

EXHIBIT A

CEQA FINDINGS and STATEMENT OF OVERRIDING CONSIDERATIONS

I INTRODUCTION

The California Environmental Quality Act (CEQA) requires that a Lead Agency issue two sets of findings prior to approving a project that will generate a significant impact on the environment. The Statement of Facts and Findings is the first set of findings where the Lead Agency identifies the significant impacts, presents facts supporting the conclusions reached in the analysis, makes one or more of three findings for each impact, and explains the reasoning behind the agency's findings.

The Statement of Overriding Considerations is the second set of findings. Where a project will cause unavoidable, significant, adverse environmental effects, the Lead Agency may still approve the project if it determines that the project's benefits outweigh its adverse effects. In order to do so, the Lead Agency must adopt a Statement of Overriding Considerations, in which it sets forth specific reasoning by which the benefits of the project outweigh its adverse environmental effects.

The following statement of findings has been prepared in accordance with the California Environmental Quality Act (CEQA) and Public Resources Code Section 21081. *CEQA Guidelines* Section 15091 (a) provides that:

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.

There are three possible finding categories available for the Statement of Facts and Findings pursuant to Section 15091 (a) of the *CEQA Guidelines*.

- (1) Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens 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, make infeasible the mitigation measures or project alternatives identified in the final EIR.*

The City of Union City, the CEQA Lead Agency, finds and declares that the 2040 Union City General Plan Update Final Environmental Impact Report (Final EIR) has been completed in compliance with CEQA and the *CEQA Guidelines*. Union City finds and certifies that the Final EIR was reviewed and information contained in the Final EIR was considered prior to any approval associated with the proposed General Plan, herein referred to as the "Project."

Based upon its review of the Final EIR, the City finds that the Final EIR is an adequate assessment of the potentially significant environmental impacts of the Project and represents the independent judgment of the City.

DESCRIPTION OF THE 2040 UNION CITY GENERAL PLAN UPDATE

The 2040 Union City General Plan Update builds on the current 2002 General Plan, but also is a comprehensive effort to update the 2020 General Plan. The update responds to the current needs, values, and preferences of the community, as well as changes in State law that may not have been in effect when the current General Plan was last updated.

The 2040 Union City General Plan Update defines the policy framework by which the City's physical and economic resources are to be managed and used through the planning horizon year, which is 2040. The 2040 Union City General Plan Update clarifies and articulates the City's intentions with respect to the rights and expectations of various community stakeholders, including residents, property owners, and business owners. Through the General Plan, the City informs these groups of its goals, policies, and standards, and thereby communicates expectations of the public and private sectors for meeting community objectives.

The 2040 Union City General Plan Update has been organized into ten elements: Land Use; Economic Development; Community Design; Mobility; Health and Quality of Life; Safety; Public Facilities and Services; Resource Conservation; Special Areas and Housing. These ten elements describe the existing conditions and context for the related topic areas, followed by goals, policies, and implementation programs to guide the City's management and development into the future. The General Plan Housing Element was last updated in January 2015, covering the period from January 2015 through January 2023, and was subject to a separate environmental review process. The 2040 General Plan incorporates the adopted 2015 Housing Element. No substantive changes are being proposed to the Housing Element as part of its incorporation into the 2040 Union City General Plan Update.

The 2040 Union City General Plan Update presents a vision for the future of Union City and a set of guiding principles for how the City will achieve that vision. This vision and guiding principles capture the City's key values and aspirations for the future. They reflect the collective ideas from community members and City leaders that provided input to help shape the 2040 Union City General Plan Update.

The 2040 General Plan vision for the future is as follows:

Union City is the heart of the Bay Area and a regional center for commerce, community, and culture. Our economy is strong and diverse and provides high paying jobs across a broad range of local businesses, high profile companies, and emerging industries. Our residents and neighborhoods are safe and healthy, and our community is celebrated for its diversity and equitable treatment of everyone. Union City provides effective and efficient public services and is fiscally stable.

The 2040 Union City General Plan Update guiding principles and thus project objectives are contained in the 2040 General Plan Introduction and are abbreviated below:

- **Economic Development:** Promote Union City as a civic, cultural, and economic destination within the greater Bay Area to attract new businesses and facilitate new economic development opportunities and succeed in a global marketplace; expand the skills and knowledge of the workforce, protect and expand economic assets in Union City, and expand the job base.
- **Health and Quality of Life:** Promote a healthy and safe way of life in Union City; prioritize education; promote access to healthy foods; attract and retain accessible, affordable, and quality health services and facilities; support and expand Youth and Family Services programs.

- Land Use: Maintain a balanced mix of residential, employment, and commercial uses; create a vibrant 24-hour Station District; ensure livable, healthy, and well-designed neighborhoods that are walkable and bicycle friendly; encourage higher-density developments and mixed-use projects in appropriate areas; promote and increase infill and reuse, while maintaining quality of life and important community character; and implement sustainable and resilient development practices.
- Community Design: Enhance gateways into the community; ensure new development respects the community's natural setting; ensure new development is compatible with the scale and character of existing neighborhoods; preserve and protect important historic and cultural resources; create attractive commercial and mixed-use corridors and centers; create vibrant public places that serve as gathering places; and locate and design buildings, streetscapes, and public spaces that contribute to walkable neighborhoods, corridors, and districts.
- Housing: Promote a mix of housing types and affordability; and include a mix of housing types within neighborhoods to promote a diversity of household types and housing choices.
- Mobility and Access: Develop a balanced, integrated, multimodal transportation system that is efficient and safe; create a safe and convenient transportation network that incorporates complete streets concepts; continue providing a variety of transportation choices that promote alternatives to the automobile; and support the integration of emerging transportation technologies and modes.
- Sustainability and Resiliency: Reduce greenhouse gas (GHG) emissions to help achieve reduction goals to address climate change; protect natural resources; continue to promote sustainable levels of energy, water, and resource consumption; encourage residents and businesses to live, work, and operate in a more sustainable manner; and enhance the understanding of future risks ability to absorb, respond to, and recover from emergencies or other changes.
- Parks and Recreation: Maximize public access and use of city and regional open space and recreational areas; support the development of regional open spaces that connect Union City to the Bay Area; support the development of additional parkland for active recreational uses; expand and improve existing pedestrian and bike trails; and provide innovative recreational and sports facilities, services, and programs.
- Public Safety: Improve coordination among residents and businesses and City Departments to address security issues and maintain a safe community; support and expand the City's Youth Violence Prevention Program and community policing unit; minimize vulnerability to natural disasters and manmade hazards; strengthen emergency response capabilities; modernize older public facilities to improve seismic safety; support and expand the Community Emergency Response Team (CERT) program; and ensure public facilities and infrastructure investment contribute to the safety and security of residents.
- Services and Facilities: Provide quality public services, facilities, and infrastructure throughout the city; expand and enhance telecommunication and broadband access; maintain transparency and improve accountability in all City decisions, practices, and service areas; promote opportunities for community education and involvement; ensure the fair treatment of residents of all races, cultures, and incomes with respect to City plans and policies; promote joint use of public facilities; ensure City revenues are sufficient to maintain and enhance City services, programs, and facilities; and ensure new development is fiscally neutral or positive to the City and provides a net social or economic benefit to the community.

ENVIRONMENTAL EFFECTS DETERMINED TO BE SIGNIFICANT

Union City, having reviewed and considered the information contained in the 2040 Union City General Plan Update Final EIR, finds, pursuant to California Public Resources Code 21081 (a)(1) and *CEQA Guidelines* 15091 (a)(1), that the Project would result in significant environmental effects related to

aesthetics, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions/climate change, noise, and transportation. These effects are summarized below.

A. Aesthetics

Impact AES-1 The 2040 General Plan will facilitate development in some areas of the city with a view of the hillside area, marshlands along the bay, or other open space areas. Adherence with goals and policies in the 2040 General Plan would maintain some visual access to natural features surrounding the City but would not reduce impacts to scenic vistas related to the hillside area and Bayshore. Impacts on scenic vistas would be significant and unavoidable.

Finding

The mitigation measures and project alternatives identified in the EIR are infeasible for specific economic, legal, social, technological or other considerations, or fail to fulfill the basic objectives of the 2040 General Plan. Those considerations include the 2040 General Plan's facilitation of future infill residential and commercial development and other considerations described herein.

Facts in Support of Finding

Development envisioned by the Project has the potential to block scenic vistas and reduce views of the hillside area and Baylands by constructing buildings ranging in height from 40 to 75 feet in the City's business parks and along the City's major arterials and up to 160 feet in the Greater Station District. There are no mitigation measures available to reduce the loss of scenic vistas impact associated with proposed taller buildings proposed as part of the Project because shorter buildings would not meet project the Project vision and objectives to provide housing and infill development. Impacts would be significant and unavoidable.

Impact AES-3 Goals and policies from the 2040 General Plan indicate that development would integrate into the community visually and protect and enhance the neighborhoods in which development occurs. Adherence to the prescribed goals and policies in Land Use, Community Design, and Special Areas Elements of the 2040 General Plan for new construction, parking, gateways, and streetscapes would direct the quality of the City's visual character. However, the 2040 General Plan envisions more intensive future development including buildings that are taller than what is generally existing in the urbanized areas of Union City. Impacts to visual character and quality would be significant and unavoidable.

Finding

The mitigation measures and project alternatives identified in the EIR are infeasible for specific economic, legal, social, technological or other considerations, or fail to fulfill the basic objectives of the 2040 General Plan. Those considerations include the 2040 General Plan's facilitation of future infill residential and commercial development and other considerations described herein.

Facts in Support of Finding

Development envisioned by the Project has the potential to result in buildings ranging in height from 40 to 75 feet in the City's business parks and up to 160 feet in the Greater Station District. The majority of structures in Union City are one- or two-stories in height. Therefore, development proposed by the Project would reduce the visual character and quality of Union City. There are no mitigation measures available to reduce the visual impact associated with taller than City average buildings as part of the Project because taller buildings are proposed to accommodate anticipated growth in Union City. Therefore, impacts would be significant and unavoidable.

B. Air Quality

Impact AQ-3 Buildout of the 2040 General Plan may expose sensitive receptors to additional sources of toxic air contaminants. Impacts would be less than significant with mitigation incorporated.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

The Project may facilitate development with sensitive receptors in proximity to high-volume roadways and freeways, which are considered major air pollutant sources. The Project's potential impacts to sensitive receptors have been reduced to the degree feasible with the following mitigation measure:

AQ-1 Health Risk Assessments

Implement Bay Area Air Quality Management District (BAAQMD) CEQA Air Quality Guidelines and State Office of Environmental Health Hazard Assessment policies and procedures requiring health risk assessments (HRAs) for new residential development and other sensitive receptors, as defined in the BAAQMD CEQA Air Quality Guidelines, within 1,000 feet of sources of toxic air contaminants, including freeways and roadways with over 10,000 vehicle trips per day. Based on the results of the HRA, identify and implement measures, such as air filtration systems, to reduce potential exposure to particulate matter, carbon monoxide, diesel fumes, and other potential health hazards in accordance with the receptor thresholds contained in BAAQMD's *CEQA Air Quality Guidelines*, Table 2-6.

This measure would require Health Risk Assessments and mitigation measures for individual projects that may expose sensitive receptors to substantial pollutant concentrations. Therefore, impacts would be reduced to a less than significant level with implementation of Mitigation Measure AQ-1.

C. Biological Resources

Impact BIO-1 Development facilitated by the 2040 General Plan could result in isolated impacts to habitat for special-status species and impacts to migratory bird nest sites. Impacts would be less than significant with mitigation incorporated.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

Development as part of the Project would include building demolition and/or relocation, grading, materials laydown, access and infrastructure improvements, and building construction, and could result in the disturbance of nesting migratory birds. The most identifiable potential direct impact to migratory species would involve the removal of vegetation, particularly trees and landscaping shrubs that may serve as perching or nesting sites for migratory birds. The 2040 General Plan includes policies that would provide potential nesting sites in the urbanized areas of the City but would not protect active nest sites from disruption during construction of the Project. The Project's potential impacts to nesting birds have been reduced to the degree feasible with the following mitigation measure:

BIO-1 Nesting Bird Protection Policy

The following policy shall be added to the 2040 General Plan Resource Conservation Element as Policy RC-2.10:

The City shall require project applicants to retain the services of a qualified biologist(s) to conduct a pre-construction nesting bird survey during the nesting season (February 1 through August 31) prior to all new development that may remove any trees or vegetation that may provide suitable nesting habitat for migratory birds or other special-status bird species. If nests are found the qualified biologist(s) shall identify appropriate avoidance measures, and these measures shall be incorporated into the project and implemented accordingly.

This measure would add a policy to the 2040 General Plan to conduct pre-construction nesting bird surveys and implement avoidance measures if necessary. Therefore, impacts would be reduced to a less than significant level with implementation of Mitigation Measure BIO-1.

D. Cultural Resources

Impact CR-1 Development facilitated by the 2040 General Plan would have the potential to impact historical resources and unique archaeological resources. Impacts would be potentially significant but mitigable.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

Development as part of the Project could affect known or unknown historical and/or archaeological resources. The goal, policies, and implementation programs included in the 2040 General Plan would reduce the potential for historical and/or archaeological resources to be adversely impacted from development facilitated by the 2040 General Plan. However, there would still be potential for development to impact cultural resources. The Project's potential impacts to cultural resources have been reduced to the degree feasible with the following mitigation measure:

CR-1 Cultural Resources Study Implementation Program

The following Implementation Program shall be added to Resource Conservation Element of the 2040 General Plan:

If a project requires activities that have the potential to impact cultural resources, the City shall require the applicant to retain a qualified archaeologist meeting the Secretary of the Interior's (SOI) Professional Qualification Standards (PQS) in archaeology and/or an architectural historian meeting the SOI PQS standards in architectural history to complete a Phase 1 cultural resources inventory of the project site (NPS 1983). A Phase 1 cultural resources inventory should include a pedestrian survey of the project site and sufficient background archival research and field sampling to determine whether subsurface prehistoric or historic remains may be present. Archival research should include a records search conducted at the Northwest Information Center (NWIC) and a Sacred Lands File (SLF) search conducted with the Native American Heritage Commission (NAHC). The technical report documenting the Phase 1 cultural resources inventory shall include recommendations to avoid or reduce impacts to cultural resources. These recommendations shall be implemented and incorporated in the project.

This measure would add an implementation program in the 2040 General Plan requiring cultural resource studies for projects within the City and implementation of further requirements to avoid or reduce impacts to such resources on a project-by-project basis. Therefore, impacts would be reduced to a less than significant level with implementation of Mitigation Measure CR-1.

E. Geology and Soils

Impact GEO-5 Development facilitated by the 2040 General Plan has the potential to impact paleontological resources. Impacts would be less than significant with mitigation incorporated.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

Ground-disturbing activities associated with Project development, particularly in areas that have not previously been developed with urban uses, have the potential to damage or destroy paleontological resources that may be present on or below the ground surface in previously undisturbed areas of high paleontological sensitivity. Consequently, damage to or destruction of fossils could occur due to Project development. The Project's potential impacts to paleontological resources have been reduced to the degree feasible with the following mitigation measure:

GEO-1 Protection of Paleontological Resources

The following Policy shall be added to the Resource Conservation Element of the 2040 Union City General Plan:

Require avoidance and/or mitigation for potential impacts to paleontological resources for any development in Union City that occurs within high sensitivity geologic units, whether they are mapped at the surface or occur at the subsurface. High sensitivity geology units include Great Valley Sequence (Panoche and Knoxville Formations), Monterey Group (Claremont Shale and Hambre Sandstone), Briones Formation, Orinda Formation, and Pleistocene age alluvial fan and fluvial deposits. When paleontological resources are uncovered during site excavation, grading, or construction activities, work on the site will be suspended until the significance of the fossils can be determined by a qualified paleontologist. If significant resources are determined to exist, the paleontologist shall make recommendations for protection or recovery of the resource.

The City shall require the following specific requirements for projects that could disturb geologic units with high paleontological sensitivity:

- Retain a Qualified Paleontologist to Prepare a PMMP. Prior to initial ground disturbance in previously undisturbed strata of geologic units with high sensitivity, the project applicant shall retain a Qualified Paleontologist, as defined by the SVP (2010), to direct all mitigation measures related to paleontological resources and design a Paleontological Mitigation and Monitoring Program (PMMP) for the project. The PMMP shall include measures for a preconstruction survey, a training program for construction personnel, paleontological monitoring, fossil salvage, curation, and final reporting, as applicable.

This measure would add an implementation program in the 2040 General Plan to require paleontological resource studies for projects in geological units with high sensitivity within Union City and implementation of further requirements to avoid or reduce impacts to such resources on a project-by-project basis. Therefore, impacts to paleontological resources would be reduced to a less than significant level with implementation of Mitigation Measure GEO-1.

F. Greenhouse Gas Emissions/Climate Change

Impact GHG-1 Development facilitated by the 2040 General Plan would generate greenhouse gas (GHG) emissions that would exceed the 2040 efficiency threshold of 1.12 MT of CO₂e per service population per year. Implementation of policies contained in the 2040 General Plan and Mitigation Measure GHG-1 would minimize GHG emissions under buildout of the 2040 General Plan; however, this impact would remain significant and unavoidable.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

The Project is anticipated to result in GHG emissions above the per service population target established for the Project to meet the statewide 2030 and 2050 goal trajectories. The Project's potential impacts to GHG emissions have been reduced to the degree feasible with the following mitigation measure:

GHG-1 Update to Climate Action Plan

In accordance with Implementation Program RC-7.A of the 2040 General Plan, the City of Union City shall update its Climate Action Plan (CAP). The updated CAP shall contain goals, policies and programs to achieve GHG reduction targets for Union City and future development in the City consistent with SB 32 and demonstrate a trajectory towards meeting the reduction target in Executive Order S-3-05. Implementation measures in the updated CAP may include but are not limited to the following:

- Develop and adopt Zero Net Energy requirements for new residential and non-residential development
- Develop and adopt a building electrification ordinance
- Implement VMT reduction measures such as improvements to public transit, full buildout of the Pedestrian and Bicycle Master Plan, and incentivization of transit-oriented development
- Expand charging infrastructure for electric vehicles
- Implement carbon sequestration by expanding the urban forest, participating in soil-based or compost application sequestration initiatives, supporting regional open space protection, and/or incentivizing rooftop gardens
- Purchase carbon offsets from a validated source
- Policies and measures included in the California’s 2017 Climate Change Scoping Plan such as mobile source strategies for increasing clean transit options and zero emissions vehicles by providing vehicle charging stations.

This measure would update the City’s CAP to reflect the most recent GHG reduction regulations and establish a Citywide GHG reduction target. If and when the City’s CAP is updated in accordance with statewide emissions targets, this impact may be reduced to less than significant. Therefore, until the City updates the CAP in accordance with this measure, impacts from GHG emissions would remain significant and unavoidable.

Impact GHG-2 The 2040 General Plan would be consistent with GHG reduction measures contained in the City’s Climate Action Plan and ABAG/MTC’s Plan Bay Area 2040. Impacts would be less than significant.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

The Project would not conflict with the City’s current CAP, which was designed to reduce GHG emissions consistent with 2020 statewide reduction targets. However, as discussed under Impact GHG-1, the Project would result in GHG emissions above the per service population target established for the Project to meet the statewide 2030 and 2050 emissions reduction goals. Therefore, the Project would conflict with a state policy intended to reduce GHG emissions, unless the City updates the CAP to meet GHG reduction targets consistent with Senate Bill 32 and Executive Order S-3-05. Therefore, the Project would not be consistent with state regulations, including Senate Bill 32, without an updated CAP. The

Project's potential impacts to GHG emissions have been reduced to the degree feasible with the mitigation measure described above under Impact GHG-1. This measure would update the City's CAP to reflect the most recent GHG reduction regulations and establish a Citywide GHG reduction target. If and when the City's CAP is updated in accordance with statewide emissions targets, this impact may be reduced to less than significant. Therefore, until the City updates the CAP in accordance with the measure discussed above, impacts from GHG emissions would remain significant and unavoidable.

G. Noise

Impact N-1 Construction of individual projects facilitated by the 2040 General Plan would temporarily generate increased noise levels, potentially affecting nearby noise-sensitive land uses. Provisions in the Union City Municipal Code and 2040 General Plan policies would limit noise disturbance to the extent feasible. However, construction noise may still exceed noise standards and impacts would be significant and unavoidable.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

Noise from individual construction projects carried out as part of the Project would temporarily increase ambient noise, which may not be completely reduced by provisions in the Union City Municipal Code and 2040 General Plan policies. The Project's potential impacts to construction noise have been reduced to the degree feasible with the following mitigation measure.

N-1 Construction Noise Reduction

For projects involving impact pile-drivers that are located within 400 feet of noise-sensitive receptors, projects involving sonic pile-drivers that are located within 200 feet of construction, and projects without pile-driving that are located within 175 feet from noise-sensitive receptors, the following mitigation would be required:

- **Equipment Staging Areas.** Equipment staging shall be located in areas that will create the greatest distance feasible between construction-related noise sources and noise-sensitive receptors.
- **Electrically-Powered Tools and Facilities.** Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
- **Smart Back-up Alarms.** Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
- **Additional Noise Attenuation Techniques.** During the clearing, earth moving, grading, and foundation/conditioning phases of construction, temporary sound barriers shall be installed and maintained between the construction site and the sensitive receptors. Temporary sound

barriers shall consist of sound blankets affixed to construction fencing or temporary solid walls along all sides of the construction site boundary facing potentially sensitive receptors.

Implementation of 2040 General Plan policies, Union City Municipal Code requirements, and Mitigation Measure N-1, would reduce potential impacts but not to a less than significant level, as they may not result in the decrease in noise levels necessary to reduce construction noise to the level specified by Union City Municipal Code. Impacts would be significant and unavoidable.

Impact N-3 Construction of individual projects facilitated by the 2040 General Plan could temporarily generate groundborne vibration, potentially affecting nearby land uses. Policies in the 2040 General Plan would limit vibration disturbance and ensure that high vibration levels during working construction hours to the extent feasible. However, construction vibration from pile-drivers may disturb people or damage buildings. Impacts would be significant and unavoidable.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoids or substantially lessens the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding

Construction of individual projects facilitated by the Project could intermittently generate groundborne vibration on and adjacent to construction sites. The Project's potential impacts to noise and groundborne vibration have been reduced to the degree feasible with Mitigation Measure N-1 described above. Implementation of 2040 General Plan policies, Union City Municipal Code requirements, and the mitigation measure discussed above, would reduce potential impacts but not to a less than significant level, as vibration may still exceed the standard for certain land uses. Impacts would be significant and unavoidable.

H. Transportation

Impact T-2 Development and population growth facilitated by the 2040 General Plan would increase vehicle miles travelled (VMT) in Union City and VMT per service population would not be 15 percent below the nine bay area regional VMT per service population. Therefore, the 2040 General Plan would be inconsistent with *CEQA Guidelines* Section 15064.3, subdivision (B). Impacts would be significant and unavoidable.

Finding

The mitigation measures and project alternatives identified in the EIR are infeasible for specific economic, legal, social, technological or other considerations, or fail to fulfill the basic objectives of the 2040 General Plan. Those considerations include the 2040 General Plan's facilitation of future infill residential and commercial development and other considerations described herein.

Facts in Support of Finding

The goals, policies, and implementation measures in the 2040 General Plan are designed to reduce VMT in Union City through infill development, higher-density and mixed-use development, and trip reduction

measures. However, even with implementation of these VMT reduction measures VMT per service population in Union City would not achieve the 15 percent reduction as recommended by the Office of Planning and Research Technical Advisory. There are no other feasible mitigation measures available because the Project emphasizes infill and reuse development designed to reduce VMT and contains goals and policies aimed at minimizing VMT. Impacts would be significant and unavoidable.

Impact T-5 New development facilitated by the 2040 General Plan would increase traffic in Union City. This traffic may cause delays that conflict with applicable City Level of Service standards. Impacts would be significant and unavoidable.

Finding

The mitigation measures and project alternatives identified in the EIR are infeasible for specific economic, legal, social, technological or other considerations, or fail to fulfill the basic objectives of the 2040 General Plan. Those considerations include the 2040 General Plan's facilitation of future infill residential and commercial development and other considerations described herein.

Facts in Support of Finding

The Project facilitates development and population growth in Union City through 2040. While the Project encourages infill development and redevelopment in the urbanized areas of the City, including near transit and the BART station, the additional population growth would result in more vehicles trips on General Plan Area roadways. Because the Project is unable to influence the use of privately-owned vehicles in the city beyond what is already contained in the 2040 General Plan, there is no feasible mitigation to avoid this impact.

Impact T-6 New development facilitated by the 2040 General Plan would increase traffic on Congestion Management Agency (CMA) roadways surrounding Union City. This traffic may conflict with the LOS standards of the Alameda County CMA. Impacts would be significant and unavoidable.

Finding

The mitigation measures and project alternatives identified in the EIR are infeasible for specific economic, legal, social, technological or other considerations, or fail to fulfill the basic objectives of the 2040 General Plan. Those considerations include the 2040 General Plan's facilitation of future infill residential and commercial development and other considerations described herein.

Facts in Support of Finding

The Project facilitates development and population growth in Union City throughout 2040. While the Project encourages infill development and redevelopment in the urbanized areas of the City, including near transit and the BART station, the additional population growth would result in more vehicles trips on CMA roadways, including State Route 238. Because the Project is unable to influence the use of privately-owned vehicles in the city beyond what is already contained in the 2040 General Plan, there is no feasible mitigation to avoid this impact. Therefore, the Project's impacts to CMA roadways surrounding Union City would be significant and unavoidable.

ALTERNATIVES

CEQA provides that decision-makers should not approve a project as proposed if there are feasible alternatives or feasible mitigation measures that would substantially lessen the significant impacts of the project. The EIR identified feasible mitigation measures that would reduce several of the potentially significant impacts to less than significant. However, certain other impacts remain significant and unavoidable. If a project alternative will avoid or substantially lessen the significant environmental effects of a proposed project, the decision-maker should not approve the proposed project unless it determines that specific economic, legal, social, technological, or other considerations make the project alternative infeasible or the alternative would not meet the basic objectives of the project. The Final EIR considers the following alternatives to the Project.

No Project Alternative

The No Project alternative involves continued implementation of the City's current 2002 General Plan. This alternative is comprised of a land use pattern that reflects the land use identified in the existing 2002 General Plan. Under this alternative, the Project would not be adopted and the existing General Plan, including the land use map and all of the General Plan goals and policies, would remain in place through the horizon year of 2040. Thus, any new development in Union City would occur consistent with the existing land use designations and the allowed uses within each designation. Similarly, any new infrastructure in Union City would occur as envisioned in the 2002 General Plan.

Development under this alternative compared to the Project provides less infill residential development and less dense residential development on infill or undeveloped property within the City. This alternative would not include the Station East Mixed Use land use designation near the BART station. Instead, these properties would continue to be designated as Research and Development Campus. Because this alternative would not include the higher density and infill residential development within developed areas of the City or the Station East Mixed Use designation, overall development and anticipated growth would be reduced compared to the Project. Overall growth would be similar to that anticipated under the current 2002 General Plan with approximately 22,000 dwelling units and a population of approximately 78,257 in the year 2040. This would be a reduction in overall development and growth compared to the 2040 General Plan which anticipates approximately 24,813 dwelling units and a population of approximately 84,477. This alternative would generate 27,477 total jobs in Union City in 2040, whereas the Project would generate 37,233.

Reduced Density Alternative

The Reduced Density Alternative involves reducing the residential and non-residential development density facilitated by the Project such that approximately 50 percent fewer new housing units and new employment opportunities would be created. Development would occur within the same areas where development would occur under the Project, only at a reduced density. For example, the Project would accommodate an approximately 21 percent increase in the number of housing units in Union City, whereas the Reduced Density Alternative would accommodate an approximately 10.5 percent increase, or about 50 percent of that accommodated by the Project. This alternative is similar to No Project Alternative in that overall density would be less compared to the Project, thus accommodating a smaller

population in 2040. However, the Reduced Density Alternative would allow for increased density compared to the No Project Alternative.

Enhanced Employment Alternative

The Enhanced Employment Alternative involves implementation of the same policies and land use designations as the Project, with the exception of the designations within the Greater Station District, Union City Boulevard, and Horner/Veasby focus areas of the City. The Enhanced Employment Alternative would reprogram these three focus areas to emphasize a mix of commercial, office, and industrial land uses which are employment generating development. This alternative would designate some areas east of the Union Pacific railroad tracks in the Greater Station District for office and commercial development and retain others for research and development. Station East would be designated for office and employment generating uses and would not include residential designations under this alternative. The Enhanced Employment Alternative also includes intensification of the existing commercial centers at Alvarado-Niles Road and Decoto Road with employment and commercial uses. Union City Boulevard would retain its Special Industrial land use designation on the west side as well as retail commercial, similar to the Project. However, unlike the Project, this alternative would accommodate only retail commercial, office and employment generating uses, without the potential for residential components, on the east side of Union City Boulevard. Horner-Veasby would retain its planned industrial use for areas west of Whipple Road, but the site west of Whipple Road would not be designated for low-density residential. Instead, this alternative would designate the site west of Whipple Road as industrial, commercial, or other employment generating uses.

Because this alternative places more emphasis on employment growth and less on residential development compared with the proposed General Plan, it would accommodate a smaller population in Union City in 2040. There would be a smaller population and fewer housing units within Union City in 2040, but there would be more jobs and employment opportunities within the City compared to the Project. Additional employment opportunities under this alternative would increase the number of local jobs for Union City residents and would thus lower commute distances and VMT compared to the Project.

Finding

The mitigation measures and project alternatives identified in the EIR are infeasible for specific economic, legal, social, technological or other considerations, or fail to fulfill the basic objectives of the 2040 General Plan. Those considerations include the 2040 General Plan's facilitation of future infill residential and commercial development and other considerations described herein.

Facts in Support of Finding

The No Project Alternative would involve less growth and development than the Project and would also not include goals and policies that would reduce environmental impacts, specifically policies related to noise, energy efficient development, and transit-oriented land use development. The No Project Alternative would result in increased impacts for energy, land use and planning, and GHGs. Further, the No Project Alternative would not eliminate the significant and unavoidable GHG emissions and transportation impacts and the City's Climate Action Plan would still need to be updated under this alternative. Although traffic impacts would be slightly reduced due to less development, traffic impacts would remain significant and unavoidable. The significant and unavoidable noise impact would not be reduced under this alternative because although overall development would be reduced construction noise and vibration may still exceed City standards. Finally, the No Project Alternative would not fulfill the

basic objectives of the 2040 General Plan, as outlined above under the *Description of the 2040 Union City General Plan Update*, including the goal of facilitating infill commercial and residential development in certain areas.

The Reduced Density Alternative, performs similar or better to the Project for all of the environmental resource impact areas. This alternative would result in less intensive development in both residential and non-residential areas within the City, reducing both population growth and employment opportunities compared to the Project. Therefore, the Reduced Density Alternative would result in fewer impacts to the majority of issue areas including aesthetics, air quality, energy, geology and soils, hazards and hazardous materials, hydrology and water quality, population and housing, public services, and utilities and service systems. The Reduced Density Alternative would not eliminate the significant and unavoidable traffic impact even though this alternative would reduce project traffic on area roadway segments by 50 percent, thus substantially reducing traffic impacts. Similarly, this alternative would lessen but not eliminate the significant and unavoidable GHG emission impact because the service population per year threshold would be exceeded under this alternative and the City's Climate Action Plan would still need to be updated. In addition, the significant and unavoidable noise impact would occur under this alternative because construction noise and vibration impacts may still exceed City standards.

The Enhanced Employment Alternative, would perform similar or better than the Project for all issue areas. This alternative would reduce population growth while increasing employment opportunities within the City. Therefore, the Enhanced Employment Alternative would result in fewer impacts to some issue areas including air quality, energy, population and housing, traffic, and utilities and service systems. Impacts would be similar to the Project for all other issue areas. In addition, this alternative would substantially reduce, but not eliminate, the significant and unavoidable traffic impact because it would reduce commuter work trip lengths and encourage alternative methods of transportation. In addition, the Enhanced Employment Alternative would reduce but not eliminate the significant and unavoidable GHG emission impact because the City's Climate Action Plan would still need to be updated. Finally, this alternative would not reduce the significant and unavoidable noise impact because the amount of development would be similar under this alternative as the Project and construction noise and vibration impacts may still exceed City standards.

Although both the Reduced Density and Enhanced Employment alternatives would be superior to the Project in a reduction of impacts overall, both alternatives would not fully meet the objectives/guiding principles of the 2040 General Plan. The Reduced Density Alternative would reduce new housing development and limit employment opportunities and therefore would not meet the project objectives of facilitating housing and economic development in certain areas. The Enhanced Employment Alternative would focus on employment opportunities and would reduce housing development such that this alternative would not meet the project objective for housing. For these reasons, none of the alternatives will fully meet the City's guiding principles and objectives for the Project, as outlined above under the *Description of the 2040 Union City General Plan Update*. For this reason and because neither alternative would completely avoid the Project's significant impacts, neither alternative is considered feasible.

STATEMENT OF OVERRIDING CONSIDERATIONS

Section 15093 of the *CEQA Guidelines* requires lead agencies to adopt a Statement of Overriding Considerations if they elect to approve a project that has significant and unavoidable environmental impacts. As noted above, the Project would have significant and unavoidable impacts related to aesthetics, GHG emissions/climate change, noise, and transportation. The City Council has carefully considered each significant unavoidable project impact in reaching its decision to approve the project. Even with mitigation, the City Council recognizes that implementation of the Project carries with it

unavoidable adverse environmental effects, as identified in the EIR. The City Council specifically finds that, to the extent that the identified significant adverse impacts for the Project have not been reduced to acceptable levels through feasible mitigation or alternatives, there are specific economic, legal, social, technological or other benefits that outweigh the project's significant unavoidable impacts and support approval of the project. As such, the City has identified the following overriding considerations that explain why the Project's benefits outweigh these significant environmental impacts:

- The 2040 General Plan updates outdated policies in a manner that meets current legal requirements for General Plans, including recently adopted state requirements related to complete streets, climate resiliency, and environmental justice.
- The 2040 General Plan provides a more user-friendly document that will make use of the General Plan easier for decision makers, staff, and the public.
- The 2040 General Plan reflects current community goals and preferences as identified during a five-year public outreach process.
- The 2040 General Plan is designed to achieve the overall community goals of providing:
 - Economic development to promote Union City as a civic, cultural and economic destination and facilitate new economic development opportunities
 - A healthy and safe way of life in Union City, while attracting and retaining accessible, affordable and quality health services and facilities
 - Maintenance of a balanced mix of residential, employment, and commercial uses to ensure livable, healthy and well-designed neighborhoods that are walkable and bicycle friendly
 - Higher-density developments and promoting infill and reuse
 - Enhanced gateways into the community and ensuring new development that respects the community's natural scale and character of existing neighborhoods
 - A mix of housing types and affordability to promote a diversity of household types and housing choices
 - A balanced, integrated, multimodal transportation system that is efficient and safe, incorporating a complete streets concept and provides a variety of transportation choices that promote alternatives to the automobile
 - Reduction of GHG emissions to help achieve reduction goals to address climate change, and continue to promote sustainable levels of energy, water, and resource consumption
 - Greater public access and use of city and regional open space and recreational areas
 - Improved public safety by increasing coordination among residents and business and City Departments to address security issues and maintain a safe community
 - Quality public services, facilities, and infrastructure throughout the city

In order to achieve these objectives, the Project focuses on improving how residents get around, meeting community needs with available services, providing a greater sense of identity, adding housing options by promoting higher-density development and infill, and preserving established residential neighborhoods. For most of the City, the Project preserves the existing pattern of uses and establishes policies for protection and long-term maintenance of established neighborhoods. Generally, new development in accordance with the Project would result in re-use of properties, conversion of properties to different uses in response to market demand (e.g., select industrial to commercial), and more intense use of land in defined areas. The Project emphasizes bicycle connections and pedestrian-oriented focus areas and proposes activity nodes to help shape and distribute new development.

With limited opportunities for new development in Union City, the Project emphasizes infill and reuse development within the City limits, encourages higher-density and mixed use projects where appropriate, and supports development that compliments the existing natural and built environment. New development

would occur primarily where existing roads, water, and sewer are in place and in a manner that minimizes the impact of development on existing infrastructure and services.

For all of the above reasons, any one of which is sufficient to justify approval of the project, the benefits of the project outweigh its significant unavoidable environmental impacts.