

EXHIBIT C

FINDINGS CONCERNING SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, the City Council hereby makes these findings with respect to the potential for significant environmental impacts from adoption and implementation of the Bay Fair Transit Oriented Development (TOD) Specific Plan (the "project") and the means for mitigating those impacts. For the purpose of these findings, the term "EIR" means the Draft and Final EIR documents collectively, unless otherwise specified.

These findings do not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, the findings provide a summary description of each impact, describe the applicable mitigation measures identified in the EIR and adopted by the City, and state the findings on the significance of each impact after imposition of the adopted mitigation measures. The EIR contains a full analysis of each environmental impact, and explanation of the environmental findings and conclusions summarized below. These findings hereby incorporate by reference the discussion and analysis in the EIR that support the EIR determinations regarding significant project impacts and mitigation measures designed to address those impacts, except to the extent that any such determinations and conclusions are specifically modified by these findings. The facts supporting these findings are also found in the record as a whole for the project.

Impact AQ-1. Buildout of the proposed Specific Plan would result in the temporary generation of air pollutants during construction, which would affect local air quality. Compliance with the BAAQMD Basic Construction Mitigation Measures would require future projects within the Specific Plan Area to implement measures to reduce construction emissions. Impacts would be significant but mitigable. (Draft EIR p. 87)

Mitigation Measure AQ-2B-1 Construction Emissions: As part of the City's development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM₁₀ (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 BAAQMD CEQA Guidelines). (Draft EIR p. 88)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: MM AQ-2B-1 from the City's 2035 General Plan EIR would ensure that applicants for future projects in the Specific Plan Area include control measures to reduce construction-related emissions. With adherence to this measure, impacts related to air pollution emissions would be less than significant.

Impact BIO-1. Implementation of the proposed Specific Plan may result in impacts to special status plant and animal species. Impacts would be significant but mitigable. (Draft EIR p. 116)

Mitigation Measure BIO-1(A) Biological Resources Screening and Assessment: For projects within the Specific Plan Area that may affect sensitive biological resources, the project applicant or developer shall hire a City-approved biologist to perform a preliminary biological resource screening as part of the environmental review process to determine whether the project has any potential to impact biological resources. If it is determined that the project has no potential to impact biological resources, no further action is required. If the project would have the potential to impact biological resources, prior to construction, a City-approved biologist shall conduct a biological resources assessment (BRA) or similar type of study to document the existing biological resources within the project footprint plus a minimum buffer of 150 feet around the project footprint, as is feasible, and to determine the potential impacts to those resources. The BRA shall evaluate the potential for impacts to all biological resources including, but not limited to special status species, nesting birds, wildlife movement, sensitive plant communities, critical habitats, and other resources judged to be sensitive by local, state, and/or federal agencies. Pending the results of the BRA, design alterations, further technical studies (e.g., protocol surveys) and consultations with the USFWS, NMFS, CDFW, and/or other local, state, and federal agencies may be required. The following mitigation measures [B-1(b) through B-1(k)] shall be incorporated, only as applicable, into the BRA for projects where specific resources are present or may be present and significantly impacted by the project. Note that specific surveys described in the mitigation measures below may be completed as part of the BRA where suitable habitat is present. (Draft EIR p. 117)

Mitigation Measure BIO-1(B) Special Status Plant Species Surveys: If completion of the project-specific BRA determines that special status plant species may occur on-site, surveys for special status plants shall be completed prior to any vegetation removal, grubbing, or other construction activity (including staging and mobilization). The surveys shall be floristic in nature and shall be seasonally timed to coincide with the target species identified in the project-specific BRA. All plant surveys shall be conducted by a City-approved biologist between one year and six months before initial ground disturbance. All special status plant species identified on site shall be mapped onto a site-specific aerial photograph or topographic map with the use of Global Positioning System (GPS) unit. Surveys shall be conducted in accordance with the most current protocols established by the CDFW, USFWS, and the local jurisdictions if said protocols exist. A report of the survey results shall be submitted to the implementing agency, and the CDFW and/or USFWS, as appropriate, for review and/or approval. (Final EIR p. 39))

Mitigation Measure BIO-1(C) Special Status Plant Species Avoidance, Minimization, and Mitigation: If federally and/or state listed or CRPR List 1B or 2 species are found during special status plant surveys [pursuant to mitigation measure B-1(b)], then the project shall be re-designed to avoid impacting these plant species, where feasible. Rare plant occurrences that are not within the immediate disturbance footprint, but are located within 50 feet of disturbance limits shall have bright orange protective fencing installed at least 30 feet beyond their extent, or other distance as approved by a City-approved biologist, to protect them from harm. (Draft EIR p. 118)

Mitigation Measure BIO-1(D) Restoration and Monitoring: If special status plants species cannot be avoided and will be impacted by development under the Specific Plan, all impacts shall be mitigated by the project applicant at a ratio to be determined by the City in coordination with CDFW and USFWS (as applicable) for each species as a component of habitat restoration. A restoration plan shall be prepared by the project applicant and submitted to the City for review and approval. (Note: if a federally and/or state listed plant species will be impacted, the restoration plan shall be submitted to the USFWS and/or CDFW for review). The restoration plan shall include, at a minimum, the following components:

- Description of the project/impact site (i.e., location, responsible parties, areas to be impacted by habitat type).
- Goal(s) of the compensatory mitigation project [type(s) and area(s) of habitat to be established, restored, enhanced, and/or preserved; specific functions and values of habitat type(s) to be established, restored, enhanced, and/or preserved].
- Description of the proposed compensatory mitigation site (location and size, ownership status, existing functions and values).
- Implementation plan for the compensatory mitigation site (rationale for expecting implementation success, responsible parties, schedule, site preparation, planting plan).
- Maintenance activities during the monitoring period, including weed removal as appropriate (activities, responsible parties, schedule).
- Monitoring plan for the compensatory mitigation site, including no less than quarterly monitoring for the first year (performance standards, target functions and values, target acreages to be established, restored, enhanced, and/or preserved, annual monitoring reports).
- Success criteria based on the goals and measurable objectives; said criteria to be, at a minimum, at least 80 percent survival of container plants and 30 percent relative cover by vegetation type.
- An adaptive management program and remedial measures to address any shortcomings in meeting success criteria.
- Notification of completion of compensatory mitigation and agency confirmation.
- Contingency measures (initiating procedures, alternative locations for contingency compensatory mitigation, funding mechanism). (Final EIR pp. 39 to 40)

Mitigation Measure BIO-1(E) Endangered/Threatened Species Habitat Assessments and Protocol Surveys: Specific habitat assessments and survey protocols are established for several federally and state endangered or threatened species. If the results of the BRA determine that suitable habitat may be present for any such species, protocol habitat assessments/surveys shall be completed in accordance with CDFW and/or USFWS protocols prior to issuance of any construction permits. If through consultation with the CDFW and/or USFWS it is determined that protocol habitat assessments/surveys are not required, said consultation shall be documented prior to issuance of any construction permits. Each protocol has different survey and timing requirements. The applicants for each project shall be responsible for ensuring they understand the protocol requirements and shall hire a City-approved biologist to conduct protocol surveys. (Draft EIR p. 119)

Mitigation Measure BIO-1(F) Endangered/Threatened Species Avoidance and Minimization: The habitat requirements of endangered and threatened species are highly variable. The potential impacts from any given project implemented under the Specific Plan are likewise highly variable. However, there are several avoidance and minimization measures that can be applied for a variety of species to reduce the potential for impact, with the final goal of no net loss of the species. The following measures may be applied to aquatic and/or terrestrial species. The City shall select from these measures as appropriate and the project applicant shall be responsible for implementing selected measures.

- Ground disturbance shall be limited to the minimum necessary to complete the project. The project limits of disturbance shall be flagged. Areas of special biological concern within or adjacent to the limits of disturbance shall have highly visible orange construction fencing installed between said area and the limits of disturbance.
- All projects occurring within/adjacent to aquatic habitats (including riparian habitats and wetlands) shall be completed between April 1 and October 31, if feasible, to avoid impacts to sensitive aquatic species.

- All projects occurring within or adjacent to sensitive habitats that may support federally and/or state listed endangered/threatened species shall have a CDFW- and/or USFWS-approved biologist present during all initial ground disturbing/vegetation clearing activities. Once initial ground disturbing/vegetation clearing activities have been completed, said biologist shall conduct daily pre-activity clearance surveys for endangered/threatened species. Alternatively, and upon approval of the CDFW and/or USFWS, said biologist may conduct site inspections at a minimum of once per week to ensure all prescribed avoidance and minimization measures are fully implemented.
- No endangered/threatened species shall be captured and relocated without express permission from the CDFW and/or USFWS.
- If at any time during construction of the project an endangered/threatened species enters the construction site or otherwise may be impacted by the project, all project activities shall cease. A CDFW/USFWS-approved biologist shall document the occurrence and consult with the CDFW and USFWS, as appropriate, to determine whether it was safe for project activities to resume.
- For all projects occurring in areas where endangered/ threatened species may be present and are at risk of entering the project site during construction, exclusion fencing shall be placed along the project boundaries prior to start of construction (including staging and mobilization). The placement of the fence shall be at the discretion of the CDFW/USFWS-approved biologist. This fence shall consist of solid silt fencing placed at a minimum of 3 feet above grade and 2 feet below grade and shall be attached to wooden stakes placed at intervals of not more than 5 feet. The fence shall be inspected weekly and following rain events and high wind events and shall be maintained in good working condition until all construction activities are complete.
- All vehicle maintenance/fueling/staging shall occur not less than 100 feet from any riparian habitat or water body. Suitable containment procedures shall be implemented to prevent spills. A minimum of one spill kit shall be available at each work location near riparian habitat or water bodies.
- No equipment shall be permitted to enter wetted portions of any affected drainage channel.
- If project activities could degrade water quality, water quality sampling shall be implemented to identify the pre-project baseline, and to monitor during construction for comparison to the baseline.
- If water is to be diverted around work sites, a diversion plan shall be submitted (depending upon the species that may be present) to the CDFW, RWQCB, USFWS, and/or NMFS for their review and approval prior to the start of any construction activities (including staging and mobilization). If pumps are used, all intakes shall be completely screened with wire mesh not larger than five millimeters to prevent animals from entering the pump system.
- At the end of each workday, excavations shall be secured with cover or a ramp provided to prevent wildlife entrapment.
- All trenches, pipes, culverts or similar structures shall be inspected for animals prior to burying, capping, moving, or filling.
- The CDFW/USFWS-approved biologist shall remove invasive aquatic species such as bullfrogs and crayfish from suitable aquatic habitat whenever observed and shall dispatch them in a humane manner and dispose of properly.
- Considering the potential for projects to impact federal and state listed species and their habitat, the City shall contact the CDFW and USFWS to identify mitigation banks within Alameda County during development of the proposed Specific Plan. Upon implementation of development projects included in the proposed Specific Plan, but on a project-by-project basis, if the results of the BRA determines that impacts to federal and state threatened or endangered species habitat are expected, the applicant shall explore species-appropriate mitigation bank(s) servicing the region for purchase of mitigation credits. (Final EIR pp. 40 to 41)

Mitigation Measure BIO-1(G) Non-listed Special Status Animal Species Avoidance and

Minimization: Several State Species of Special Concern may be impacted by development facilitated by the Specific Plan. The ecological requirements and potential for impacts is highly variable among these species. Depending on the species identified in the BRA, several of the measures identified under B-1(f) shall be applicable to the project. In addition, the City shall select measures from among the following to be implemented by the project applicant to reduce the potential for impacts to non-listed special status animal species:

- For non-listed special status terrestrial amphibians and reptiles, coverboard surveys shall be completed within three months of the start of construction. The coverboards shall be at least four feet by four feet and constructed of untreated plywood placed flat on the ground. The coverboards shall be checked by a City-approved biologist once per week for each week after placement up until the start of vegetation removal. All non-listed special status and common animals found under the coverboards shall be captured and placed in five-gallon buckets for transportation to relocation sites. All relocation sites shall be reviewed by the City-approved biologist and shall consist of suitable habitat. Relocation sites shall be as close to the capture site as possible but far enough away to ensure the animal(s) is not harmed by construction of the project. Relocation shall occur on the same day as capture. CNDDDB Field Survey Forms shall be submitted to the CDFW for all special status animal species observed.
- Pre-construction clearance surveys shall be conducted within 14 days of the start of construction (including staging and mobilization). The surveys shall cover the entire disturbance footprint plus a minimum 200-foot buffer, if feasible, and shall identify all special status animal species that may occur on-site. All non-listed special status species shall be relocated from the site either through direct capture or through passive exclusion (e.g., burrowing owl). A report of the pre-construction survey shall be submitted to the City for their review and approval prior to the start of construction.
- A City-approved biologist shall be present during all initial ground disturbing activities, including vegetation removal to recover special status animal species unearthed by construction activities.
- Upon completion of the project, a City-approved biologist shall prepare a Final Compliance Report documenting all compliance activities implemented for the project, including the pre-construction survey results. The report shall be submitted to the City within 30 days of completion of the project.
- If special status bat species may be present and impacted by the project, a City-approved biologist shall conduct, within 30 days of the start of construction, presence/absence surveys for special status bats in consultation with the CDFW where suitable roosting habitat is present. Surveys shall be conducted using acoustic detectors and by searching tree cavities, crevices, and other areas where bats may roost. If active roosts are located, exclusion devices such as netting shall be installed to discourage bats from occupying the site. If a roost is determined by a City-approved biologist to be used by a large number of bats (large hibernaculum), bat boxes shall be installed near the project site. The number of bat boxes installed will depend on the size of the hibernaculum and shall be determined through consultations with the CDFW. If a maternity colony has become established, all construction activities shall be postponed within a 500-foot buffer around the maternity colony until it is determined by a City-approved biologist that the young have dispersed. Once it has been determined that the roost is clear of bats, the roost shall be removed immediately. (Draft EIR pp. 120 to 121)

Mitigation Measure BIO-1(H) Pre-construction Surveys for Nesting Birds for Construction Occurring within Nesting Season: For projects that may result in removal of trees or vegetation that may contain a nesting bird, if feasible, construction activities should occur generally between

September 16 to January 31 (thus outside of the nesting season). However, if construction activities must occur during the nesting season (generally February 1 to September 15), surveys for nesting birds covered by the California Fish and Game Code and the Migratory Bird Treaty Act shall be conducted by a City-approved biologist no more than 14 days prior to vegetation removal. The surveys shall include the entire segment disturbance area plus a 200-foot buffer around the site. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to be determined by the City-approved biologist. The buffer shall be a minimum of 50 feet for non-raptor bird species and at least 150 feet for raptor species. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The buffer area(s) shall be closed to all construction personnel and equipment until the adults and young are no longer reliant on the nest site. A City-approved biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer. A report of these preconstruction nesting bird surveys shall be submitted by the project applicant to the City to document compliance within 30 days of its completion. (Draft EIR pp. 121 to 122)

Mitigation Measure BIO-1(I) Worker Environmental Awareness Program (WEAP): If potential impacts to special status species are identified by the BRA, prior to initiation of construction activities (including staging and mobilization), all personnel associated with project construction shall attend WEAP training, conducted by a City-approved biologist, to aid workers in recognizing special status resources that may occur in the Specific Plan Area. The specifics of this program shall include identification of the sensitive species and habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and mitigation measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. All employees shall sign a form documenting provided by the trainer indicating they have attended the WEAP and understand the information presented to them. The form shall be submitted to the City to document compliance. (Draft EIR p. 122)

Mitigation Measure BIO-1(J) Invasive Weed Prevention and Management Program: Prior to start of construction for projects occurring within or adjacent to sensitive habitats, as determined by the BRA, an Invasive Weed Prevention and Management Program shall be developed by a City-approved biologist to prevent invasion of native habitat by non-native plant species. A list of target species shall be included, along with measures for early detection and eradication. All disturbed areas shall be hydroseeded with a mix of locally native species upon completion of work in those areas. In areas where construction is ongoing, hydroseeding shall occur where no construction activities have occurred within six (6) weeks since ground disturbing activities ceased. If exotic species invade these areas prior to hydroseeding, weed removal shall occur in consultation with a City-approved biologist and in accordance with the restoration plan. Landscape species shall not include noxious, invasive, and/or non-native plant species that are recognized on the Federal Noxious Weed List, California Noxious Weeds List, and/or California Invasive Plant Council Lists 1, 2, and 4. (Draft EIR p. 122)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: Mitigation measures B-1(a) through (j) require that specific analyses and studies are performed to identify and evaluate project impacts to special status species potentially

affected by development facilitated by the proposed Specific Plan. Compliance with these mitigation measures and all existing state, local and/or federal regulations would reduce impacts to a less than significant level.

Impact BIO-3: Implementation of the proposed Specific Plan may result in impacts to federally protected wetlands. This impact would be significant but mitigable. (Draft EIR p. 123)

Mitigation Measure BIO-2 Jurisdictional Delineation: If potentially jurisdictional wetlands are identified by the BRA, a City-approved biologist shall complete a jurisdictional delineation. The jurisdictional delineation shall determine the extent of the jurisdiction for CDFW, USACE, and/or RWQCB, and shall be conducted in accordance with the requirement set forth by each agency. The result shall be a preliminary jurisdictional delineation report that shall be submitted to the implementing agency, USACE, RWQCB, and CDFW, as appropriate, for review and approval. If jurisdictional areas are expected to be impacted, then the RWQCB would require a Waste Discharge Requirements (WDRs) permit and/or Section 401 Water Quality Certification (depending upon whether or not the feature falls under federal jurisdiction). If CDFW asserts its jurisdictional authority, then a Streambed Alteration Agreement pursuant to Section 1600 et seq. of the California Fish and Game Code would also be required prior to construction within the areas of CDFW jurisdiction. If the USACE asserts its authority, then a permit pursuant to Section 404 of the Clean Water Act would likely be required. Furthermore, a compensatory mitigation program shall be implemented in accordance with Mitigation Measure BIO-1(D) and the measures set forth by the aforementioned regulatory agencies during the permitting process. (Draft EIR pp. 123-124)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: With implementation of BIO-2, potential impacts to the jurisdictional waters would be reduced to a less than significant level by obtaining proper permits and mitigating wetland loss as appropriate.

Impact BIO-4. Implementation of the proposed Specific Plan may impact the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors. This impact would be significant but mitigable. (Draft EIR p. 124)

Mitigation Measure BIO-3 Native Amphibian Protection: If construction within Estudillo Canal is planned in wetted areas a pre-construction survey shall be conducted for native amphibians. This survey shall be conducted by a City-approved biologist and shall document the species and life stages of amphibians found during the survey. If a significant number of non-listed species are found, they will be relocated outside of the work area prior to the start of construction. Wildlife exclusion fencing may be installed under the direction of the approved biologist to prevent wildlife from entering the work area during construction. If listed species are detected, measures BIO-1(f) and BIO-1(I) shall also be implemented. (Draft EIR p. 124)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: Mitigation measure BIO-3 would assure that potential impacts to native amphibian populations would be less than significant because measures would be taken to either avoid the impacts or minimize the impacts. Compliance with the above mitigation measure and existing state, local and/or federal regulations would reduce impacts to a less than significant level.

Impact CR-1. The Specific Plan Area is not known to contain buildings that are eligible for listing or listed as a historical resource. Nonetheless, development facilitated by the proposed Specific Plan has the potential to impact unknown historical resources and archaeological resources. Impacts would be less than significant with mitigation. (Draft EIR p. 142)

Mitigation Measure CR-1 Historical Built-Environment: At the time of application for discretionary land use permits or subdivisions that involve the demolition or alterations of buildings or structures greater than 50 years old, the project applicant shall retain a qualified historian or architectural historian to document and evaluate the historical significance of the affected buildings or structures. If it is determined that the project has no potential to impact historic resources, no further action is required. If such documentation and evaluation indicates that the building or structure qualifies as a significant historical resource, the resource shall be avoided and preserved in place if feasible. If avoidance is not feasible, further documentation or action to reduce impacts on historical resources shall be provided, including but not limited to archival quality photographs, measured drawings, oral histories, interpretive signage, and/or other measures including, potentially, alteration of the resource in accordance with Secretary of the Interior's standards or relocation of the resource.

Historical documentation shall be submitted for review and discretionary approval by the City prior to issuance of any permits for demolition or alteration of structures greater than 50 years old.

The City shall site inspect during grading and prior to occupancy clearance to ensure compliance with measures recommended through the historical documentation. (Final EIR p. 42)

Mitigation Measure CR-2 Archaeological Resources: At the time of application for discretionary land use permits or subdivisions that will involve grading, trenching, or other ground disturbance, the project applicant shall retain a qualified archaeologist meeting the Secretary of the Interior (SOI) standards in archaeology to complete a Phase 1 archaeological inventory of the project site. A Phase 1 archaeological inventory shall include an archaeological 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).

Prehistoric or historic archaeological remains so identified shall be avoided and preserved in place if where feasible. Where preservation is not feasible, the significance of each resource shall be evaluated for significance and eligibility to the CRHR. Phase 2 evaluation shall include any necessary archival research to identify significant historical associations as well as mapping of

surface artifacts, collection of functionally or temporally diagnostic tools and debris, and excavation of a sample of the cultural deposit to characterize the nature of the sites, define the artifact and feature contents, determine horizontal boundaries and depth below surface, and retrieve representative samples of artifacts and other remains.

Excavation at Native American sites shall be monitored by a geographically affiliated tribal representative as agreed upon in any formal consultation proceedings with the geographically affiliated tribe or as indicated by the NAHC. Cultural materials collected from the sites shall be processed and analyzed in the laboratory according to standard archaeological procedures. The age of the remains shall be determined using radiocarbon dating and other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards. The significance of the sites shall be evaluated according to the criteria of the CRHR. The results of the investigations shall be presented in a technical report following the standards of the California Office of Historic Preservation publication "Archaeological Resource Management Reports: Recommended Content and Format (1990 or latest edition)" (<http://ohp.parks.ca.gov/pages/1054/files/armr.pdf>). Upon completion of the work, all artifacts, other cultural remains, records, photographs, and other documentation shall be curated an appropriate curation facility. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant.

If the resources meet CRHR significance standards, the City shall ensure that all feasible recommendations for mitigation of archaeological impacts are incorporated into the final design and permits issued for development. Necessary data recovery excavation shall be carried out by a qualified archaeologist meeting the SOI standards for archaeology according to a research design reviewed and approved by the City prepared in advance of fieldwork and using appropriate archaeological field and laboratory methods consistent with the California Office of Historic Preservation Planning Bulletin 5 (1991), Guidelines for Archaeological Research Design, or the latest edition thereof.

As applicable, the final Phase 1 Inventory, Phase 2 Testing and Evaluation, or Phase 3 Data Recovery reports shall be submitted to the City prior to issuance of construction permit. Recommendations contained therein shall be implemented throughout all ground disturbance activities. (Draft EIR pp. 143 to 144)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: Implementation of Mitigation Measures CR-1 and CR-2 would minimize significant direct impacts to historic and unique archaeological resources to the maximum extent feasible. With mitigation, impacts to historical and archaeological resources would be less than significant.

Impact CR-2. Ground-disturbing activities associated with development facilitated by the proposed Specific Plan could result in damage to or destruction of paleontological resources. Impacts would be less than significant with mitigation. (Draft EIR p. 144)

Mitigation Measure CR-3 Paleontological Resources Assessment: For projects in the Specific Plan Area that would involve ground disturbance below five feet in undisturbed sediments, the

City shall require a paleontological assessment, and avoidance and/or mitigation for potential impacts to paleontological resources. Specific requirements include:

- a. Retain a Qualified Paleontologist. Prior to initial ground disturbance, the applicant shall retain a project paleontologist, defined as a paleontologist who meets the SVP standards for Qualified Professional Paleontologist, to direct all mitigation measures related to paleontological resources. A qualified paleontologist (Principal Paleontologist) is defined by the SVP standards as an individual with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, preferably northern California, and who has worked as a paleontological mitigation project supervisor for a least one year (SVP 2010).
- b. Paleontological Resources Assessment. Prior to any construction activity, a Qualified Professional Paleontologist should prepare a Paleontological Resources Assessment to identify the geologic units that may be impacted by project development, determine the paleontological sensitivity of geologic units within the project site using the Society of Vertebrate Paleontology standards (SVP 2010), assess potential for impacts to paleontological resources from development of the proposed project, and recommend mitigation measures to avoid or mitigate impacts to scientifically significant paleontological resources. The Paleontological Resources Assessment may also require a field survey, but this will need to be determined on a project-by-project basis. If the project paleontologist determines that sediments within a project site are sensitive for potentially significant paleontological resources, the following steps (CR-2c to g) should be taken prior to, during, and after construction activities.
- c. Paleontological Mitigation and Monitoring Program. Prior to construction activity a qualified paleontologist should prepare a Paleontological Mitigation and Monitoring Program to be implemented during ground disturbance activity for the proposed project. This program should outline the procedures for construction staff Worker Environmental Awareness Program (WEAP) training, paleontological monitoring extent and duration, salvage and preparation of fossils, the final mitigation and monitoring report, and paleontological staff qualifications.
- d. Paleontological Worker Environmental Awareness Program (WEAP). Prior to the start of construction, the project paleontologist or his or her designee, shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The WEAP shall be fulfilled at the time of a preconstruction meeting at which a qualified paleontologist shall attend. In the event of a fossil discovery by construction personnel, all work in the immediate vicinity of the find shall cease and a qualified paleontologist shall be contacted to evaluate the find before restarting work in the area. If it is determined that the fossil(s) is(are) scientifically significant, the qualified paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources.
- e. Paleontological Resource Construction Monitoring. Ground disturbing construction activities (including grading, trenching, foundation work and other excavations) in undisturbed sediments, below five feet, with high paleontological sensitivity should be monitored on a full-time basis by a qualified paleontological monitor during initial ground disturbance. The Paleontological Mitigation and Monitoring Program shall be supervised by the project paleontologist. Monitoring should be conducted by a qualified paleontological monitor, who is defined as an individual who has experience with collection and salvage of paleontological resources. The duration and timing of the monitoring will be determined by the project paleontologist. If the project paleontologist determines that full-time monitoring is no longer warranted, he or she may recommend that monitoring be reduced to periodic spot-checking or cease entirely. Monitoring would be reinstated if any new or unforeseen deeper ground disturbances are required and reduction or suspension would need to be reconsidered by the Supervising Paleontologist. Ground disturbing activity that does not occur in undisturbed sediments with high paleontological sensitivity would not require paleontological monitoring.

- f. Fossil Salvage. If fossils are discovered, the project paleontologist or paleontological monitor should recover them. Typically fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist should have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. Once salvaged, significant fossils should be identified to the lowest possible taxonomic level, prepared to a curation-ready condition and curated in a scientific institution with a permanent paleontological collection (such as the University of California Museum of Paleontology), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the project paleontologist.
- g. Final Paleontological Mitigation Report. Upon completion of ground disturbing activity (and curation of fossils if necessary) the qualified paleontologist should prepare a final mitigation and monitoring report outlining the results of the mitigation and monitoring program. The report should include discussion of the location, duration and methods of the monitoring, stratigraphic sections, any recovered fossils, and the scientific significance of those fossils, and where fossils were curated. (Draft EIR pp. 144 to 145)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: The implementation of Mitigation Measure CR-3 would reduce impacts to paleontological resources to a less than significant level by ensuring potential resources are identified and either further avoided or recovered.

Impact CR-4. Construction associated with individual projects that would as a result from pursuant to implementation of the proposed Specific Plan could involve ground-disturbing activities such as grading and surface excavation, which have the potential to unearth or adversely impact previously unidentified tribal cultural resources. Impacts would be less than significant with mitigation incorporated. (Draft EIR p. 147)

Mitigation Measure CR-4 Unanticipated Discovery of Tribal Cultural Resources: In the event that potential tribal cultural resources are identified during the implementation of the requirements under Mitigation Measure CR-2, the qualified expert performing the cultural resources study, along with the project applicant and the City, will contact California Native American tribe(s) that have expressed interest and begin or continue consultation procedures with that tribe(s). If, as a result of the consultation, the City determines that the resource is a tribal cultural resource and the proposed project will have a potentially significant impact, additional mitigation measures as discussed with the tribe to avoid or reduce impacts to the resource shall be required and implemented where feasible. (Draft EIR p. 147)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: Adherence to the consultation requirements of AB 52 and Mitigation Measure CR-4 would reduce potential impacts to tribal cultural resources to less than significant

by providing for the identification of tribal cultural resources and by requiring continued consultation efforts with local California Native American tribes.

IMPACT N-2: Construction activities associated with implementation of the proposed Specific Plan would intermittently generate high noise levels within and adjacent to the Specific Plan Area. However, buildout of the proposed Specific Plan would be restricted to the City’s allowed daytime hours and would be required to comply with mitigation measure NOI-4 in the 2035 General Plan EIR to minimize construction noise. Therefore, the impact from construction noise would be significant but mitigable. (Draft EIR p.253)

Mitigation Measure NOI-4: The City of San Leandro shall adopt the following measures as Standard Conditions of Approval or Construction Development Standards for new construction in the city. The Standard Conditions of Approval/Construction Development Standards shall include an exception that states that the Engineering & Transportation Director or his/her designee may waive individual measures upon individual written request from an Applicant after City review.

- Construction activities shall be restricted to the daytime hours of between 7:00 a.m. and 7:00 p.m. on weekdays, or between 8:00 a.m. and 7:00 p.m. on Sunday and Saturday.
- Prior to the start of construction activities, the construction contractor shall:
 - Maintain and tune all proposed equipment in accordance with the manufacturer’s recommendations to minimize noise emission.
 - Inspect all proposed equipment and fit all equipment with properly operating mufflers, air intake silencers, and engine shrouds that are no less effective than as originally equipped by the manufacturer.
 - Post a sign, clearly visible at the site, with a contact name and telephone number of the City of San Leandro’s authorized representative to respond in the event of a noise complaint.
 - Place stationary construction equipment and material delivery in loading and unloading areas as far as practicable from the residences.
 - Limit unnecessary engine idling to the extent feasible.
 - Use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters.
 - Use low-noise emission equipment.
 - Limit use of public address systems.
 - Minimize grade surface irregularities on construction sites. (Draft EIR p. 255)

Resulting Significance: Less than Significant

Finding: Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect identified in the EIR.

Rationale for Finding: Mitigation Measure NOI-4 would require future development projects to demonstrate that they would not produce excessive noise levels during construction.

Impact T-1: Increases in traffic in the Specific Plan Area under cumulative (year 2035) conditions compared to growth anticipated under the existing 2035 General Plan would cause intersection operating conditions to exceed one or more significance thresholds at three signalized study area intersections. Mitigation would reduce impacts at the Hesperian Boulevard/Halcyon Drive/Fairmount Drive and East 14th Street/Fairmount Drive

intersections. However, no feasible mitigation measures are available to reduce impacts at the Hesperian Boulevard/Thornally Drive intersection and the East 14th Street/Fairmont Drive intersection is within Caltrans control and the City cannot guarantee implementation of mitigation. Therefore, impacts at these intersections would be significant and unavoidable. (Draft EIR p. 320)

Mitigation Measure T-1: Hesperian Boulevard/Halcyon Drive/Fairmont Drive. The City of San Leandro shall implement a signal timing improvement project within the coordinated signal group for the intersection of Hesperian Boulevard and Halcyon Drive. The improvement shall occur when the proposed road diet on Hesperian Boulevard is implemented. (Draft EIR p. 329)

Mitigation Measure T-2: East 14th Street/Fairmont Drive. The City of San Leandro shall coordinate with Caltrans to implement a signal timing improvement project within the coordinated signal group for the intersection of East 14th Street and Fairmont Drive by funding actual cost. This mitigation measure is to occur when new projects within the Specific Plan Area generate a cumulative total of approximately 350 AM peak hour trips. (Draft EIR p. 329)

Resulting Significance: Less than significant at the intersection of Hesperian Boulevard/Halcyon Drive/Fairmont Drive. Significant and unavoidable at the intersections of East 14th Street/Fairmont Drive and Hesperian Boulevard/Thornally Drive.

Finding: Changes or alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental effect identified in the EIR at the intersection of Hesperian Boulevard/Halcyon Drive/Fairmont Drive. Changes or alterations have been required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental effect identified in the EIR at the intersection of East 14th Street/Fairmont Drive and Hesperian Boulevard/Thornally Drive, but not to a level of less than significant. There are no additional feasible mitigation measures and no feasible alternatives that avoid this significant effect. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures, as discussed in the summaries above and the Rationale below, or project alternatives identified in the EIR, as further addressed in Exhibit D, Alternatives Findings.

Rationale for Finding: Implementation of Mitigation Measure T-1 at the intersection of Hesperian Boulevard/Halcyon Drive/Fairmont Drive would reduce the V/C ratio to 0.04 above that of the Cumulative condition in the weekday PM peak hour. This would be below the City's threshold of a V/C increase of 0.05 or more. Therefore, the cumulative impact at the intersection of Hesperian Boulevard/Halcyon Drive/Fairmont Drive would be reduced to a less than significant level. Implementation of Mitigation Measure T-2 would reduce the V/C ratio at the intersection of East 14th Street/Fairmont Drive to that of the Cumulative condition in the weekday AM peak hour. However, because this intersection is under the jurisdiction of Caltrans, the implementation and timing of the mitigation measure is not under the City's control. Therefore, the impact at the intersection of East 14th Street/Fairmont Drive would remain significant and unavoidable. Addition of a northbound through lane at the intersection of Hesperian Boulevard/Thornally Drive would reduce the V/C ratio to within the standard. However, the available right-of-way at the intersection would not accommodate an additional through lane without removal of the bike lanes included as part of the street network improvements in the proposed Specific Plan. Therefore, an additional through lane would not be installed with implementation of the proposed Specific Plan and other feasible mitigation, such as trip reduction programs, could not be guaranteed to reduce impacts to a level below significance.

The impact at the intersection of Hesperian Boulevard/Thornally Drive would remain significant and unavoidable. The impact is significant and unavoidable and a Statement of Overriding Considerations is required in conjunction with approval of the project.

Impact T-2. Development facilitated by the proposed Specific Plan would increase traffic on CMP freeway and arterial segments under cumulative (year 2040) conditions. No significant impacts would occur at CMP freeway segments. However, with the proposed Specific Plan, four arterial segments would exceed one or more CMP thresholds. There are no feasible improvements that could be implemented within the available right-of-way of the significantly affected intersections that would reduce impacts. Therefore, impacts at these segments would be significant and unavoidable. (Draft EIR p. 330)

Resulting Significance: Significant and Unavoidable

Finding: There are no additional feasible mitigation measures and no feasible alternatives that avoid this significant effect. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures, as discussed in the Rationale below, or project alternatives identified in the final EIR, as further addressed in Attachment D, Alternatives Findings.

Rationale for Finding: Mitigation measures were identified in the TIA for intersections potentially impacted by the addition of traffic from the proposed Specific Plan. Opportunities for physical mitigation measures such as restriping of intersection approaches to add turn lanes and improving traffic control devices were investigated. The emphasis was to identify physical and/or operational improvements that could be easily implemented. Mitigation measures that were considered included modifications to intersection traffic control or restriping of the approaches to provide turn-lanes. These potential mitigation measures were either ineffective in reducing the impact to a level below significance or were determined to be infeasible based on the constrained right-of-way that precludes widening or the addition of vehicular capacity at this location. There are no feasible physical improvements that could be implemented within the available right-of-way of the significantly affected intersections that would reduce impacts. In addition, other feasible mitigation measures, such as trip reduction or TDM programs, were considered. However, Chapter 3, Mobility, of the proposed Specific Plan already includes TDM guidelines to encourage residential and employer TDM programs for new projects in the Specific Plan Area. Further, the effectiveness of TDM programs cannot be guaranteed. Therefore, it cannot be guaranteed TDM programs would reduce impacts to a level below significance. The impact is significant and unavoidable and a Statement of Overriding Considerations is required in conjunction with approval of the project.

Impact T-3. The proposed Specific Plan would not conflict with adopted policies, plans, or programs regarding public transit and would not degrade or decrease the performance of the BART system. However, because of the significant increase in vehicle delay at the intersection of Hesperian Boulevard and Thornally Drive as discussed under Impact T-1, buses would also experience significant operational delays approaching this intersection. Therefore, impacts to bus operation would be significant and unavoidable. (Draft EIR p. 335)

Resulting Significance: Significant and Unavoidable

Finding: There are no additional feasible mitigation measures and no feasible alternatives that avoid this significant effect. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures, as discussed in the Rationale below, or project alternatives identified in the final EIR, as further addressed in Attachment D, Alternatives Findings.

Rationale for Finding: Addition of a northbound through lane at the intersection would reduce the V/C ratio to within the standard and therefore would not significantly impact transit operations. However, the available right-of-way at the intersection would not accommodate an additional through lane without removal of the bike lanes included as part of the street network improvements in the proposed Specific Plan. Therefore, an additional through lane would not be installed with implementation of the proposed Specific Plan. In addition, other feasible mitigation measures, such as trip reduction or TDM programs, were considered. However, Chapter 3, Mobility, of the proposed Specific Plan already includes TDM guidelines to encourage residential and employer TDM programs for new projects in the Specific Plan Area. Further, the effectiveness of TDM programs cannot be guaranteed. Therefore, it cannot be guaranteed TDM programs would reduce impacts to a level below significance. The impact is significant and unavoidable and a Statement of Overriding Considerations is required in conjunction with approval of the project.