

EXHIBIT E

STATEMENT OF OVERRIDING CONSIDERATIONS

General. The City is considering approval of the Bay Fair Transit Oriented Development (TOD) Specific Plan (“project”). Pursuant to CEQA Guidelines section 15093, the City Council must adopt a Statement of Overriding Considerations for the significant and unavoidable impacts of the project in connection with approval of the project. The City Council believes that many of the unavoidable environmental effects identified in the EIR will be substantially lessened by mitigation measures adopted with the EIR and implemented with future development under the project. Even with mitigation, the City Council recognizes that the implementation of the project carries with it significant and unavoidable environmental effects, as identified in the EIR.

The following significant unavoidable environmental impacts were identified in the EIR.

- 1) 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/Fairmont Drive and East 14th Street/Fairmont 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.
- 2) 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.
- 3) 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.

Overriding Considerations

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, including region-wide or statewide environmental benefits that outweigh the project's significant unavoidable impacts and support approval of the project. Any one of these benefits as set forth below is sufficient to justify approval of the project. The substantial evidence supporting the various benefits is in the record as a whole.

The Project would provide several public benefits as described below.

1. *Promotion of Transit-Oriented Development:* The Project establishes a 20 year long-term “vision for a sustainable, vibrant, walkable, and safe transit-oriented village with a diversity of land uses serving residents, workers, and visitors.” The Project would allow for TOD development in the Specific Plan Area and would make progress towards meeting State and regional goals for TOD development. TOD has the potential to help transform regional land use and transportation landscape towards a more sustainable, multimodal, and low-carbon design. These transit-oriented planning policies are also climate action strategies that can assist local jurisdictions in achieving state and regional environmental and sustainability goals to reduce carbon and other greenhouse gas (GHG) emissions.
2. *Increased Transit Ridership:* The Project would place business and housing next to the Bay Fair BART station, increasing transit ridership. Public transit offers a potential alternative to driving. Public transit improvements can also result in other benefits, including reduced traffic crashes, improved physical fitness and health, energy conservation, increased community livability, increased affordability, and economic development.
3. *Provision of Local Jobs and Increased Sales Tax Base:* The Project would allow for commercial and residential development in the Specific Plan Area that would provide local jobs and increase the City's sales tax base.
4. *General Plan Implementation:* The Project would implement the 2035 General Plan's vision for the Specific Plan Area as outlined in General Plan policy LU-8.10, and Actions LU-8.10.A through 8.10C.
5. *Establish the Specific Plan Area as a Recognized Priority Development Area (PDA):* MTC/ABAG previously recognized the Downtown TOD and East 14th Street corridor (excluding the Specific Plan Area) as PDAs, but the Specific Plan Area does not yet have the PDA designation. Key benefits for PDA areas are CEQA streamlining and access to a variety of federal, State and regional funding sources. Upon completion of the Project, the Specific Plan Area could become a recognized PDA.
6. *Increased Connectivity, Bikeability, and Walkability:* The policies and guidelines in the Specific Plan would increase opportunities for connectivity in the Specific Plan Area, increase walkability, and promote alternatives to car travel, especially bicycle and pedestrian facilities.
7. *Promotion of Mixed Uses:* The Project promotes a mix of uses in the Specific Plan Area. Mixed use areas with commercial, office and residential uses are increasingly seen as ways to ensure more sustainable development over time. Fewer trips may be

needed during the course of a normal day, and with a mix of uses available, the trips may be shorter.

8. *Improve Mobility for all Modes along Existing Major Streets.* The Project outlines a series of multi-modal improvements such as adding bicycle lanes, reducing vehicle travel lanes, creating new street and a pedestrian path network to improve connectivity throughout the Plan Area.
9. *Strengthen New Connections to BART.* The Project would provide better connectivity in the Plan Area to the BART station and all users including vehicles, transit users, pedestrians and bicyclists, but with priority for pedestrians and bicyclists.
10. *Create Special, Memorable Public Places and Open Spaces.* The Project includes policies to create attractive public spaces that are accessible to people in various life stages (including households with kids, teens, seniors, and persons with physical disabilities).

Overall, the Project provides a comprehensive set of policies, programs, and aspirations to achieve the vision of the City's 2035 General Plan, as well as the objectives identified in the project EIR.

For all of the above reasons, the benefits of the project outweigh its significant unavoidable environmental impacts to transportation systems.