendment Area for off-site grading and other off-site grading impacts. The BLA would implement minor adjustments to the development limits and the adjacent open space and MSCP open space preserve areas. The applicant is also requesting an MSCP Minor Amendment to allow off-site temporary project impacts that would encroach 25 feet onto City's property and within this Minor Amendment Area. This off-site area

would result in the installation of permanent buttressing; however, the impacts from grading would be temporary as this area would be return to its original condition. These areas are intended to remain unimproved and/or restored and their use strictly limited consistent with the Chula Vista MSCP Subarea Plan.

Table 1. Sunbow II, Phase 3 Sectional Planning Area Plan Land Use Summary

Land Use	Planning Area	Units	Gross Acres	Target Density
Residential				
Multi-Family (Medium-High) Residential – 13–16 du/ac				
MF	R-1	131	8.5	15.4
MF	R-2	73	4.6	15.8
MF	R-3	108	8.1	13.3
MF	R-4	118	8.2	14.4
MF	R-5	104	7.0	14.7
Multi-Family Medium-High Residential Subtotal		534	36.5	14.7^a
Multi-Family (High) Residential – 24.1 du/ac				
MF	R-6	184	7.6	24.1
Multi-Family High Residential Subtotal		184	7.6	24.1
Residential Total		718	44.2	16.3^a
Other				
Community Purpose Facility (CPF)				
CPF	CPF	—	0.9	—
CPF Subtotal		—	0.9	—
Other Total		—	0.9	—
Open Space				
MPCP Open Space Preserve (OS)				
OS	OS-1	—	42.8	—
OS	OS-2	—	10.0	—
OS	OS-3	—	9.6	—
OS	OS-9b	—	1.1	—
MSCP Open Space Preserve Subtotal		—	63.6	—
Poggi Creek Conservation Easement				
OS	OS-4	—	2.6	—
OS	OS-5	—	0.7	—
OS	OS-6a	—	1.0	—
OS	OS-6b	—	0.1	—
Poggi Creek Conservation Easement Subtotal		—	4.3	—
Manufactured Slopes/Basins				
OS	OS-7	—	3.2	—
OS	OS-8	—	0.5	—
OS	OS-9a	—	0.5	—
OS	OS-10	—	4.9	—
OS	OS-11	—	1.3	—

Table 1. Sunbow II, Phase 3 Sectional Planning Area Plan Land Use Summary

Land Use	Planning Area	Units	Gross Acres	Target Density
OS	OS-12	—	1.6	—
OS	OS-13	—	4.6	—
<i>Manufactured Slopes/Basins Subtotal</i>		—	16.5	—
Wetland Avoidance Area				
OS	OS-14	—	0.3	—
<i>Wetland Avoidance Area Subtotal</i>		—	0.3	—
Open Space Total		—	84.7	—
Circulation				
Public Streets ^b	Circulation	—	5.9	—
<i>Circulation Subtotal</i>		—	5.9	—
Circulation Total		—	5.9	—
All Land Use Types – Summary				
All Land Use Types Total		—	135.7	—

Notes: du/ac = dwelling units per acre; MSCP = Multiple Species Conservation Program.
Subtotals and totals may not sum precisely due to rounding.

^a Target density represents the average densities proposed.

^b The acreages for all proposed private streets are included as a part of the residential portion.

1.2.1 Project Objectives

Following are the objectives of the proposed project:

1. Develop a pedestrian-oriented community on an underutilized site with a range of residential uses, open space and MSCP Preserve areas, and recreational opportunities, which are compatible with the adjacent established residential communities.
2. Contribute to the growing housing needs of the City and the region by providing for multi-family housing units with a range of housing types to accommodate a spectrum of demographics.
3. Preserve portions of the project site as permanent open space and increase MSCP Preserve Areas.
4. Provide pedestrian and bicycle facilities, including a pedestrian connection to the Chula Vista Regional Trail and connection to bike lanes within Olympic Parkway and nearby transit.
5. Implement the goals, objectives, and policies of the General Plan; the MSCP Subarea Plan; the GDP; and the SPA Plan.
6. Implement the City's Growth Management Ordinance to ensure that public and community facilities, such as transportation, water, flood control, sewage disposal, schools, and parks, are provided in a timely manner and financed by the parties creating the demand for, and benefiting from, the improvements.
7. Ensure new uses are compatible with the existing community by establishing setbacks, design regulations and guidelines, best practices, and performance standards that enhance quality of life for neighboring properties.
8. Create a land use plan that can realistically be developed within a foreseeable time frame and under economic conditions.

1.2.2 Discretionary Actions

A discretionary action is an action taken by an agency that calls for the exercise of judgment in deciding whether to approve or how to carry out a project. The following discretionary actions are associated with the proposed project and would be considered by the City:

- Certification of a Final EIR and adoption of a Mitigation Monitoring and Reporting Program pursuant to CEQA
- Approval of amendments to the Chula Vista General Plan
- Approval of amendments to the Sunbow GDP
- Approval of amendments to the Sunbow SPA Plan
- Approval of the Tentative Map for Sunbow II, Phase 3
- Chula Vista MSCP Subarea Plan Boundary Adjustment and Minor Amendment
- Rezone
- Approval of the Development Agreement between the applicant and the City

2 CEQA Findings of Independent Judgement

2.1 Independent Review and Analysis

Under CEQA, the lead agency must (1) independently review and analyze the Environmental Impact Report (EIR); (2) circulate draft documents that reflect its independent judgment; (3) as part of the certification of an EIR, find that the EIR or declaration reflects the independent judgment of the lead agency; and (4) submit copies of the documents to the State Clearinghouse if there is state agency involvement or if the project is of statewide, regional, or area-wide significance (PRC Section 21082.1[c]).

The City has exercised independent judgment in accordance with CEQA Section 21082.1(c)(3) in the preparation of the EIR, as well as reviewing, analyzing, and revising material prepared by the consultant. Multiple iterations of technical reports and the preliminary draft EIR were “screen-checked” by the City staff, as well as the independent third-party reviewer to ensure the analyses contained therein are factual, accurate, applicable, and based on the City’s independent review and judgment. Further, the City’s Development Services Department completes an independent evaluation of private land development applications, including the project, for compliance with applicable City, State, and Federal laws, regulations, and ordinances. As such, City staff is acting in its independent regulatory capacity as the lead agency to review and independently evaluate the EIR and project.

Thus, pursuant to Public Resources Code Section 21082.1(c), and prior to certification, the City hereby finds it has independently reviewed and analyzed the Draft EIR and its technical studies, and the Final EIR, including public comments, responses to comments, revised draft EIR pages, and additional or revised technical studies and that both the Draft EIR and Final EIR reflect the independent judgment of the City as the Lead Agency for the Project.

Having received, reviewed, and considered the information in the EIR, as well as any and all other information in the record, the City hereby makes findings pursuant to and in accordance with CEQA Sections 21081, 21081.5, and 21081.6.

2.2 Summary of Impacts

The Final EIR identified a number of direct and indirect significant environmental effects (or “impacts”) resulting from the project. Some of these significant effects can be reduced to a less than significant level through the adoption of feasible mitigation measures. Others cannot be mitigated to a less than significant level by the adoption of feasible mitigation measures or feasible environmentally superior alternatives. However, these effects are outweighed by overriding considerations set forth in Section 5 below.

As identified in Chapters 5, 6, and 9 of the Final EIR, no significant environmental impacts would occur with regard to the following issues: aesthetics, agriculture and forestry resources, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, transportation, and utilities and service systems. As such, these issue areas are not discussed further within this document.

As identified in Chapters 5 and 6 of the Final EIR, the project would mitigate, avoid, or substantially lessen to below a level of significance direct, indirect, and/or cumulative significant environmental effects with regard to the

following issues: biological resources, cultural and tribal cultural resources, geology and soils, hazards and hazardous materials, public services, recreation, and wildfire.

As identified in Chapters 5 and 6 of the Final EIR, the project would result in significant unavoidable environmental impacts associated with greenhouse gas (GHG) emissions.

2.3 Impacts Determined to Be Significant and Unavoidable

This section identifies the significant, unavoidable impacts that require a statement of overriding considerations to be issued by the City, pursuant to Section 15093 of the CEQA Guidelines, if the proposed project is approved. Based on the analysis contained in the Final EIR, the following impacts have been determined to fall within the “significant unavoidable impacts” category:

- Greenhouse Gas Emissions
 - Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.
 - Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(3) of the State CEQA Guidelines, the City finds that for the following significant effects, specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR. These findings are explained below and are supported by substantial evidence in the record of proceedings.

2.3.1 Greenhouse Gas Emissions

2.3.1.1 Description of Potentially Significant Impacts to Greenhouse Gas Emissions

Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

Because the project’s service population (SP)-based emissions would be more than the City’s efficiency metric of 1.37 MT CO₂e per SP, potential GHG emissions impacts associated with exceedance of the City’s efficiency metric would be considered significant and unavoidable.

GHG emissions associated with temporary construction activity were quantified using CalEEMod. Total construction-related GHG emissions for the project were 12,928 MT CO₂e. Estimated 30-year amortized project-generated construction emissions would be approximately 431 MT CO₂e per year. Operation of the project would generate GHG emissions through motor vehicle trips to and from the project site; landscape maintenance equipment operation; energy use (natural gas and generation of electricity consumed by the project); solid waste disposal; and generation of electricity associated with water supply, treatment, and distribution and wastewater treatment. The estimated annual project-generated GHG emissions in 2028 would be approximately 4,928 MT CO₂e per year as a

result of project operations. Estimated annual project -generated emissions in 2028 from area, energy, mobile, solid waste, water/wastewater, and amortized project construction emissions would be approximately 5,359 MT CO₂e per year.

The proposed project is anticipated to generate 2,321 residents. Using the estimated operational plus amortized construction emissions of 5,359 MT CO₂e and SP of 2,321, the project would have a GHG efficiency metric of 2.31 MT CO₂e per SP. The project's efficiency metric would exceed the significance threshold efficiency metric of 1.37 MT CO₂e per SP.

Although GHG emission reductions from implementation of project design feature (PDF)-TRA-1 were not quantified, implementation of the following strategies would further reduce the project's vehicle miles traveled: provide ride share coordination services, coordinate with nearby schools to carpool to/from school, provide on-site transit opportunities information, and encourage bicycling by providing on-site bicycle infrastructure such as bike racks. The project would also provide pedestrian and bicycle connectivity to the neighborhood due to proximity to existing bicycle routes and provide on-site pedestrian sidewalk connections to the existing Chula Vista Regional Trail. Furthermore, the project would be located near MTS bus route 704 and the East Palomar Transit Station. These project characteristics would promote pedestrian and bicycle activity and alternate forms of transportation.

MM-GHG-1 would also be implemented and would minimize GHG emissions associated with project operations, which include installation of low-flow water fixtures, use of recycled water, pre-wiring for EV capable, installing energy-efficient appliances and design practices, installing cool roofs, and planting 600 trees and 40 acres of shrubs on-site. However, approximately 64% of the proposed project's annual GHG emissions are from mobile sources; therefore, to reduce GHG emissions to a less-than-significant level, the project would need to reduce its total GHG emissions by approximately 65% to reduce the project-generated GHG emissions below the City's efficiency threshold.

MM-GHG-1 and PDF-TRA-1 would respectively ensure that GHG emissions from the buildout of the proposed project would be minimized and would encourage and accommodate the use of alternative-fueled vehicles and nonmotorized transportation. However, additional statewide measures would be necessary to reduce GHG emissions under the proposed project to meet the state's long-term GHG reduction goals. The specific path to compliance for the state with regard to meeting such long-term goals will likely require development of technology or other changes that are not currently known or available. As identified by the California Council on Science and Technology, the state cannot meet the 2050 goal without major advancements in technology. Since no additional statewide measures are currently available, the proposed project's GHG emissions Impact would remain significant and unavoidable.

Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases

Because the project's SP-based emissions would be more than the City's Climate Action Plan (CAP) efficiency metric of 1.37 MT CO₂e per SP, the proposed project would potentially conflict with the state's ability to meet future GHG emission reductions. Therefore, the project's GHG emissions impact would result in a significant and unavoidable impact.

The project includes several design features that will help reduce its GHG emissions in line with the CAP and the project would be consistent with the applicable measures of the CAP. Regarding consistency with SANDAG's Regional Plan, the project would include site design elements and PDFs developed to support the policy objectives of the Regional Transportation Plan (RTP) and SB 375. The project is also consistent with all applicable Regional Plan policy objectives or strategies.

The Scoping Plan, approved by the California Air Resources Board (CARB) on December 12, 2008, provides a framework for actions to reduce California's GHG emissions and requires CARB and other state agencies to adopt regulations and other initiatives to reduce GHGs. The Scoping Plan recommends strategies for implementation at the statewide level to meet the goals of AB 32 and establishes an overall framework for the measures that will be adopted to reduce California's GHG emissions. The project would be consistent with the applicable measures and policy goals of CARB's Scoping Plan. The proposed project is consistent with the applicable plans, policies, and regulations adopted for regulation of GHG emissions and would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

However, the project's service population (SP)-based emissions would be more than the City's efficiency metric of 1.37 MT CO₂e per SP and no additional mitigation measures for the proposed project can be identified at this time until development of technology or other measures are established. Therefore, the proposed project would potentially conflict with the state's ability to meet future GHG emission reductions and the project's GHG emissions impact would be potentially significant and unavoidable impact.

2.3.1.2 Mitigation Measures

While there are no feasible mitigation measures available to avoid or mitigate the identified impact to a less than significant level, the following feasible mitigation measures will minimize the identified impact:

MM-GHG-1 Greenhouse Gas Emissions Reduction Measures. The following GHG emissions reduction measures shall be implemented:

- Off-road construction equipment with engines rated at 75 horsepower or greater shall meet at a minimum Tier 3 standard.
- Install purple pipes to provide reclaimed water for outdoor water use.
- Install low-flow water fixtures such as low-flow toilets, faucets, showers, etc.
- Two parking spaces shall be pre-wired for electric vehicle (EV) capable and designated as preferential parking spaces shall be provided for carpool, shared, electric, and hydrogen vehicles.
- 718 parking garages shall be pre-wired to be EV capable.
- Energy-efficient lighting shall be used for all street, parking, and area lighting associated with the proposed project, including all on-site and off-site lighting.

- Energy-efficient design practices, such as high-performance glazing, Energy Star compliant systems and appliances, radiant heat roof barriers, insulation on all pipes, programmable thermostats, and sealed ducts, shall be implemented.
- Native species and drought-tolerant species shall be used for a minimum of 50% of the ornamental plant palette in non-turf areas to minimize water demand.
- Recycling of construction debris and waste shall be ensured through administration by an on-site recycling coordinator and presence of recycling/separation areas. Exceed the City of Chula Vista's Construction and Demolition Debris Waste Management Plan's 65% diversion of construction and demolition waste.
- Install cool roofs that meet the U.S. Green Building Council standards with a greater solar reflectivity to help conserve energy.
- Install 1,462-kilowatt solar photovoltaic system meeting the minimum 2019 Title 24 standards.
- Install bicycle racks.
- The project shall plant 600 trees and 40 acres of shrubs.

2.3.1.3 Findings per CEQA Guidelines

While mitigation measure MM-GHG-1 when adopted will minimize GHG emissions associated with project operations and changes or alterations have been required in, or incorporated into, the project design, there are no feasible mitigation measures that will reduce the identified significant impacts to below a level of significance. Therefore, impacts associated with climate change, must be considered significant and unavoidable Pursuant to PRC Section 21081(a)(3), and as described in the Statement of Overriding Considerations, the City has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified GHG impacts are thereby acceptable because of specific overriding considerations (see Section 5).

2.3.1.4 Facts in Support of the Findings Related to Greenhouse Gas Emissions

As discussed in Section 2.2.1.3, Findings per CEQA Guidelines, since measures to reduce the GHG emissions generated during construction and operation of the project are limited, the project's impacts related to generating GHG emissions, either directly or indirectly, that may have a significant impact on the environment would be significant and unavoidable. Furthermore, since the specific path to compliance for the state with regard to the long-term goals will likely require development of technology or other changes that are not currently known or available, specific additional mitigation measures for the proposed project would be speculative and cannot be identified at this time; thus, conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs would be significant and unavoidable. Refer also to Section 5.7 of the Final EIR.

2.4 Impacts Determined to Be Less Than Significant with Mitigation

This section identifies significant adverse impacts of the proposed project that require findings to be made under CEQA Section 21081(a) and CEQA Guidelines Section 15091(a)(1). Based on substantial evidence, the City finds that adoption of the mitigation measures set forth in this section would reduce the identified significant impacts to less than significant:

- Biological Resources
 - Impact candidate, sensitive, or special-status species
 - Impact riparian habitat or other sensitive natural community
 - Conflict with Adopted Habitat Conservation Plan, or other approved local, regional, or State habitat conservation plan (Facilities Siting Criteria, MSCP Conditions of Coverage, Adjacency Management Guidelines, MSCP Minor Amendment Area)
- Cultural and Tribal Cultural Resources
 - Impact archaeological resources
 - Disturb any human remains, including those interred outside formal cemeteries
 - Cause adverse change in the significance of a tribal cultural resource
- Geology and Soils
 - Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature
- Hazards and Hazardous Materials
 - Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires
- Public Services
 - Require new or physically altered governmental facilities (fire protection services, police protection services, library services, schools, and parks)
- Recreation
 - Increase the use of existing neighborhood and regional parks or other recreational facilities
- Wildfire
 - Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire

2.4.1 Biological Resources

2.4.1.1 Description of Potentially Significant Impacts to Biological Resources

Impact candidate, sensitive, or special-status species

Direct Impacts (Sensitive Plant Species) Otoy Tarplant

The proposed project would impact an estimated 836 Otoy tarplants (142 located inside of the Preserve; 694 located outside of the Preserve) out of the total 5,449 Otoy tarplants present on site. Of the total Otoy tarplant impacts, the proposed residential development would permanently impact 142 Otoy tarplant inside the Preserve (including some impacted Otoy tarplants within the Future Facility-Detention Basin) and 424 Otoy tarplants outside the Preserve. Further, construction related vegetation clearing and grading activities would temporarily impact 270 Otoy tarplants outside the Preserve.

Based on the sensitivity of this federally endangered and narrow endemic species, impacts to Otoy tarplant would be considered potentially significant (Impact BIO-1) under CEQA and would require appropriate mitigation that would consist of on-site habitat mitigation (i.e., native grassland) within appropriate on-site conserved lands in the Preserve. Mitigation measures MM-BIO-1 through MM-BIO-3 would be implemented to reduce impacts to the Otoy tarplant. The project also proposes habitat restoration efforts (soil salvage, seed transplant) within appropriate on-site areas within the Preserve (PDF BIO-1).

Orcutt's Bird's-Beak

Implementation of the proposed project would impact approximately 10% of the population of Orcutt's bird's-beak population estimated to be present on site (91 out of 911 plants). The proposed impacts to Orcutt's bird's-beak would occur from development of the proposed Future Facility-Detention Basin, located within Diegan coastal sage scrub, just south of the previously restored slope along Poggi Creek, where the majority of the Orcutt's bird's-beak is located. The proposed impacts to Orcutt's bird's-beak would be considered significant (Impact BIO-2) under CEQA based on the sensitivity of this species and the rarity of this species in the region and the extent of impacts to the on-site population.

The proposed project's impacts to Orcutt's bird's-beak would be potentially significant (Impact BIO-2) and would require appropriate mitigation that would consist of preserving 90% (820 out of 911) of the Orcutt's bird's-beak estimated on-site population within the on-site Preserve (MM-BIO-3) and habitat mitigation (i.e., Diegan coastal sage scrub) and habitat restoration efforts (soil salvage, seed translocation) within appropriate on-site conserved lands in the Preserve (MM-BIO-3).

Decumbent Goldenbush

Implementation of the proposed project would impact approximately 36% of the decumbent goldenbush on-site population (289 out of 803 plants). A majority of the impacts to this species are associated with non-native grassland habitat located within the proposed development area. The proposed impacts to decumbent goldenbush would be considered potentially significant (Impact BIO-3). Therefore, require appropriate mitigation that may consist of preserving 64% (513 out of 803) of the decumbent goldenbush estimated on-site population within the

on-site Preserve (MM-BIO-3) and habitat mitigation (i.e., native grassland) and habitat restoration efforts (soil salvage, seed translocation) within appropriate on-site conserved lands in the Preserve (MM-BIO-3).

San Diego Viguiera

Implementation of the proposed project would impact approximately 78% of the San Diego viguiera population (5,958 out of 7,647 plants). Impacts to this species are associated with impacts to Diegan coastal sage scrub along the western edge of the proposed development. The proposed impacts to San Diego viguiera, a CNDDDB Special Plant with a CRPR 4.3 ranking, would be considered significant under CEQA primarily due to potential impacts to 5,958 plants out of 7,647 plants. The impacts to San Diego viguiera would be potentially significant (Impact BIO-4). MM-BIO-3, which consists of habitat mitigation (i.e., Diegan coastal sage scrub) and may also include habitat restoration within appropriate on-site conserved lands in the Preserve, would be implemented to reduce impacts to the San Diego viguiera.

Small-Flowered Bindweed, Coast Barrel Cactus, San Diego Bursage, Southwestern Spiny Rush, San Diego Marsh Elder, and Palmer's Sagewort

San Diego marsh elder is ranked CRPR 2B.2, and San Diego bursage plant is ranked CRPR 2B.1. CRPR 2B is designated for plants that are rare, threatened, or endangered in California but are more common elsewhere. Threat rank 0.2 is defined as “moderately threatened in California” (20%–80% of occurrences threatened and a moderate degree and immediacy of threat), and threat rank 0.1 is defined as “seriously threatened in California” (over 80% of occurrences threatened and a high degree and immediacy of threat). Although the rank for San Diego marsh elder is relatively high, the amount that would be impacted resulting from implementation of the proposed project (0.37% of the existing San Diego marsh elder plant population within the project site) would be considered less than significant. However, 66.7% of existing San Diego bursage plants would be impacted due to implementation of the proposed project. Impacting 16 out of 24 existing San Diego bursage plants, paired with the plant’s CRPR, would result in a potentially significant impact (Impact BIO-5). Impacts would be mitigated through biological construction monitoring and implementation of construction best management practices (BMPs; MM-BIO-12) and preparation of a Worker Environment Awareness Program (MM-BIO-13).

Direct Impacts (Sensitive Wildlife Species)

Coastal California Gnatcatcher

Two coastal California gnatcatcher territories were determined to be present on site during the USFWS gnatcatcher protocol surveys. One gnatcatcher territory is located in the central portion of the site west of the proposed western access road within the larger area of high quality Diegan coastal sage scrub, while the other gnatcatcher territory is located along the southeastern site boundary where a small amount of Diegan coastal sage scrub occurs on site along with more suitable habitat that extends off site onto the County of San Diego landfill property to the south.

The one gnatcatcher territory located along the southeastern parcel boundary would be directly impacted by the proposed project vegetation clearing, grubbing, and grading activities through the loss of a portion of nesting habitat (i.e., Diegan coastal sage scrub). This project impact would be potentially significant (Impact BIO-6) and would require implementation of mitigation measures (MM-BIO-1 through MM-BIO-2, and MM-BIO-4 and MM-BIO-5). Further, gnatcatcher specific MSCP Conditions of Coverage, such as area-specific management directives that must include measures to reduce edge effects and minimize disturbance during the nesting period, fire protection

measures to reduce the potential for habitat degradation due to unplanned fire, management measures to maintain or improve habitat quality including vegetation structure, and prohibition of clearing of occupied habitat in the County of San Diego Multiple Habitat Planning Area may occur from March 1 through August 15, would apply.

The other on-site gnatcatcher territory located in the central portion of the project site is not expected to be directly impacted by the project. The gnatcatchers observed in this area were limited to the Diegan coastal sage scrub located west of the proposed western main access road, largely within the existing Preserve that would remain protected as proposed by the project. In addition, although suitable gnatcatcher habitat occurs in other surrounding areas, no gnatcatchers were observed during the protocol surveys and/or any of the other biological surveys on site. Nonetheless, the reduction of potentially suitable and contiguous habitat and the potential for nesting failure due to the adjacent on-site construction related activities would result in potentially significant direct impacts (Impact BIO-7) to gnatcatcher and would require implementation of MM-BIO-1 through MM-BIO-2, and MM-BIO-4 and MM-BIO-5 to reduce impacts to a level below significance.

Least Bell's Vireo

The least Bell's vireo that occurs on site is located entirely within Poggi Creek, where no development is proposed. Therefore, least Bell's vireo would not be directly impacted by the proposed project. Nonetheless, the potential for nesting failure due to the adjacent on-site construction related activities would result in potential direct impacts to vireo that would be considered potentially significant (Impact BIO-8) and would require implementation of MM-BIO-6 in order to reduce impacts to a level below significance.

Sensitive Raptors

Raptors including sensitive species such as the white-tailed kite, northern harrier, and Cooper's hawk were observed flying over and potentially foraging on site and may be negatively affected by the loss of this potential foraging habitat in the project area. The project would have direct impacts to potential raptor foraging habitat for white-tailed kite, northern harrier, and Cooper's hawk associated with the loss of 61.0 acres of grassland habitat (i.e., 53.28 acres of non-native grassland, 7.72 acres of native grassland). As an important note, the potential raptor foraging habitat proposed to be impacted is located almost entirely inside the MSCP Development Area and is of lower habitat quality due to its densely thatched condition, while the proposed raptor foraging habitat mitigation consists of higher quality native grassland, patches of non-native grassland in a matrix of native habitats, and proposed habitat restoration areas that is either currently or proposed to be in the Preserve. The proposed impact to potential foraging habitat for white-tailed kite, northern harrier, and Cooper's hawk would be a potentially significant impact (Impact BIO-9) and would require implementation of MM-BIO-1, which requires habitat mitigation (i.e., native grassland, open Diegan coastal sage scrub) to reduce impacts to a level below significance.

Birds Protected under the Federal Migratory Bird Treaty Act and California Fish and Game Code

The project site has the potential to support active nests for regionally common migratory birds and raptors that are not designated as special status species under CEQA but are protected under the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game (CFG) Code Sections 3503 and 3513.

The project could result in impacts to active bird and/or raptor nests protected under the federal MBTA and/or CFG Code Sections 3503 and 3513 if construction-related activities were to occur during the avian and/or raptor breeding season. The project construction activities undertaken for the project should comply with the regulatory

requirements of the federal MTBA and CDFG Codes Sections 3503 and 3513. The potential impact to active nests of birds protected under MBTA and/or CDFG Codes would be a potentially significant impact (Impact BIO-10) and would require avoidance of the avian breeding season or conduct pre-construction active nest surveys through implementation of MM-BIO-7, which requires to reduce impacts to a level below significance.

Impact riparian habitat or other sensitive natural community

Based on the proposed project design, the proposed project would result in direct permanent and temporary impacts to sensitive vegetation communities/habitats consisting of native grassland (Tier I), Diegan coastal sage scrub (Tier II), and non-native grassland (Tier III) habitats. Impacts would result in a total of 69.28 acres of on-site impacts and 1.15 acres of off-site impacts. Permanent project impacts to sensitive vegetation communities would result from vegetation clearing, grading, and residential development including houses, fuel modification zone activities, detention basins, and roadways. Temporary impacts to sensitive vegetation communities would result from vegetation clearing, construction vehicular temporary access and activities, grading in some areas, and subsequent revegetation efforts to ensure erosion control and/or native habitat restoration activities to ensure long-term biological functions and values.

In association with direct impacts to native vegetation communities, there are usually indirect impacts to the remaining native vegetation. Many of these are related to habitat fragmentation, which occurs when a native vegetation community is not entirely altered or developed, but what remains has a diminished wildlife habitat value due to edge effects and lack of connectivity. Fragmented habitats may no longer be able to support large predators. The presence of native predators has been demonstrated to hold in check populations of meso-predators such as domestic/feral cats. Without the presence of such predators, avian and small mammal diversity and abundance declines, presumably due to increased depredation pressure from non-native meso-predators. Edge effects may include increased predation pressure, increased brood parasitism, increased competition for nesting cavities from non-native species, and increased floral competition from weedy species. Outside of those effects associated with fragmentation, indirect impacts may include elevated noise above 60 A-weighted decibels (dBA) equivalent measured sound level (L_{eq}), artificial night lighting within wildlife habitat, increased human disturbance, change in duration and amount of surface water within a floodplain, and increased erosion or sedimentation. These types of indirect impacts can affect vegetation communities or alter habitat use by sensitive species.

The project proposes to fill in gaps of the MSCP Preserve where areas have not been previously included in the in the 2003 City Subarea Plan configuration with areas of the Preserve along Poggi Creek by adjusting the proposed BLA. The proposed project would also extend the native habitat buffer widths between Poggi Creek and the proposed project footprint that will be included in the Preserve.

Permanent impacts (totaling on-site 64.05 acres) and temporary impacts (totaling on-site 4.24 acres) to native grassland, Diegan coastal sage scrub, and non-native grassland from construction activities such as vegetation clearing, grading, residential development, and construction vehicular temporary access and activities would be considered potentially significant (Impact BIO-11) and would require implementation of MM-BIO-1, MM-BIO-2, MM-BIO-12, and MM-BIO-13, consistent with the City MSCP Subarea Plan as well as the HLIT, to reduce impacts to a level below significance.

It is expected that the portions of the MSCP Preserve directly adjacent and closest to the proposed project development boundaries would potentially be negatively affected by edge effects such as invasive plant invasion, habitat degradation, increased predation pressure from domestic pets (i.e., cats), lighting, noise, irrigation, and human disturbance. These potential indirect impacts would be considered potentially significant (Impact BIO-12) and would

require mitigation measures MM-BIO-8 through MM-BIO-13 to reduce impacts to a level below significance. Therefore, with incorporation of MM-BIO-1, MM-BIO-2, and MM-BIO-8 through MM-BIO-13 impacts would be reduced to a less-than-significant level.

Conflict with Adopted Habitat Conservation Plan, or other approved local, regional, or State habitat conservation plan

Facilities Siting Criteria

The proposed project includes a MSCP Future Facility (i.e., detention basin) that would be located partially in the existing Preserve on site. The relocation of this basin was considered in the project design to avoid or minimize impacts to the Preserve but was determined to be site specific due to the necessary topography for drainage and the confined development configuration due to the avoidance of wetlands and Otay tarplant (a narrow endemic) in this area; however, the size and configuration of the basin was modified to reduce impacts to the Preserve to the maximum extent practicable. The City MSCP, Chapter 6.0 Land Use Considerations in the Preserve, identifies permitted uses including Future Facilities within the Preserve. Future Facilities are subject to the MSCP Facilities Siting Criteria which ensures that the facilities located within the Preserve have been sited within the least environmentally sensitive areas and that impacts to the Preserve have been minimized to the maximum extent practical. The City of Chula Vista is allotted up to 50 acres of impact/"Take" for Future Facilities. The proposed Future Facility-Detention Basin (1.12 acres) is partially within an area of the existing Preserve on site. The proposed project has been designed to completely avoid any wetland habitat impacts and would predominantly result in impacts to non-native grassland consisting primarily of densely thatched non-native grasses. In addition, the proposed project would result in significant impacts to Diegan coastal sage scrub, specifically within the proposed Future Facility-Detention Basin area, as well as impacts to native grassland, within the southwestern portion of the area proposed for residential uses. Therefore, with implementation of MM-BIO-11, impacts would be reduced to a less-than-significant level.

Narrow Endemic Policy and Wetland Protection Program Narrow Endemic Policy

Otay tarplant is the only Narrow Endemic Species that is known and/or expected to occur within the project site. Based on 2019-2020 Otay tarplant field surveys completed on the project site, the on-site population is estimated to be 5,449 plants predominantly located in the western half of the project site within the existing Preserve (4,044 plants within the Preserve and 1,405 plants outside the Preserve). Of the 5,449 on-site Otay tarplant population, the proposed project would impact an estimated 142 Otay tarplant plants (2.6%) inside the Preserve and 694 Otay tarplant plants (12.7%) outside the Preserve/within Development Area. Impacts to Otay tarplant would be potentially significant (Impact BIO-1). However, to ensure consistency with the City's MSCP Narrow Endemic Policy, the proposed project would minimize impacts to Otay tarplant to less than 5% within the Preserve and less than 20% within the Development Area with implementation of MM-BIO-1 through MM-BIO-3.

The proposed project would meet the MSCP Narrow Endemic Policy based on the estimated Otay tarplant population on-site totals and estimated plants to be impacted in the Preserve and the Development Area that are below the Narrow Endemic Policy impact thresholds. The proposed project would ensure consistency with MSCP Narrow Endemic Policy Section 5.2.3.3 for Development Areas outside of Covered Projects, where applicable by limiting the proposed impacts to the existing Otay tarplant population within the project site to less than 5% of the population within the Preserve and less than 20% of the population outside of the Preserve. Therefore, with implementation of MM-BIO-1 through MM-BIO-3, impacts would be reduced to a less-than-significant level.

MSCP Conditions of Coverage

Coastal California Gnatcatcher Condition of Coverage

The MSCP Condition of Coverage for coastal California gnatcatcher specifies that the area specific management directives must include measures to reduce edge effects and minimize disturbance during the nesting period, fire protection measures to avoid habitat degradation due to unplanned fire, management measures to maintain and improve habitat quality, and prohibit clearing of occupied habitat during gnatcatcher breeding season (March 1-August 15) within the Preserve. Therefore, prior to implementation of mitigation, impacts would be potentially significant. However, the proposed project would comply with and address the applicable Conditions of Coverage (see MM-BIO-4 through MM-BIO-5). Therefore, with implementation of MM-BIO-4 through MM-BIO-5, impacts would be reduced to a less-than-significant level.

Least Bell's Vireo Condition of Coverage

The MSCP Condition of Coverage for least Bell's vireo specifies that the area specific management directives must include measures consistent with the ACOE 404(b)(1) Guidelines into the project where applicable. In addition, measures to provide appropriate successional habitat, upland buffers for known populations, cowbird control, and measures to reduce edge effects, as well as, prohibit clearing of occupied habitat during vireo breeding season (March 15-September 15). Therefore, prior to implementation of mitigation, impacts would be potentially significant. However, the proposed project would completely avoid direct impacts to least Bell's vireo through implementation of MM-BIO-6) and would provide a conserved upland buffer to the one vireo pair on site that is limited to the northeastern most portion of riparian habitat on site. Further, the project proposes measures such as vegetation barriers, fencing, and night light shielding to avoid and/or reduce potential edge effects (MM-BIO-8 through MM-BIO-13) to the vireo pair within Poggi Creek. Due to the limited vireo presence/population on site and uncertainty regarding a least Bell's vireo population within Poggi Creek upstream to the east, the project does not propose a brown-headed cowbird control program on site. These cowbird control programs are typically implemented and most cost effective within a river system where a larger known vireo population within conserved lands would benefit. Although the project does not propose any direct impacts to vireo occupied habitat, the project proposes to comply and address the applicable Conditions of Coverage (MM-BIO-7). Therefore, with incorporation of MM-BIO-6 through MM-BIO-13, impacts would be reduced to a less-than-significant level.

Otay Tarplant Condition of Coverage

The MSCP Condition of Coverage for Otay tarplant specifies that the area specific management directives must include measures for monitoring of populations, adaptive management of preserves, and measures to protect against detrimental edge effects. The project proposes to comply and address the Conditions of Coverage where applicable. Additionally, impacts to Otay tarplant (Impact BIO-1) would be mitigated with the implementation of MM-BIO-1 and MM-BIO-2. Therefore, with implementation of MM-BIO-1 and MM-BIO-2, impacts would be reduced to less than significant.

Adjacency Management Guidelines

The City of Chula Vista requires that land uses adjacent to the MSCP Preserve be managed to avoid and minimize impacts to the preserve; therefore, project mitigation measures pertaining to lighting (MM-BIO-9), noise (MM-BIO-4 through MM-BIO-6), landscaping (MM-BIO-10), access (MM-BIO-8), and drainage (MM-BIO-

11) would be required to ensure consistency with the City's MSCP, Section 7.5.2, Adjacency Management Guidelines, and ensure the long-term viability of wildlife and sensitive habitats in the Preserve.

Lighting

Lighting of all developed areas adjacent to the Preserve should be directed away from the Preserve wherever feasible and consistent with public safety. Where necessary, development should provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the Preserve and sensitive species from night lighting. As provided in the City's MSCP, consideration should be given to the use of low-pressure sodium lighting.

Although the specificity of the proposed lighting plan is not available at this time, the proposed project would include the use of outdoor lighting along roadways and in association with proposed buildings that may have the potential to spill into the adjacent Preserve (Impact BIO-12). Therefore, the proposed project would result in potentially significant impacts. Due to this potential impact, the project would incorporate MM-BIO-9, which requires adequate shielding and the potential use of low-pressure sodium lighting to ensure consistency with the Guidelines. Therefore, with implementation of MM-BIO-9, impacts would be reduced to a less-than-significant level.

Noise

Uses in or adjacent to the Preserve should be designed to minimize noise impacts. Berms or walls should be constructed adjacent to commercial areas and any other use that may introduce noises that could impact or interfere with wildlife utilization of the Preserve. Excessively noisy uses or activities adjacent to breeding areas, including temporary grading activities, must incorporate noise reduction measures or be curtailed during the breeding season of sensitive bird species, consistent with Table 3-5 of the MSCP Subregional Plan.

The Poggi Creek portion of the Preserve and the north-facing slope directly adjacent to the creek are close to Olympic Parkway, a busy roadway that is a source of consistent noise from vehicular traffic. The northern portion of the project site likely has a higher ambient noise level than the southern portion of the site due to the Olympic Parkway traffic noise levels and thus the proposed noise levels may or may not result in substantially greater noise levels. Conversely, the proposed project may potentially introduce elevated noise levels into the Preserve particularly along the southwestern boundary of the proposed development where the current conditions are relatively quiet. Therefore, impacts would be potentially significant (Impact BIO-12). Due to this potential impact, the project would implement MM-BIO-4, MM-BIO-5, MM-BIO-6 and MM-BIO-7, which requires the avoidance of the breeding season for construction activities to ensure consistency with the Guidelines. Therefore, impacts would be reduced to a less-than-significant level.

Invasives

No invasive non-native plant species shall be introduced into areas immediately adjacent to the Preserve. All open space slopes immediately adjacent to the Preserve should be planted with native species that reflect the adjacent native habitat. The plant list contained in the Wildland / Urban Interface: Fuel Modification Standards (Appendix K of the City's MSCP), must be utilized to the maximum extent practicable when developing landscaping plans in areas adjacent to the Preserve.

The proposed project includes fuel modification zones within the project development adjacent to the Preserve as well as landscape areas that have the potential to introduce invasive non-native species into the Preserve

Therefore, impacts would be potentially significant (Impact BIO-12). Due to this potential impact, the project would incorporate MM-BIO-10, which requires the prohibition of invasive plant species in the planting palette as well as the maintenance and monitoring of the adjacent areas to ensure consistency with the Guidelines. Therefore, with implementation of MM-BIO-10, impacts would be reduced to a less-than-significant level.

MSCP Minor Amendment Area

The City-owned property directly south of the proposed project site is designated a Minor Amendment Area. Designated Minor Amendment Areas throughout the City are not currently a part of the City's MSCP and do not receive any take authorization or coverage benefits. Minor Amendment Areas may be incorporated into the City's MSCP through the Minor Amendment Process described in the City's MSCP, Section 5.1.3.1.

The Applicant is working with the City to request a Minor Amendment to allow off-site temporary grading impacts (Impact BIO-15) that would encroach 25 feet onto the City's property and within this Minor Amendment Area, which is located directly south of the proposed project. This request for a Minor Amendment would also require Wildlife Agency concurrence.

This potential encroachment onto the City property would consist of a 25-foot grading buffer for temporary construction equipment access and grading as well as a minor excavation and fill for a buttress to address slope stability that would be located entirely within the 25-foot construction buffer. The temporary impact areas in the 25-foot grading buffer within the Minor Amendment Area from project construction activities and buttress construction (Impact BIO-15) would be revegetated with a native erosion control hydroseed mix acceptable to the City and Wildlife Agencies to ensure soil stability and prevent subsequent erosion (MM-BIO-14); further, these temporary impacts would be fully mitigated within the proposed project site inside the Preserve. Because the proposed project would result in temporary impacts to the Minor Amendment Area, impacts would be potentially significant and would require implementation of MM-BIO-14 through MM-BIO-16 to reduce impacts to a level below significance.

2.4.1.2 Mitigation Measures

MM-BIO-1 The Applicant shall include an irrevocable offer of dedication (IOD) to the City of Chula Vista on the first final map for 62.16 acres of onsite Preserve land within Preserve Management Area 3, Subunits 3-1a, 3-1b, and 3-1c of the Chula Vista Central City Preserve lands. The MSCP Preserve land shall be conserved, maintained, and managed by the City of Chula Vista or its designee in perpetuity as directed in the Chula Vista Central City Preserve Area-Specific Management Directives (ASMDs) for Preserve Management Area 3 (PMA 3) (RECON Environmental, April 26, 2004) and funded by the Sunbow Preserve Community Facilities District (No. 98-3). The City of Chula Vista Preserve Habitat Manager shall be responsible for the long-term Preserve management activities identified in the Central City Preserve ASMD. Said IOD for the 62.16 acres Proposed MSCP Preserve shall include 48.95 acres to mitigate for significant habitat impacts to 7.79 acres of native grassland, 8.55 acres of Diegan coastal sage scrub, and 55.61 of non-native grassland as well as the following sensitive species significant impacts:

- Coastal California Gnatcatcher- occupied Diegan coastal sage scrub to mitigate for significant direct impacts to coastal California gnatcatcher occupied habitat;

- Otay Tarplant- 0.34 acre of Otay tarplant occupied habitat (i.e., native grassland) to mitigate for direct impacts to 0.34 acre of Otay tarplant occupied habitat that currently supports 836 Otay tarplant individual plants;
- Orcutt's Bird's-beak- Orcutt's bird's-beak habitat (i.e., Diegan coastal sage scrub) to mitigate for significant direct impacts to onsite Diegan coastal sage scrub that currently supports 91 Orcutt's bird's-beak individual plants;
- Decumbent Goldenbush- Decumbent goldenbush habitat (i.e., Diegan coastal sage scrub and native grassland), that includes at least 289 decumbent goldenbush individual plants) to mitigate for significant direct impacts to onsite native grassland and Diegan coastal sage scrub that currently supports 289 decumbent goldenbush individual plants; and
- San Diego Viguiera- San Diego viguiera habitat (i.e., Diegan coastal sage scrub) that includes at least 2,979 San Diego viguiera individual plants) to mitigate for significant direct impacts to onsite Diegan coastal sage scrub that currently supports 5,958 San Diego viguiera individual plants.

MM-BIO-2

Prior to initiation of construction related activities including clearing and grubbing or prior to vegetation/ground disturbance or prior to site mobilization activities or issuance of a grading permit, the Applicant shall submit documentation to the City demonstrating that the Applicant has contracted with a qualified biologist(s) to monitor the project construction activities and avoid any inadvertent impacts to sensitive biological and ensure complete avoidance of jurisdictional resources. Each qualified biologist shall have demonstrated expertise with the sensitive habitats, special status species of the project region. The qualified biologist(s) shall monitor the installation of the construction temporary fencing and/or flagging, silt fencing, and other best management practices (BMPs) along the construction limits prior to construction activities. The qualified biologist shall be present full-time during all initial vegetation clearing and grubbing activities, and potentially on a less frequent basis during grading activities to ensure construction remains within the approved project development area. The Applicant shall report results of biological monitoring activities to the City on a regular basis through the preparation and submission of summary monitoring reports.

MM-BIO-3

Prior to the issuance of any land development permits including for clearing and grubbing or grading, the Applicant shall prepare a Restoration Plan prepared by a qualified biologist to mitigate for impacts to sensitive plant species consisting of Otay tarplant, Orcutt's bird's-beak, decumbent goldenbush, and San Diego County viguiera consistent with the Habitat Restoration and Sensitive Plant Species Mitigation Plan (Merkel & Associates, Inc. 2021). The Applicant shall implement the 5-year maintenance and monitoring activities consistent with the Conceptual Restoration Plan to the satisfaction of the Development Services Director (or their designee). The revegetation plan must be prepared by a qualified City approved biologist familiar with the City's MSCP Subarea Plan and must include, but not be limited to, an implementation plan; appropriate seed mixtures and planting method; irrigation method; quantitative and qualitative success criteria; maintenance, monitoring, and reporting program; estimated completion time; and contingency measures. The Project Applicant shall be required to prepare and implement the revegetation plan subject to the oversight and approval of the Development Services Director (or their designee). NOTE: Since the

revegetation is critical to approving the MSCP Boundary Line Adjustment, the applicant will be required to enter into a Secured Agreement with the City and will be required to provide a cash deposit.

- MM-BIO-4** To avoid any direct impacts to nesting coastal California gnatcatcher, all vegetation clearing, grubbing and grading activities within gnatcatcher occupied habitat (i.e., Diegan coastal sage scrub) shall be conducted outside of the gnatcatcher breeding season (February 15 to August 15).
- MM-BIO-5** Prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall delineate coastal California gnatcatcher occupied habitat located adjacent to the proposed project development area during the breeding season (February 15 to August 15) by orange biological fencing or comparable materials to ensure that no work shall occur within these habitats. In addition, a minimum 300-foot buffer and on-site noise reduction/attenuation techniques shall be incorporated, as appropriate to avoid impacts to breeding gnatcatcher from elevated construction noise levels. The City Development Services Director (or their designee) shall have the discretion to modify the buffer width depending on site-specific conditions. Noise monitoring may be required to ensure that the elevated construction noise levels are appropriately attenuated at the edge of occupied habitat to a level that is not expected to adversely affect nesting bird behavior (i.e., not to exceed an hourly average of 60 A-weighted decibels (dBA) or ambient at the edge of occupied habitat).
- MM-BIO-6** Prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall delineate least Bell's vireo occupied habitat by orange biological fencing or comparable to avoid direct impact to vireo within occupied habitat located adjacent to the proposed project during the breeding season (March 15 to September 15). In addition, a minimum 300-foot buffer and on-site noise reduction/attenuation techniques shall be incorporated, as appropriate to avoid impacts to breeding vireo from elevated construction noise levels. The City Development Services Director (or their designee) shall have the discretion to modify the buffer width depending on site-specific conditions. Noise monitoring may be required to ensure that the elevated construction noise levels are appropriately attenuated at the edge of occupied habitat to a level that is not expected to adversely affect nesting bird behavior (i.e., not to exceed an hourly average of 60 dBA or ambient at the edge of occupied habitat).
- MM-BIO-7** To avoid any direct impacts to migratory birds and/or raptors protected under the federal Migratory Bird Treaty Act and California Fish and Game Code Sections 3503 and 3513, removal of habitat that supports active nests on the proposed area of disturbance should occur outside of the breeding season for these species. The breeding season is defined as January 15–August 31 for raptor species and February 15–August 15 for other non-raptor birds (excluding listed species). If removal of habitat on the proposed area of disturbance must occur during the breeding season, then prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall retain a City-approved biologist to conduct a pre-construction survey to determine the presence or absence of nesting birds (including nesting birds) on the proposed area of disturbance. The pre-construction survey must be conducted within 10 calendar days prior to the start of construction, and the results must be submitted to the City for review and approval prior to initiating any construction activities. If nesting birds are detected, a letter report or mitigation plan, as deemed appropriate by the City, shall be prepared and include proposed

measures to be implemented to ensure that disturbance of breeding activities are avoided. The report or mitigation plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's mitigation monitor shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.

To reduce potential impacts to burrowing owl during construction, the City-approved biologist shall perform pre-construction inspection of potential habitat, and, at minimum, twice weekly inspections be performed while rough grading is ongoing. All pre-construction survey efforts shall be conducted prior to any project activities that could result in habitat disturbance to soil, vegetation or other sheltering habitat for burrowing owl. If any burrowing owls or sign of burrowing owls are detected, the Wildlife Agencies (jointly, CDFW and USFWS) shall be contacted; efforts shall be made to determine the breeding status of the species on site, and whether it is safe at that point to exclude burrowing owls from occupied burrows. Active or passive relocation methods shall only be employed with concurrence by CDFW and USFWS.

- MM-BIO-8** Prior to approval of the first final map, the Applicant shall submit a Landscape Master Plan for the entire project which shall demonstrate compliance with the proposed fence and wall plan for the project. The proposed fence and wall plan shall include appropriate fencing and barriers (e.g., vegetation) where applicable to shield human presence and deter human intrusion into the Preserve.
- MM-BIO-9** Concurrent with design review and prior to issuance of a building permit for any development located adjacent to the Preserve, the Applicant shall prepare, a lighting plan and photometric analysis for review and approval the Development Services Director (or their designee). The lighting plan shall illustrate the location of the proposed lighting standards and type of shielding measures. Low-pressure sodium lighting shall be used, if feasible, and shall be subject to the approval of the Development Services Director (or their designee).
- MM-BIO-10** Prior to approval of the first final map, the Applicant shall submit a Landscape Master Plan for the entire project which shall demonstrate compliance with the proposed plant palette for the project. The proposed plant palette shall prohibit invasive non-native plant species on the California Exotic Pest Plant Council List of Exotic Pest Plants of Greatest Ecological Concern in California that could spread into the adjacent Preserve. No invasive non-native plant species shall be introduced into areas immediately adjacent to the preserve. All slopes immediately adjacent to the Preserve shall be planted with native species that reflect the adjacent native habitat. Further, the proposed plant palette shall be consistent with the plant list contained in the "Wildland/Urban Interface: Fuel Modification Standards," and provided as Appendix L of the Subarea Plan, must be reviewed and utilized to the maximum extent practicable when developing landscaping plans in areas adjacent to the Preserve.
- MM-BIO-11** To avoid habitat degradation to the adjacent Preserve lands, project irrigation shall be contained to the project development and fuel modification zones and shall not drain or overspray resulting in potential erosion/sedimentation, spread of invasive plant species, and/or non-native species such as Argentine ants.

- MM-BIO-12** Prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall demonstrate how the project would avoid or minimize applicable inadvertent impacts during construction. To ensure the avoidance and minimization of impacts to biological resources during construction the following construction BMPs shall be implemented:
- a) Prior to ground disturbance, all permanent and temporary disturbance areas shall be clearly delineated by orange construction fencing and the identification of environmentally sensitive areas with flagging and/or fencing.
 - b) To minimize disturbance of areas outside the project site, all construction and operation vehicle traffic shall be restricted to established roads, construction areas, and other designated areas. These areas shall be included in pre-construction surveys and, to the extent possible, shall be established in locations disturbed by previous activities to prevent further impacts.
 - c) Construction and operation vehicles shall observe appropriate safe speed limits and adhere to safety practices.
 - d) Dust suppression shall occur during construction activities when necessary to meet air quality standards and protect biological resources.
 - e) No vehicles or equipment shall be refueled or undergo maintenance within 100 feet of a jurisdictional waters feature. Spill kits shall be maintained on the site in sufficient quantity to accommodate at least three complete vehicle tank failures of 50 gallons each. Any vehicles driven or operated within or adjacent to drainages or wetlands shall be checked and maintained daily to prevent leaks of contaminated fluids.
 - f) All general trash, food-related trash items (wrappers, cans, bottles, food scraps, cigarettes, etc.), and other human-generated debris scheduled to be removed shall be stored in animal-proof containers and removed from the site on a regular basis (weekly during construction, and at least monthly during operations). No deliberate feeding of wildlife shall be allowed.
 - g) Use of chemicals, fuels, lubricants, or biocides shall comply with all local, state, and federal regulations. All uses of such compounds shall observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other state and federal legislation. Use of first- and second- generation rodenticides shall not be permitted except for the limited use of zinc phosphide, or a rodenticide approved by the City, and only after other means of pest control (e.g. rodent traps) have proven to be ineffective.
- MM-BIO-13** Prior to issuance of a grading permit, prior to vegetation clearing, grubbing, grading, or any ground disturbing activities, the Applicant shall submit evidence to the City that the Applicant has retained qualified biologists to prepare a Worker Environmental Awareness Program that shall be presented to all construction personnel and employees before any ground-disturbing activities commence at the project site and shall be continued through the construction phase for all new construction

personnel. The program shall consist of a brief presentation going over the on-site sensitive biological resources and compliance with project impact and open space boundaries, and applicable environmental laws and requirements with all personnel involved in the project. This presentation shall explain to construction personnel how best to avoid impacts sensitive resources during construction. The program shall include a description of all special status species potentially on the project site and their habitat needs; an explanation of the status of the species and their protection under the state and federal regulations; specific mitigation measures applicable to listed and other special status species; permit conditions, and the penalties for violation of applicable laws. The program shall also explain to construction personnel how to avoid impacts to jurisdictional waters, including wetlands. The program shall include a map and description of jurisdictional waters on the site to be avoided and measures to implement to ensure the protection and avoidance of jurisdictional waters.

- MM-BIO-14** Prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall prepare a revegetation plan for the temporary impact areas within the 25-foot grading buffer in the Minor Amendment Area that utilizes a native erosion control hydroseed mix acceptable to the City and the Wildlife Agencies (U.S. Fish and Wildlife Service and California Department of Fish and Wildlife) to ensure soil stability and prevent subsequent erosion. The revegetation plan must be prepared by a qualified City approved biologist familiar with the City's MSCP Subarea Plan and must include, but not be limited to, an implementation plan; appropriate seed mixtures and planting method; irrigation method; quantitative and qualitative success criteria; maintenance, monitoring, and reporting program; estimated completion time; and contingency measures. The Project Applicant shall be required to prepare and implement the revegetation plan subject to the oversight and approval of the Development Services Director (or their designee). The proposed project MSCP BLA and Minor Amendment would require implementation of the following mitigation measure:
- MM-BIO-15** Prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall receive approval by the City and Wildlife Agencies for the MSCP BLA. The Applicant shall be required to implement conditions associated with the BLA subject to the oversight and approval of the Development Services Director (or their designee).
- MM-BIO-16** Prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall receive approval by the City and Wildlife Agencies for the MSCP Minor Amendment. The Applicant shall be required to implement conditions associated with the Minor Amendment subject to the oversight and approval of the Development Services Director (or their designee).

2.4.1.3 Finding

Consistent with CEQA Guidelines Section 15126.4(a)(1), feasible measures that can minimize significant adverse impacts were developed for the potentially significant impacts described in Section 2.4.1.1, Potentially Significant Impacts to Biological Resources. The feasible measures, MM-BIO-1 through MM-BIO-16, are listed in Section 2.4.1.2, Mitigation Measures.

The City finds that the mitigation measures are feasible, are adopted, and would reduce the potential biological resources impacts of the proposed project to less-than-significant levels as described above. Accordingly, the City finds that, pursuant to CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project that mitigate or avoid potentially significant biological resource-related impacts of the project identified in the EIR.

2.4.1.4 Facts in Support of the Findings Related to Biological Resources

The City finds that the above mitigation measures are feasible, are adopted, and would reduce the proposed project's biological resources impacts to less than significant. Potential to impact candidate, sensitive, or special-status-species directly would be reduced to less than significant with incorporation of MM-BIO-1 through MM-BIO-7, MM-BIO-12, and MM-BIO-13.

Additionally, impacts associated with riparian habitat or other sensitive natural communities would be reduced to less than significant with incorporation of MM-BIO-1, MM-BIO-2, and MM-BIO-8 through MM-BIO-13. Furthermore, impacts associated with conflict of an Adopted Habitat Conservation Plan, or other approved local, regional, or State habitat conservation plan would be reduced to less than significant with incorporation of MM-BIO-1 through MM-BIO-16. There would be no significant, unavoidable impacts related to biological resources after implementation of these mitigation measures. Refer also to Section 5.3 of the Final EIR.

2.4.2 Cultural and Tribal Cultural Resources

2.4.2.1 Description of Potentially Significant Impacts to Cultural and Tribal Cultural Resources

Impacts to archaeological resources

No known cultural resources will be impacted as a result of project implementation. However, while no cultural resources have been identified or recorded within the proposed project area of potential effect (APE), the proximity to known sites beyond the southern boundary of the project site, P-37-010473 (CA-SDI-10473) and P-37-010471 (CA-SDI-10471), indicates a high sensitivity of encountering intact subsurface cultural resources. The hills dividing Poggi Canyon and its affiliated seasonal drainage (located within the northern portion of the site) from the more substantial Otay River (located 1 mile directly south of the proposed project APE) likely housed numerous trails connecting them, and may have hosted occasional gatherings or other activities. As with the existing archaeological record of the broader area, the proposed project APE may contain intact, buried evidence of prehistoric or historic transit, transportation, short-term encampments, and/or resource acquisition. There is potential to encounter previously unidentified subsurface cultural deposits. Therefore, impacts would be potentially significant and mitigation, as required and detailed in MM-CUL-1, would reduce potentially significant impacts to a level below significance.

Disturb any human remains, including those interred outside of formal cemeteries

No evidence of human remains, including those interred outside of formal cemeteries, was discovered during the records search, literature review, field survey, or site testing and evaluation. Further, the site has been previously disturbed and never used as a formal cemetery. However, the possibility exists that human remains may be

discovered during project grading and construction. Any disturbance of human remains that may occur during project grading or construction would be potentially significant. Therefore, impacts would be potentially significant and mitigation, as required by mitigation measure MM-CUL-1 would reduce potentially significant impacts to a level below significance.

Cause adverse change in the significance of a tribal cultural resource

Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).

No historical resources, as defined by California Public Resources Code Section 5020.1(k), are present within areas that would be impacted by the proposed project. No previously recorded tribal cultural resources (TCRs) listed in the CRHR or a local register were identified within the proposed project APE. However, there is still potential to disturb unknown TCRs. Mitigation measure MM-CUL-1 would be implemented to reduce potentially significant impacts to a level below significance.

A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

No TCRs have been identified that could be impacted by the proposed project. However, there is still potential for unknown subsurface TCRs to be present on site. Proposed grading activities have potential to disturb unknown subsurface TCRs. Therefore, impacts would be potentially significant. Mitigation measure MM-CUL-1 would be implemented to reduce potentially significant impacts to a level below significance.

2.4.2.2 Mitigation Measures

The following mitigation measure is recommended to reduce potentially significant impacts to unrecorded subsurface archaeological resources, unrecorded human remains, and tribal cultural resources within the proposed project site:

- MM-CUL-1**
- A.** Prior to beginning construction activities, the project archaeologist and Native American representative shall attend any pertinent preconstruction meetings with the construction manager and/or grading contractor in order to provide recommendations and answer questions relating to the archaeological monitoring program. The project archaeologist shall be familiar with the cultural inventory conducted for the current project and shall be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during ground-disturbing activities. Prior to the initiation of construction, the cultural consultant shall acquire all evaluation information and the draft evaluation report, if a report was prepared.
 - B.** Both an archaeological monitor familiar with local resources and a Native American monitor shall be present full time during the initial disturbance of soil with potential to contain cultural deposits. All areas of initial project-related subsurface disturbance shall be assumed to have the potential to contain cultural deposits. Monitoring of initial ground disturbance shall not exceed a depth of 5 feet (1.5 meters) unless cultural resources are identified or if, through direct inspection of subsurface exposures by the project Archaeologist, an area is observed

to have the potential to support the presence of archaeological deposits at greater depths. Cultural resources monitoring may be reduced from initial full-time monitoring to periodic spot checks, or discontinued if appropriate, once the project archaeologist determines that there is little or no risk of encountering cultural material.

- C. Daily archaeological and Native American monitoring logs shall be prepared. Logs shall include monitor names and affiliations, a description of general activities observed, cultural discoveries, as well as comments or concerns as applicable.
- D. In the event of an archaeological discovery, and when requested by the archaeological monitor or Native American monitor, the resident contractor will divert, redirect, or temporarily halt ground disturbing activities in the area of discovery or impacts to allow for preliminary inspection of potentially significant archaeological resources or impacts. The significance of the discovered resources or impacts shall be determined by the archaeologist, in consultation with the City of Chula Vista (City). For significant cultural resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts before grading activities in the area of discovery shall be allowed to resume.
- E. The project archaeologist shall be responsible for ensuring that all cultural materials collected will be cleaned, catalogued, and curated permanently with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to the City; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material will be identified as to species; and that specialty studies are completed, as appropriate. The project archaeologist shall make a good-faith effort to ensure that all archaeological material collected through previous work is appropriately curated with any material recovered through construction monitoring.
- F. If human remains are discovered, work shall halt in that area and procedures set forth in the California Public Resources Code (Section 5097.98) and State Health and Safety Code (Section 7050.5) shall be followed by the archaeological monitor after notification to the County Coroner by the project Archaeologist. If Native American remains are present, the County Coroner shall contact the Native American Heritage Commission to designate a Most Likely Descendant, who shall arrange for the dignified disposition and treatment of the remains.
- G. Within 3 months following the completion of monitoring, two copies of a monitoring results report (even if negative) and/or evaluation report, if applicable, that describes the results, analysis, and conclusions of the archaeological monitoring program (with appropriate graphics) shall be submitted to City.
- H. For significant archaeological resources encountered during monitoring, the Research Design and Data Recovery Program shall be included as part of the final evaluation monitoring report. Two copies of the final monitoring report for significant archaeological resources, if required, shall be submitted to the City. This final monitoring report should also incorporate a summary of the evaluation results and analyses previously conducted within the project area.
- I. The archaeologist shall be responsible for recording (on the appropriate CA DPR 523 Series forms) any significant or potentially significant resources encountered during the archaeological monitoring program in accordance with Section 106 and the City's Cultural Resources Guidelines, and submittal of such forms to the South Coastal Information Center at San Diego State University with the final monitoring results report.

2.4.2.3 Finding

Consistent with CEQA Guidelines Section 15126.4(a)(1), a feasible measure that can minimize significant adverse impacts was developed for the potentially significant impacts described in Section 2.4.2.1, Potentially Significant Impacts to Cultural and Tribal Cultural Resources. The feasible mitigation, MM-CUL-1, is listed in Section 2.4.2.2, Mitigation Measures.

The City finds that the mitigation measure is feasible, adopted, and will reduce the potential cultural and tribal cultural resources impacts of the proposed project to less-than-significant levels. Accordingly, the City finds that, pursuant to CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project that mitigate or avoid potentially significant cultural and tribal cultural-related impacts of the project identified in the EIR.

2.4.2.4 Facts in Support of the Findings Related to Cultural and Tribal Cultural Resources

The City finds that the above mitigation measure is feasible, adopted, and will reduce the proposed project's cultural and tribal cultural impacts. Potential impacts to archaeological resources, disturbance of human remains, and tribal cultural resources would be less than significant with incorporation of MM-CUL-1. There would be no significant, unavoidable impacts related to cultural and tribal cultural resources after implementation of this mitigation measures. Refer also to Section 5.4 of the Final EIR.

2.4.3 Geology and Soils

2.4.3.1 Description of Potentially Significant Impacts to Geology and Soils

Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature

A review of record search data, geological mapping, geological and paleontological literature, and on-site field survey did not identify any existing paleontological resources within the proposed project APE boundaries. However, the paleontological records search performed by SDNHM revealed there are 14 fossil localities within a 0.5-mile radius of the APE boundaries from the San Diego and Otay Formations, which underlie the majority of the proposed project APE. Based on the records search results and map and literature review, the study area has high potential to produce paleontological resources during planned construction activities. Therefore, the project shall implement MM-GEO-1 to reduce potential impacts in the event paleontological resources are uncovered during construction activities. MM-GEO-1 requires that a qualified paleontologist be retained for the proposed project, in accordance with the Society of Vertebrate Paleontology guidelines, and a complete paleontological monitoring program be adopted prior to project-related earthmoving activities. Therefore, impacts would be potentially significant, but implementation of MM-GEO-1 would reduce potentially significant impacts to a less-than-significant level.

2.4.3.2 Mitigation Measures

MM-GEO-1 Paleontological Monitoring Program. Prior to the issuance of grading permits, the applicant shall provide written confirmation to the City that a qualified paleontologist has been retained to carry

out an appropriate mitigation program. (A qualified paleontologist is defined as an individual with an MS or PhD in paleontology or geology who is familiar with paleontological procedures and techniques.) A pre-grading meeting shall be held that shall include the paleontologist and the grading and excavation contractors.

A paleontological monitor shall be on site at all times during the original cutting of previously undisturbed sediments of highly sensitive geologic formations (i.e., Otay Formation and San Diego Formation) to inspect cuts for contained fossils. (A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials.) The paleontological monitor shall work under the direction of a qualified paleontologist. The monitor shall be on site on at least a half-time basis during the original cutting of previously undisturbed sediments of moderately sensitive geologic formations (e.g., unnamed river terrace deposits and the Mission Valley Formation) to inspect cuts for contained fossils. However, neither of these rock units have been mapped within the project area of potential effect (APE) and are therefore not anticipated to be impacted during construction.

The monitor shall be on site on at least a quarter-time basis during the original cutting of previously undisturbed sediments of low sensitivity geologic formations (e.g., Lindavista Formation and Santiago Peak Volcanics [metasedimentary portion only]) to inspect cuts for contained fossils. However, these deposits have not been mapped within the project APE and are therefore not anticipated to be impacted during construction. The monitor shall periodically (every several weeks) inspect original cuts in deposits with an unknown resource sensitivity (i.e., Quaternary alluvium).

In the event that fossils are discovered in unknown, low, or moderately sensitive formations, the Applicant shall increase the per-day field monitoring time. Conversely, if fossils are not discovered, the monitoring, at the discretion of the City's Deputy City Manager/Development Services Director or its designee, shall be reduced. A paleontological monitor is not needed during grading of rocks with no resource sensitivity (i.e., Santiago Peak Volcanics, metavolcanic portion).

When fossils are discovered, the paleontologist (or paleontological monitor) shall recover them. In most cases, this fossil salvage can be completed in a short period of time. However, some fossil specimens (such as a complete whale skeleton) may require an extended salvage time. In these instances, the paleontologist (or paleontological monitor) shall be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner. Because of the potential for the recovery of small fossil remains such as isolated mammal teeth, it may be necessary in certain instances and at the discretion of the paleontological monitor to set up a screen-washing operation on the site.

Prepared fossils along with copies of all pertinent field notes, photos, and maps shall be deposited in a scientific institution with paleontological collections such as the San Diego Natural History Museum. A final summary report shall be completed. This report shall include discussions of the methods used, stratigraphy exposed, fossils collected, and significance of recovered fossils.

2.4.3.3 Finding

Consistent with the CEQA Guidelines Section 15126.4(a)(1), a feasible measure that can minimize significant adverse impacts was developed for the potentially significant impacts described in Section 2.4.3.1, Potentially Significant Impacts to Geology and Soils. The feasible mitigation measure, MM-GEO-1 is listed in Section 2.4.3.2, Mitigation Measures.

The City finds that the mitigation measure is feasible, is adopted, and would reduce the potential geology and soils impacts of the proposed project to less than significant. Accordingly, the City finds that, pursuant to CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project that would mitigate or avoid potentially significant geology and soil-related impacts of the proposed project identified in the EIR.

2.4.3.4 Facts in Support of the Findings Related to Geology and Soils

MM-GEO-1 would require that a qualified paleontologist be retained for the proposed project, in accordance with the Society of Vertebrate Paleontology guidelines, and a complete paleontological monitoring program be adopted prior to project-related earthmoving activities. Implementation of MM-GEO-1 would reduce potentially significant impacts related to paleontological resources to a less-than-significant level. There would be no significant, unavoidable impacts related to geology and soils after implementation of this mitigation measure. Refer also to Section 5.6 of the Final EIR.

2.4.4 Hazards and Hazardous Materials

2.4.4.1 Description of Potentially Significant Impacts to Hazards and Hazardous Materials

Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires

The project site is located in an area statutorily designated as a Local Responsibility Area (LRA) Non-Fire Hazard Severity Zone (FHSZ). However, the project site is within a Supplemental Fire Hazard Zone as designated by the City. The General Plan designates the project site as a High Hazard area (City of Chula Vista 2005).

All new structures within the project site would be constructed in accordance with the enhanced ignition-resistant construction standards of the 2019 CBC (Chapter 7A) and the Urban–Wildland Interface code Chapter 5, except where buildings require enhanced ignition resistance as part of an alternative material and method proposal. These requirements address roofs, eaves, exterior walls, vents, appendages, windows, and doors and result in hardened structures that have been proven to perform at high levels (resist ignition) during the typically short duration of exposure to burning vegetation from wildfires. Buildings that include higher occupancies shall meet all California Fire and Building requirements for higher occupancy structures. Included in the high occupancy category are multi-family residences over three units, attached condominiums, and attached townhomes up to three stories, but less than 30 feet overall height. In addition, the project would include fire protection systems including fire hydrants, automatic fire sprinkler system, and fire alarm systems and residential hazard detectors.

Per CVMC Chapter 15.36, the City shall incorporate vegetation management and clearance standards set by the California Fire Code. As such, FMZs of one hundred feet would be located on the perimeter of all structures and along both ingress/egress roadways to and from Olympic Parkway. However, due to site constraints, it is not feasible to achieve a 100-foot FMZ width on the south side of the project site. As a result, fire exposure for buildings along the southern edge of the project site would be potentially significant. Mitigation measure MM-WF-1 includes the placement of non-combustible, heat-deflecting walls to provide additional deflection for these lots to compensate for the reduced fuel modification zones to ensure impacts would be less than significant.

2.4.4.2 Mitigation Measures

MM-WF-1 Site Access

Site access, including fire lane, driveway, and entrance road widths, primary and secondary access, gates, turnarounds, dead end lengths, signage, aerial fire apparatus access, surface, and other requirements will comply with the requirements of the 2019 California Fire Code and the Chula Vista Fire Department (CVFD) Standards. Fire access will be reviewed and approved by CVFD prior to construction.

The developer will provide information illustrating the new roads, in a format acceptable to the City, for updating of City maps.

Ignition Resistant Construction

All new structures within the Proposed Project will be constructed to at least the California Fire Code standard. Each of the proposed buildings will comply with the enhanced ignition-resistant construction standards of the 2019 CBC (Chapter 7A) and Chapter 5 of the Urban-Wildland Interface code, except where buildings require enhanced ignition resistance as part of an alternative material and method proposal. These requirements address roofs, eaves, exterior walls, vents, appendages, windows, and doors and result in hardened structures that have been proven to perform at high levels (resist ignition) during the typically short duration of exposure to burning vegetation from wildfires.

Fire Protection Systems

1. Water supply requirements specified in the California Fire Code (see FPP, Appendix H3, for additional details) including for hydrants and interior sprinklers will be provided for the proposed project.
2. Hydrants shall be located along fire access roadways and cul-de-sacs as determined by the CVFD Fire Marshal to meet operational needs. Hydrants will be consistent with CVFD Design Standards and provided every 500 feet (on-center).
3. All structures within the Proposed Project will include interior sprinklers, per code requirements (see FPP, Appendix H3, for additional details). Sprinklers will be specific to each occupancy type and based on the most recent National Fire Protection Association (NFPA) 13, 13R, or 13D, requirements.
4. All residential units shall have a fire alarm system be installed in accordance with NFPA 72, *Fire Protection Signaling System* and CVFD requirements. The fire alarm system will be

supervised by a third-party alarm company. The system will be tested annually, or as needed, with test results provided to CVFD.

Additionally, all residences will be equipped with residential smoke detectors and carbon monoxide detectors and comply with current CBC, CFC, and California Residential Code standards.

All residential dwelling units shall have electric-powered, hard-wired smoke detectors with battery backup per CVFD.

Defensible Space and Vegetation Management

Fuel Modification Zones (FMZs) would be located on the perimeter of all structures and along both ingress/egress roadways to and from Olympic Parkway. All brush management zones and related fuel modification activities shall occur outside of the Preserve. FMZs shall be a minimum of 100 feet in width. A 100-foot-wide FMZ will be installed for lots abutting designated Preserve Lands to the north and west of the Project Site. To ensure long-term identification and maintenance, each respective FMZ shall be identified by a permanent marker system meeting the approval of CVFD.

Other Vegetation Management

1. New roads will be subject to fuel modification zones with Zone 1 and/or Zone 2 standards described above. The combustible vegetation will be modified within 30 feet from each side of Streets A and B. Roadway-adjacent fuel modification does not preclude the planting of street trees in these fuel modification zones, as long as they are not found on the Prohibited Plant List (Appendix D of the FPP) and are included in the Approved Plant Palette (Appendix C of the FPP).
2. Pre-Construction Requirements:
 - Perimeter fuel modification areas must be implemented and approved by the CVFD prior to combustible materials being brought on site.
 - Existing flammable vegetation shall be reduced by 50% on vacant lots upon commencement of construction.
 - Dead fuel, ladder fuel (fuel which can spread fire from ground to trees), and downed fuel shall be removed, and trees/shrubs shall be properly limbed, pruned, and spaced per this plan.
3. Undesirable Plants. Certain plants are considered to be undesirable in the landscape due to characteristics that make them highly flammable. These characteristics can be physical (structure promotes ignition or combustion) or chemical (volatile chemicals increase flammability or combustion characteristics). The plants included in the Prohibited Plant List (Appendix D of Appendix H3, FPP) are unacceptable from a fire safety standpoint and will not be planted on the site or allowed to establish opportunistically within fuel modification zones or landscaped areas. No fuel modification zones are proposed within the MSCP areas, thus no vegetation within the MSCP will be removed.

Tree Notes for Publicly Owned Areas.

The project shall maintain all trees in publicly owned areas, per the project's FPP. These requirements include, but are not limited to:

- All standard form (single trunk) trees to include a single strong central leader with no branches extending at an angle narrower than 30 degrees from the main trunk. If the tree does not display a single strong central leader, a tree may be approved if the Developer's arborist or landscape architect of record can demonstrate that a single strong central leader can be achieved through structural pruning.
- No grafted species that sucker from the base stock will be allowed as a street tree.

Vacant Parcels and Lots

The project shall comply with requirements of the project's FPP related to vacant parcels and lots. These requirements include, but are not limited to:

- Vegetation management would not be required on vacant lots until construction begins. However, perimeter FMZs must be implemented prior to commencement of construction utilizing combustible materials.
- Vacant lots adjacent to active construction areas/lots would be required to implement vegetation management if they are within 50 feet of the active construction area. Perimeter areas of the vacant lot would be maintained as a vegetation management zone extending 50 feet from roadways and adjacent construction areas.
- Prior to issuance of a permit for any construction, grading, digging, installation of fences, etc., on a vacant lot, the 50 feet at the perimeter of the lot is to be maintained as a vegetation management zone.
- FMZ on slope L&I does not have to be completed prior to construction starting, but all flammable vegetation and plants found on the Prohibited Plant List, needs to be grubbed and graded or mowed prior to any construction.

Fuel Modification Area Vegetation Maintenance

All fuel modification area vegetation management shall be completed annually by May 1 of each year and more often as needed for fire safety, as determined by the CVFD.

Annual Fuel Modification Area Vegetation Maintenance

The property owner would obtain an FMZ inspection and report from a qualified CVFD-approved 3rd party inspector in May of each year certifying that vegetation management activities throughout the Project Site have been performed pursuant to this FPP. A copy of the annual inspection report would be provided to the proposed project homeowner association (HOA) and a copy made available to CVFD, if requested.

Reduced Fuel Modification Zone Discussion

Due to site constraints, it is not feasible to achieve a 100-foot FMZ width on the south side of the proposed development. This FPP incorporates additional fire protection measures as described in this mitigation measure that shall be implemented to compensate for potential fire related threats. These measures were customized for this site based on the analysis results and focus on providing functional equivalency for reduced defensible space.

Landscape and Building Hardening.

1. Provide exterior glazing in windows (and sliding glass doors, garage doors, or decorative or leaded glass doors) facing the open space areas to be dual pane with both panes tempered glass, exceeding the fire-building code requirement.
2. Ensure no eave overhangs and combustible construction in portion of yards facing natural open space areas.
3. Install 1-hour rated walls (Type X- 5/8-inch thickness of gypsum) behind non-combustible covering (stucco, fiber cement siding) for a façade facing the open space areas to the east and south.
4. Conduct a formal landscaping plan review for structures with a façade facing open space area. Landscape plans shall be reviewed and approved by the Chula Vista Fire Department.
5. Annually hire a third-party inspector to evaluate whether designated fuel modification zone areas meet the requirements of the project Fire Protection Plan.
6. Provide a non-combustible fire-rated 6-foot-tall masonry block or view wall at the property line on the south and east sides of the proposed project to provide a physical, non-combustible barrier that would deflect heat and flame and would capture ground-blowing embers before they reached the proposed project's developed areas.

The proposed project's slopes to the south provide an opportunity to place a non-combustible, 6-foot-tall, heat-deflecting wall (or view wall with lower 1 to 2 feet block wall and upper 4 to 5 feet dual-pane, one pane tempered glazing) to provide additional deflection for these lots to compensate for the reduced fuel modification zones. The wall shall meet any of the following specifications:

- Be constructed of multi-pane glazing with a minimum of one tempered pane meeting the requirements of Section 2406 Safety Glazing, or
- Have a fire-resistance rating of not less than 20 minutes when tested according to NFPA 257, or
- Be tested to meet the performance requirements of SFM Standard 12-7A-2.

Homeowner's Wildfire Education Program

Per the FPP, the proposed project's residents shall be provided a proactive educational component disclosing the potential wildfire risk and this report's requirements as part of their purchase documents. Property owners shall be required to sign notice of receiving this information during escrow. This educational information must include maintaining the landscape and structural components according to the appropriate standards and embracing a "Ready, Set, Go" stance on evacuation.

2.4.4.3 Findings per CEQA Guidelines

Consistent with CEQA Guidelines Section 15126.4(a)(1), feasible measures that can minimize significant adverse impacts were developed for the potentially significant impacts described in Section 2.4.4.1, Potentially Significant Impacts to wildfires. The feasible mitigation measure, MM-HAZ-1 is listed in Section 2.4.4.2, Mitigation Measures.

The City finds that the mitigation measure is feasible, is adopted, and would reduce the potential impacts associated with wildfires to less than significant. Accordingly, the City finds that, pursuant to CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in or incorporated into the proposed project that will mitigate or avoid potentially significant impacts on hazards and hazardous materials.

2.4.4.4 Facts in Support of the Findings Related to Hazards and Hazardous Materials

Implementation of MM-WF-1 would be required, applying only to the walls of the structures that face the open space areas adjacent to the project site. Implementation of MM-WF-1 would reduce potentially significant impacts related to hazards and hazardous materials, specifically wildfire, to less than significant. There would be no significant, unavoidable impacts related to hazards and hazardous materials after implementation of this mitigation measure. There would be no significant, unavoidable impacts related to hazards and hazardous materials after implementation of this mitigation measures. Refer also to Section 5.8 of the Final EIR. FMZs would be located on the perimeter of all structures and along both ingress/egress roadways to and from Olympic Parkway. However, due to site constraints, it is not feasible to achieve a 100-foot FMZ width on the south side of the project site. As such, it is possible that the project would exacerbate wildfire risk and impacts would be potentially significant; thus, the project would implement MM-WF-1 which includes fire protection measures that shall be implemented to compensate for potential fire related threats. Implementation of MM-WF-1 would reduce potentially significant impacts related to wildfire to less than significant. There would be no significant, unavoidable impacts related to wildfire after implementation of this mitigation measure. Refer also to Section 5.17 of the Final EIR.

2.4.5 Public Services

2.4.5.1 Description of Potentially Significant Impacts to Public Services

Fire Protection Services

The proposed project is projected to slightly increase the nearest City fire station's (Fire Station 3) current call volume, but not at significant levels, because the current call volume is considered slightly above average compared to other urban fire stations and the capacity would not be considered impacted to the point of resulting in a busy or stressed condition. Therefore, the proposed project does not include the construction or alteration of any fire stations in the City in order to maintain acceptable service ratios, response times or other performance objectives. In the event that new fire stations are constructed after implementation of the proposed project, the new fire stations would be supported on a fair share basis by future development (including the proposed project), through payment of the City's Public Facilities Development Impact Fee (PFDIF). The PFDIF addresses a project's proportional impact on capital facilities, such as structures and equipment, associated with fire protection. It does not address the impacts associated with operations and maintenance for those facilities, and it is the City's policy

to use public funds such as property taxes, sales taxes, and fees generated by the proposed project to cover the incremental costs associated with providing fire services. This impact would be potentially significant if these mechanisms are not enforced. Therefore, impacts would be potentially significant, and incorporation of MM-PS-1 would be required to reduce impacts to a less than significant level.

Police Protection Services

The project would generate approximately 2,315 residents. Thus, rounding the number of residents to 2,500 to determine adequate police coverage would result in approximately 3 sworn police officers (2.5 multiplied by 1.16) required to support the population generated from the project. Although additional law enforcement staff may be required to adequately support the proposed project at buildout, the project would be required to pay the PFDIF, which would be used exclusively for future facility improvements necessary to ensure that the development contributes its fair share of the cost of police facilities and equipment determined to be necessary to adequately accommodate new development in the City. This impact would be potentially significant if these PFDIF mechanisms are not enforced. Therefore, impacts would be potentially significant; however, with incorporation of MM-PS-1, impacts would be reduced to a less than significant level.

Schools

Fees paid by the developer would be used to offset the impact of the number of new students generated by the development of the proposed project. These fees are required to be paid by future development prior to issuance of building permits.

The project site is located within existing Community Facilities Districts (CFD) for Chula Vista Elementary School District (CFD No. 4) and Sweetwater Union High School District (CFD No. 4), which impose a special tax on property owners to finance facilities for both school districts. Any development of new school facilities resulting from these CFDs would be undertaken by the school district and an environmental document would be prepared at such time. Pursuant to Education Code Section 17620(a)(1), the governing board can authorize the levy of a fee, charge, dedication, or other requirements against any construction within school district boundaries, and with the school district's collection of Statutory and Alternative fees developers could fully mitigate their impact. However, in the event that these taxes are not implemented, impacts to schools would be potentially significant. Therefore, impacts would be potentially significant; however, with incorporation of MM-PS-2, impacts would be reduced to a less than significant level.

Parks

The proposed project is aligned with the City's forecasted population growth for 2030. The proposed project would not disrupt the City's existing conditions and existing plans that would create an adequate parkland per resident ratio.

The Applicant would comply with CVMC Section 19.80, Controlled Residential Development, which would ensure that development would not degrade existing public services and facilities below acceptable standards for parks and other public services. Payment of appropriate fees (further discussed below) would allow existing public services and facilities to remain at acceptable standards while the usage potentially increases due to the population increase resulting from the proposed project. The applicant would comply with CVMC Section 19.09, Growth Management, which provides policies and programs that tie the pace of development to the provision of public

facilities and improvements. CVMC Section 19.09.040E, specifically, requires three acres of neighborhood and community park land with appropriate facilities per 1,000 residents east of I-805.

Additionally, the proposed project would pay the appropriate land acquisition and park development fees to offset potential impacts to recreational facilities and parkland. A Community Benefit Agreement between the City and the Applicant stipulates that the Applicant shall pay the City a Park Benefit Fee, equal to the Park Acquisition and Development (PAD) fee that would have been due pursuant to CVMC Section 17.10, of approximately \$11.03 million based on 2019 PAD fees, which may be revised by the City from time to time. The Public Benefit Fee would be used by the City to acquire or develop parkland, pursuant to the City's Parks and Recreation Master Plan. Without payment of the Park Benefit Fees, impacts associated with parks would be potentially significant. Therefore, impacts would be potentially significant; however, with incorporation of MM-PS-3, impacts would be reduced to a less than significant level.

Libraries

The proposed project would generate demand for approximately 1,158 square feet of additional library facilities within the City. Although the proposed project does not specifically include the development of a library, this demand would be satisfied through payment of PFDIF as stated in CVMC Section 3.50.030 and 3.50.060, which would go toward the City's library system expansion program. Thus, impacts would be potentially significant if these PFDIF mechanisms are not enforced. Therefore, impacts would be potentially significant; however, with incorporation of MM-PS-1, impacts would be reduced to a less than significant level.

2.4.5.2 Mitigation Measures

- MM-PS-1** Prior to the issuance of each building permit for any residential dwelling units, the applicant shall pay a Public Facilities Development Impact Fee (PFDIF) in accordance with the fees in effect at the time of building permit issuance and phasing approved in the Supplemental Public Facilities Finance Plan, unless stated otherwise in a separate development agreement.
- MM-PS-2** Prior to the issuance of a building permit, the applicant shall provide evidence or certification by the Chula Vista Elementary School District (CVESD) and the Sweetwater Union High School District (SUHSD) that any fee charge, dedication or other requirement levied by the school district(s) has been complied with or that the district(s) has determined the fee, charge, dedication or other requirements do not apply to the construction or that the applicant has entered into a school mitigation agreement. School facility mitigation fees shall be in accordance with the fees in effect at the time of building permit issuance.
- MM-PS-3** No earlier than issuance of certificate of occupancy, the applicant shall pay the Park Benefit Fee, as outlined in the project's Development Agreement, equal to the City's Park Acquisition and Development (PAD) Fee Update pursuant to Chula Vista Municipal Code Section 17.10. The final Park Benefit Fee amount shall be determined based on the number and type of residential units constructed and the PAD fee rates in effect as of the effective date of the project's Development Agreement. To create this Park Benefit Fee, the City will waive the parkland dedication and development requirements set in Chapter 17.10 of the Chula Vista Municipal Code, including the Parkland Acquisition and Public Facilities Development fees, and Quimby Act fees. The Park Benefit

Fee shall satisfy the project's park obligations and may be utilized by the City to acquire or develop parkland, as the City determines appropriate and in the best interest of the City.

2.4.5.3 Findings per CEQA Guidelines

Consistent with CEQA Guidelines Section 15126.4(a)(1), feasible measures that can minimize significant adverse impacts was developed for the potentially significant impacts described in Section 2.4.5.1, Potentially Significant Impacts to Public Services. The feasible measures, MM-PS-1 through MM-PS-3, are listed in Section 2.4.5.2, Mitigation Measures.

The City finds that the mitigation measures are feasible, are adopted, and would reduce the potential public service impacts of the proposed project to less than significant. Accordingly, the City finds that, pursuant to CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in or incorporated into the proposed project that would mitigate or avoid potentially significant impacts associated with public services.

2.4.5.4 Facts in Support of the Findings Related to Public Services

Implementation of MM-PS-1 would require that prior to the issuance of each building permit for any residential dwelling units, the applicant shall pay a PFDIF in accordance with the fees in effect at the time of building permit issuance and phasing approved in the Supplemental Public Facilities Finance Plan, unless stated otherwise in a separate development agreement. Additionally, implementation of MM-PS-2 would require that prior to the issuance of a building permit, the applicant shall provide evidence or certification by the Chula Vista Elementary School District (CVESD) and the Sweetwater Union High School District (SUHSD) that any fee charge, dedication or other requirement levied by the school district(s) has been complied with or that the district(s) has determined the fee, charge, dedication or other requirements do not apply to the construction or that the applicant has entered into a school mitigation agreement. Furthermore, implementation of MM-PS-3 would require that no earlier than issuance of certificate of occupancy, the applicant shall pay the Park Benefit Fee, as outlined in the project's Development Agreement, equal to the City's Park Acquisition and Development (PAD) Fee Update pursuant to Chula Vista Municipal Code Section 17.10. Thus, implementation of MM-PS-1 through MM-PS-3 would reduce potentially significant impacts related to public services to less than significant. Therefore, there would be no significant, unavoidable impacts related to public services after implementation of these mitigation measures. Refer also to Section 5.13 of the Final EIR.

2.4.6 Recreation

2.4.6.1 Potentially Significant Impacts to Recreation

Increase the use of existing neighborhood and regional parks or other recreational facilities

The proposed project would comply with the PLDO by the payment of the Park Benefit Fee pursuant to the Community Benefit Agreement described below. Therefore, the proposed project would not disrupt the City's existing conditions and existing plans that would create an adequate parkland per resident ratio. Additionally, the Applicant would comply with CVMC Section 19.80, Controlled Residential Development, which would ensure that development would not degrade existing public services and facilities below acceptable standards for parks and other public services. Payment of appropriate fees (further discussed below) would allow existing public services and facilities to remain

at acceptable standards while the usage potentially increases due to the population increase resulting from the proposed project. The Applicant would comply with CVMC Section 19.09, Growth Management, which provides policies and programs that tie the pace of development to the provision of public facilities and improvements. CVMC Section 19.09.040E, specifically, requires “three acres of neighborhood and community park land with appropriate facilities per 1,000 residents east of I-805.” While not contributing to the parkland requirement, the proposed project would provide 0.9 acres of CPF land and 63.6 acres of MSCP Preserve open space areas well as various passive and active recreational open space areas, to be distributed throughout the residential areas.

Furthermore, the proposed project would pay the appropriate land acquisition and park development fees to offset potential impacts to recreational facilities and parkland. A Community Benefit Agreement between the City and the Applicant stipulates that the Applicant shall pay the City a Park Benefit Fee, equal to the Park Acquisition and Development (PAD) fee that would have been due pursuant to CVMC Section 17.10, of approximately \$11.03 million based on 2019 PAD fees, which may be revised by the City from time to time. Payment of the Park Benefit Fee would satisfy the proposed project’s park obligations and may be utilized by the City to acquire or develop parkland at some point in the future, as the City determined appropriate and in the best interest of the City. Without payment of the Park Benefit Fee, impacts associated with recreational facilities would be potentially significant. Therefore, impacts would be potentially significant and incorporation of MM-PS-3 would be required to reduce impacts to a less than significant level.

2.4.6.2 Mitigation Measures

Refer to **MM-PS-3** in Public Services Section 2.4.5.2, Mitigation Measures.

2.4.6.3 Findings per CEQA Guidelines

Consistent with CEQA Guidelines Section 15126.4(a)(1), a feasible measure that can minimize significant adverse impacts was developed for the potentially significant impacts described in Section 2.4.6.1, Potentially Significant Impacts to Recreation. The feasible mitigation measure, MM-PS-3, is listed in Section 2.4.6.2, Mitigation Measures.

The City finds that this mitigation measure is feasible, is adopted, and would reduce the potential recreational impacts of the proposed project to less than significant. Accordingly, the City finds that, pursuant to CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in or incorporated into the proposed project that would mitigate or avoid potentially significant impacts from recreation.

2.4.6.4 Facts in Support of the Findings Related to Recreation

Incorporation of MM-PS-3 would require that no earlier than issuance of certificate of occupancy, the applicant shall pay the Park Benefit Fee, as outlined in the project’s Development Agreement, equal to the City’s Park Acquisition and Development (PAD) Fee Update pursuant to Chula Vista Municipal Code Section 17.10. Therefore, implementation of MM-PS-3 would reduce potentially significant impacts related to recreation to less than significant. There would be no significant, unavoidable impacts related to recreation after implementation of this mitigation measure. Refer also to Section 5.14 of the Final EIR.

2.4.7 Wildfire

2.4.7.1 Potentially Significant Impacts to Wildfire

Due to slope prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire

As mentioned previously in Section 2.4.4, Hazards and Hazardous Materials, the project includes fire resistance-related measures that shall lessen the potential impact of the project exacerbating wildfire risk. FMZs would be located on the perimeter of all structures and along both ingress/egress roadways to and from Olympic Parkway. Roadway-adjacent fuel modification does not preclude the planting of street trees in these fuel modification zones, as long as they are not found on the Prohibited Plant List and are included in the Approved Plant Palette. Typical fuel modification includes establishment of a minimum 50-foot wide irrigated zone (Zone 1) and a 50-foot wide thinned zone (Zone 2) on the periphery of the project site, beginning from the rear or side yard lot line. As discussed in the FPP, FMZ areas experience a significant reduction in flame length and intensity. Reduction of flame lengths and intensities are assumed to occur within the full 100 feet of fuel modification (a combination of Zones 1 and 2). However, due to site constraints, it is not feasible to achieve a 100-foot FMZ width on the south side of the project site. As such, it is possible that the project would exacerbate wildfire risk and impacts would be potentially significant. Thus, implementation of MM-WF-1 is required and would reduce impacts to a less than significant level.

2.4.7.2 Mitigation Measures

Refer to **MM-WF-1** in Hazards and Hazardous Materials Section 2.4.4.2, Mitigation Measures.

2.4.7.3 Findings per CEQA Guidelines

Consistent with CEQA Guidelines Section 15126.4(a)(1), a feasible measure that can minimize significant adverse impacts were developed for the potentially significant impacts described in Section 2.4.7.1, Potentially Significant Impacts to Wildfire. The feasible mitigation measure, MM-WF-1, is listed in Section 2.4.7.2, Mitigation Measures.

The City finds that the mitigation measure is feasible, is adopted, and would reduce the potential wildfire impacts of the proposed project to less than significant. Accordingly, the City finds that, pursuant to CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in or incorporated into the proposed project that would mitigate or avoid potentially significant impacts from wildfire.

2.4.7.4 Facts in Support of the Findings Related to Wildfire

Implementation of MM-WF-1 would be required, applying only to the walls of the structures that face the open space areas adjacent to the project site. Implementation of MM-WF-1 would reduce potentially significant impacts related to wildfire, to less than significant. There would be no significant, unavoidable impacts related to wildfire after implementation of this mitigation measures. Refer also to Section 5.8 of the Final EIR. FMZs would be located on the perimeter of all structures and along both ingress/egress roadways to and from Olympic Parkway. However, due to site constraints, it is not feasible to achieve a 100-foot FMZ width on the south side of the project site. As such, it is possible that the project would exacerbate wildfire risk and impacts would be potentially significant; thus, the project would implement MM-WF-1 which includes fire protection measures that shall be implemented to

compensate for potential fire related threats. Implementation of MM-WF-1 would reduce potentially significant impacts related to wildfire to less than significant. There would be no significant, unavoidable impacts related to wildfire after implementation of this mitigation measure. Refer also to Section 5.17 of the Final EIR.

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3 Findings on Project Alternatives

CEQA requires that an EIR describe a range of reasonable alternatives to a project, or to the location of the project, that could feasibly attain the basic objectives of that project, and to evaluate the comparative merits of the alternatives (14 CCR 15126.6[a]). The CEQA Guidelines direct that the selection of alternatives be governed by “a rule of reason” (14 CCR 15126.6[a], [f]). As defined by the CEQA Guidelines, “The range of alternatives required in an EIR is governed by a ‘rule of reason’ that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR needs to examine in detail only the ones that the Lead Agency determines could feasibly attain most of the basic objectives of the project” (14 CCR 15126.6[f]).

3.1 Alternatives Considered and Eliminated During the Scoping/Project Planning Process

The CEQA Guidelines provide that an EIR should “identify any alternatives that were considered by the Lead Agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the Lead Agency’s determination” (14 CCR 15126.6[c]). The following is a discussion of the project alternatives proposed during the scoping and planning process and the reasons they were not selected for detailed analysis in the EIR.

With respect to the feasibility of potential alternatives to the proposed project, CEQA Guidelines Section 15126.6(t)(l) states, “Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries ... and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site.”

In determining an appropriate range of proposed project alternatives to be evaluated in the EIR, a number of possible alternatives were initially considered and then rejected. Proposed project alternatives were rejected because they could not accomplish the basic objectives of the proposed project, or they would not have resulted in a reduction of significant adverse environmental impacts.

Alternative Locations

Pursuant to Section 15126.6(f)(2) of the CEQA Guidelines, the City considered the potential for alternative locations to the project. There are sites within the City of an approximately equivalent size to the project site that could be redeveloped with a residential project; however, the project applicant does not control another site within the City of comparable land area that is available for development of the proposed project. One of the factors for feasibility of an alternative is “whether the proponent can reasonably acquire, control or otherwise have access to the alternative site.” Because the City is highly urbanized and is largely built out, obtaining another site of a similar size in a similar location is not considered feasible. It should also be noted that the project site is surrounded on all sides by development. As such, an alternative location was ultimately rejected from further analysis in the Final EIR.

3.2 Alternatives Selected for Further Analysis

This section discusses a reasonable range of alternatives to the proposed project, including a No Project Alternative, in compliance with CEQA Guidelines Section 15126.6(e). These alternatives are as follows:

- Alternative 1: No Project/No Build Alternative

- Alternative 2: Existing Land Use Designation Alternative
- Alternative 3: Reduced Development Alternative

These alternatives are evaluated for their ability to avoid or substantially lessen the impacts of the proposed project identified in the Final EIR, and in consideration of their ability to meet the basic objectives of the proposed project as described in the Final EIR.

3.2.1 Alternative 1: No Project/No Build Alternative

Section 15126.6(e) of the CEQA Guidelines requires that an EIR evaluate and analyze the impacts of a No Project/No Build Alternative. The “purpose of describing and analyzing a no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project” (14 CCR 15126.6[e][1]). When defining the No Project/No Build Alternative, the analysis must be informed by “what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services” (14 CCR 15126.6[e][2]).

Description

Section 15126.6(e) of the CEQA Guidelines requires that an EIR evaluate and analyze the impacts of the No Project/No Build Alternative, which reflects the “circumstances under which the project does not proceed.” Under the No Project/No Build Alternative, no development would occur on the project site. Accordingly, the site characteristics of this alternate would be equivalent to the existing conditions.

Finding

The City rejects the No Project/No Build Alternative as undesirable because it would not meet any of the project objectives. Therefore, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make this alternative infeasible.

Rationale

While the No Project/No Build Alternative would have lesser impacts in the majority of resource areas, adoption of the No Project/No Build Alternative would not meet most of the project objectives. Alternative 1 would not support Objective 1 by developing a pedestrian-oriented community with a range of residential uses, open space and MSCP Preserve areas, and recreational opportunities, which are compatible with the adjacent established residential communities. The No Project (No Build) alternative would not meet Objective 2 in contributing to the growing housing needs of the City and the region by providing for multi-family housing units with a range of housing types to accommodate a spectrum of demographics. Portions of the project site would not be preserved as permanent open space, nor would there be an increase in MSCP Preserve Areas as described in Objective 3. Alternative 1 would not support Objective 4 in providing pedestrian and bicycle facilities, including pedestrian connections to the existing Chula Vista Regional Trail and connections to existing bike lanes within Olympic Parkway and nearby transit. The No Project (No Build) alternative would not meet Objective 5 because the both the General Plan, GDP and SPA anticipated development of the site as part of the Sunbow Master Plan and the goals, objectives, and policies of the MSCP would not be met because land would not be preserved in the MSCP preserve system in perpetuity. Objective 8 would not be met by the No Project/No Build Alternative because a land use plan that can realistically be developed within a foreseeable time frame and under economic conditions would not be implemented. Since

no construction or development would occur under this alternative, Objectives 6 with respect to ensuring adequate public and community facilities would not be met. This alternative would not generate funding for existing and planned infrastructure and services through payment of development impact fees. Additionally, this alternative would not widen or improve off-site roads, or extend or expand existing planned infrastructure related to the project. Objective 7, ensuring new uses are compatible with the existing regulations, would not be relevant. Refer to Section 1.2.1, Project Objectives, for a list of project objectives. Refer also to Chapter 10 of the Final EIR. For these reasons and others detailed in the record before the City, the City rejects the No Project (No Build) Alternative as both undesirable and infeasible.

3.2.2 Alternative 2: Existing Land Use Designation Alternative

Description

The Existing Land Use Designations Alternative would include the development consistent with the City's General Plan, Sunbow General Development Plan (GDP) and Sectional Planning Area (SPA) Plan. The City's General Plan designates the development area within the southeastern portion of the site as Research & Limited Industrial. The Sunbow GDP designated the 54.7 acres as Industrial Park to include research/development and light industrial uses, with approximately 700,000 square feet of leasable area generating approximately 2,800 employment opportunities; however, actual leasable area may be less than this approximation when accounting for required infrastructure and amenities. Note, that the development areas under the existing land use designations and the proposed project are different than the MSCP hardline, established after the approval of the Sunbow GDP and SPA Plan. The rest of the project site would be preserved as Open Space and MSCP Preserve, similar to the proposed project. It is anticipated that access would be provided via Olympic Parkway and internal circulation on the project site would be similar to the proposed project. However, features such as pedestrian and bicycle circulation, the Community Purpose Facility (CPF), and active and passive recreational open space areas, proposed to be developed throughout the residential uses under the proposed project, would not be developed under the Existing Land Use Designations Alternative.

Finding

The City rejects the Existing Land Use Designation Alternative as undesirable because it would only partially meet the objectives of the project, would result in greater impacts to some environmental issue areas, and would still result in significant and unavoidable impacts to GHG emissions. Therefore, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make this alternative infeasible.

Rationale

As discussed in Section 10 of the Final EIR, under the Existing Land Use Designations Alternative environmental impacts related to most of the topical areas of the EIR would be similar as compared to the project. However, the environmental impacts associated with Air Quality and Noise would be increased under the Existing Land Use Designations Alternative as compared to the proposed project. Finally, environmental impacts would be reduced with respect to Recreation,

The Existing Land Use Designations Alternative would meet project Objective 5, because this alternative would implement the goals, objectives, and policies of the Chula Vista General Plan, the MSCP Subarea Plan, the Sunbow

GDP, and the Sunbow SPA Plan; and Objective 6, because public services and facilities would be provided under this alternative in accordance with the City's Growth Management Ordinance.

The Existing Land Use Designations Alternative would not meet Objectives 1, 2, 3, 4, 7 or 8. Objective 7 would only be partially met because while the new uses would meet established setbacks and design standards for industrial uses, it would not enhance the quality of life for neighboring residential properties because environmental impacts associated with Air Quality and Noise would be increased. Objectives 1, 2, and 4 pertain to residential development and associated pedestrian and bicycle facilities which would not be included under this alternative. This alternative would not contribute to meeting the growing housing needs of the City and the region by providing for multi-family housing units with a range of housing types to accommodate a spectrum of demographics (objective 2). Nor would it develop a residential community that is compatible with the surrounding residential uses (objective 1). This alternative would not meet Objective 9 given that the site has been designated for industrial uses for approximately 30 years yet has remained undeveloped. While this alternative would preserve portions of the site, it would not result in an increase in MSCP Preserve Areas (Objective 3). Refer also to Section 10 of the Final EIR.

For these reasons and others detailed in the record before the City, the City rejects Alternative 2 as both undesirable and infeasible.

3.2.3 Alternative 3: Reduced Development Alternative

Description

The Reduced Development Alternative would include the development of 360 residential units, within a similar development footprint as the proposed project. This number of units, which is 358 fewer units than the proposed project was chosen in order to provide low to medium density residential. This alternative would still include associated infrastructure, a reduced size Community Purpose Facility, and Open Space/MSCP Preserve areas as proposed under the project. Due to the decreased number of units within a similar development footprint, the Reduced Development Alternative is assumed to be developed with low to medium density residential rather than medium-high and high density residential as proposed under the project. The proposed project would require a Boundary Line Adjustment (BLA) between the currently proposed development boundaries and the mapped Multiple Species Conservation Program (MSCP) preserve on-site. Due to the reduced development of this alternative, this BLA would be avoided under this alternative. However, it should be noted that the BLA proposed under the project would result in an increase MSCP Preserve Areas.

Finding

The City rejects the Existing Land Use Designation Alternative as undesirable because the alternative would only partially meet the objectives of the project and would still result in significant and unavoidable impacts to GHG emissions. Therefore, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make this alternative infeasible.

Rationale

As discussed in Section 10 of the Final EIR, in the event Alternative 3, Reduced Residential Alternative, is developed, significant environmental impacts would be reduced with respect to energy, public services, recreation, transportation utilities and service systems. However, environmental impacts related to Wildfire, Population and Housing, Land Use

and Planning, Hydrology and Water Quality, Hazards and Hazardous Materials, Geology and Soils, Cultural and Tribal Cultural Resources, Biological Resources, and Aesthetics would be similar under the Reduced Residential Alternative as compared to the project. Environmental impacts related to GHG would remain significant and unavoidable.

The Reduced Development Alternative would meet most of the project objectives, with the exception of Objectives 1, 2, and 3, it would not contribute to meeting the growing housing needs of the City and the region to the same extent as the proposed project because the reduction in housing density to low and medium would not allow for multi-family housing units with a range of housing types or residential uses. Multi-family housing that would be provided by the project accommodates a wide variety of household types, income levels, and lifestyle preferences; thus, the Reduced Development Alternative would potentially decrease opportunities for housing supply, diversity, and economic competitiveness. Additionally, while this alternative would preserve portions of the project site, it would not result in an increase to MSCP Preserve Areas that would occur under the project. This alternative would still result in significant and unavoidable impacts to GHG emissions and a majority of the environmental impacts would remain the same as the project. Refer also to Section 10 of the Final EIR.

For these reasons and others detailed in the record before the City, the City rejects Alternative 2 as both undesirable and infeasible.

3.2.4 Environmentally Superior Alternative

The No Project Alternative would result in the least environmental impacts and would be the environmentally superior alternative. However, Section 15126.6(e)(2) of the CEQA Guidelines states that if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. In this case, the environmentally superior alternative is the Reduced Development Alternative. The Reduced Development Alternative would meet most of the project objectives, but to a lesser degree than the proposed project while reducing impact resulting from greater population growth of the proposed project.

4 General CEQA Findings

Based on the foregoing Findings and the information contained in the administrative record, and as conditioned by the foregoing, the City has determined the following:

1. The plans for the proposed project have been prepared and analyzed so as to provide for public involvement in the planning and the CEQA processes.
2. To the degree that any impacts described in the Draft EIR are perceived to have a significant effect on the environment, or such impacts appear ambiguous as to their effect on the environment, any significant effect of such impacts has been substantially lessened or avoided by the mitigation measures set forth in the Draft and Final EIR.
3. Comments regarding the Draft EIR received during the public review period have been adequately addressed in Chapter 2, Responses to Comments Received, in the Final EIR. Any significant effects described in such comments were avoided or substantially lessened by the mitigation measures described in the Draft and Final EIR.

4.1 Findings Regarding Recirculation

The City finds that the Draft EIR does not require recirculation under CEQA (CEQA Section 21092.1, CEQA Guidelines Section 15088.5). CEQA Guidelines Section 15088.5 requires recirculation of an EIR prior to certification of the Final EIR when “significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review.” As described in CEQA Guidelines Section 15088.5:

New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. “Significant new information” requiring recirculation includes, for example, a disclosure showing that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it;
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

In addition, CEQA Guidelines Section 15088.5(b) provides that “recirculation is not required where the new information added to the EIR merely clarifies and amplifies or makes insignificant modifications in an adequate EIR.” Recirculation also is not required simply because new information is added to an EIR; indeed, new information is oftentimes added given CEQA’s public/agency comment and response process and CEQA’s post-Draft EIR circulation requirement of proposed responses to comments submitted by public agencies. In short, recirculation

is “intended to be an exception rather than the general rule” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1132).

As such, the City makes the following Findings:

1. None of the public comments submitted to the City regarding the Draft EIR present any significant new information that would require the Draft EIR to be recirculated for public review.
2. No new or modified mitigation measures are proposed that would have the potential to create new significant environmental impacts.
3. The Draft EIR adequately analyzed project alternatives and there are no feasible alternatives or mitigation measures considerably different from others previously analyzed that would clearly lessen the significant environmental impacts of the project.
4. The Draft EIR was not fundamentally and basically inadequate and conclusory in nature and did not preclude meaningful public review and comment.

In this legal context, the City finds that recirculation of the Draft EIR prior to certification is not required. In addition to providing responses to comments, the Final EIR includes revisions to expand upon information already presented in the Draft EIR (Chapter 3, Changes to the Draft EIR); explain or enhance the evidentiary basis for the Draft EIR’s findings; update information; and to make clarifications, amplifications, updates, or helpful revisions to the Draft EIR. The Final EIR’s revisions, clarifications, and/or updates do not result in any new significant impacts or increase the severity of a previously identified significant impact.

In sum, the Final EIR demonstrates that the proposed project would not result in any new significant impacts or increase the severity of a significant impact compared to the analysis presented in the Draft EIR. The changes reflected in the Final EIR also do not indicate that meaningful public review of the Draft EIR was precluded in the first instance. Accordingly, recirculation of the EIR is not required because revisions to the EIR are not significant as defined in Section 15088.5 of the CEQA Guidelines.

4.2 Legal Effects of Findings

To the extent that these Findings conclude that the proposed mitigation measures outlined herein are feasible and have not been modified, superseded, or withdrawn, the City hereby commits to implementing these measures. These Findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect upon approval of the proposed project.

The mitigation measures that are referenced herein and adopted concurrently with these Findings will be effectuated through the process of construction and implementation of the proposed project as indicated in the concurrently adopted MMRP.

5 Statement of Overriding Considerations

Pursuant to PRC Section 21081(b) and CEQA Guidelines Section 15093(a) and (b), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental risks when determining whether to approve a project. If the specific economic, legal, social, technological, or other benefits of a project outweigh the unavoidable adverse environmental effects, those effects may be considered “acceptable” (14 CCR 15093[a]). CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record (14 CCR 15093[b]).

Courts have upheld overriding considerations that were based on a variety of policy considerations, including new jobs; stronger tax base; and implementation of an agency’s economic development goals, growth management policies, redevelopment plans, the need for housing and employment, conformity to community plan, and provision of construction jobs (see *Towards Responsibility in Planning v. City Council* (1988) 200 Cal App. 3d 671; *Dusek v. Redevelopment Agency* (1985) 173 Cal App. 3d 1029; *City of Poway v City of San Diego* (1984) 155 Cal App. 3d 1037; *Markley v. City Council* (1982) 131 Cal App.3d 656).

In accordance with the requirements of CEQA and the CEQA Guidelines, the City finds that the mitigation measures identified in the Final EIR and the MMRP, when implemented, will avoid or substantially lessen virtually all of the significant effects identified in the EIR for the Sunbow SPA Plan Amendment for the Sunbow II, Phase 3 Project. However, certain significant impacts of the proposed project are unavoidable even after incorporation of all feasible mitigation measures. These significant unavoidable impacts result from GHG impacts due to generation of GHG emissions, that may either directly or indirectly have a significant impact on the environment and conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs.

The City finds that all feasible mitigation measures identified in the Final EIR would be implemented with the proposed project. As identified below, the City further finds that the remaining significant unavoidable effects are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, technological, or other benefits based on the facts set forth above, the Final EIR, and the record.

The City finds that any one of the benefits set forth below is sufficient by itself to warrant approval of the proposed project. This determination is based on the Findings herein and the evidence in the record. Having balanced the unavoidable adverse environmental impacts against each of the benefits, the City hereby adopts this Statement of Overriding Considerations for the following reasons:

- 1. Contribution of the growing housing needs of the City and region:** The project would provide balanced and diverse housing opportunities to the City and would provide housing to accommodate the City’s future growth projections. The project features four unique multi-family attached residential product types with 15 unique floorplans, ranging in square footage from approximately 1,100 to 2,050, in two- and three-story homes, to accommodate a full spectrum of family demographics. The project’s mix of housing types and choices would also support a reasonable share of the City’s projected regional population growth to help the City meet its required regional housing needs, as detailed in the City’s General Plan Housing Element and SANDAG’s Regional Housing Needs Assessment. The project will also provide an affirmative outreach program,

including advertising and marketing, that would encourage buyers of all majority and minority groups, regardless of sex, disability, and familial status.

In addition, the project will contribute to the Balanced Communities Policy by extending covenants for an existing affordable housing complex in Sunbow II, called “Villa Serena Senior” which provides 132 units for seniors. Under the Development Agreement being entered into by the applicant and city, sixty-seven (67) units currently designated as moderate-income units will be restricted to low income housing and the Affordability Covenants will be extended until June 1, 2055.

2. **Park Benefit Fee:** Payment of a Park Benefit Fee, equal to the PAD fee that would have been due pursuant to CVMC Section 17.10, of approximately \$11.03 million based on 2019 PAD fees, which may be revised by the City from time to time. The final Park Benefit Fee amount will be determined based on the number and type of residential units constructed and the PAD fee rates in effect as of the effective date of the project’s Development Agreement. This Park Benefit Fees may be utilized by the City for park and recreational amenities that can be used anywhere in the City that it deems appropriate.
3. **Facilitation of Economic Growth:** After marketing the project for over 30 years as an industrial park, the applicant will aid the City which provides an opportunity to facilitate economic growth funding for office uses within the SR-125 corridor or the construction of facilities for academic, institutional, and innovation-related businesses within the University Innovation District.
4. **Preservation and increase of MSCP Preserve Areas:** Approximately 63.6 acres of Open Space (Parcels OS-1, OS-2, OS-3, and OS-9b) would be preserved as MSCP open space under the City’s MSCP Subarea Plan. The MSCP open space area would be dedicated to the City of Chula Vista. The MSCP open space area would be managed, monitored and maintained by the City with funding provided by CFD 98-3. The proposed MSCP Boundary Adjustment would meet the MSCP Boundary Line Adjustment functional equivalency criteria and would result in a 0.09-acre increase to the MSCP Preserve Area.
5. **Public Facilities Financing:** To identify, summarize, and implement the various facility costs associated with the project, a Supplemental Public Facility Financing Plan (PFFP) was prepared for the project that implements the City’s Growth Management Program and meets General Plan/Growth Management Element goals and objectives. The Chula Vista Growth Management Program ensures the City’s necessary public facilities and services exist or are provided concurrent with the demands of new development.
6. **Benefits from Construction Jobs Creation:** The project will boost the local economy by supporting construction related jobs during the approximately 7 years of project construction.
7. **Fiscal Impact:** The proposed project encourages economic growth and diversity within the City. The project will provide a stable and significant source of property tax revenue for the City by increasing tax revenues from residential uses, supports employment of construction workers, and reduces per capita costs for provision of public services. The Fiscal Impact Report prepared for the project utilized the City’s Fiscal Impact Model and estimated that the project with generate \$3 million in net positive impacts to the City’s General Fund over a 20-year period, and also estimated year-over-year net positive impacts.
8. **Job Enhancement Funds.** The project will provide a unique public benefit to the community by providing \$8.0 million in Job Enhancement Funds that can be used by the City as a catalyst for development that will

generate high-quality jobs within the SR-125 corridor or University Innovation District Master Plan. Thus, facilitating the creation of high-quality jobs and economic growth within the City by providing opportunities that target and attract industries and businesses that contribute to diversification and stabilization of the local economy and allow the City to advance the vision of the University Innovation District (such as enabling the development of an Institute for International Studies), or some other notable project at the City's discretion.

On balance, the City finds that under CEQA Guidelines Section 15126.6(t)(I), there are specific economic, legal, social, technological, and other considerations associated with the proposed project that serve to override and outweigh the significant unavoidable effects of the proposed project, and, thus, the adverse effects are considered acceptable. Therefore, the City hereby adopts this Statement of Overriding Considerations.

6 Conclusion

The mitigation measures listed in conjunction with each of the findings set forth above, as implemented through the MMRP, will eliminate or reduce to a less-than-significant level most of the adverse environmental impacts of the proposed project. The significant and unavoidable impacts of the proposed project would be rendered acceptable by the specific economic, legal, social, technological, and other considerations benefits identified in Section 5, Statement of Overriding Considerations.

Taken together, the Final EIR, the mitigation measures, and the MMRP provide an adequate basis for approval of the proposed project.

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