FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

FOR THE

MOSSDALE LANDING WEST SPECIFIC PLAN

APRIL 2025

Prepared for:

City of Lathrop, Community Development Department
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FINDINGS FOR THE
MOSSDALE LANDING WEST SPECIFIC PLAN

REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, § 21000 et seq.)

I. INTRODUCTION

The California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) requires the City of Lathrop (City), as the CEQA lead agency, to: 1) make written findings when it approves a project for which an environmental impact report (EIR) was certified, and 2) identify overriding considerations for significant and unavoidable impacts identified in the EIR. (Pub. Resources Code, § 21081.)

This document explains the City's findings regarding the significant and potentially significant impacts identified in the environmental impact report (EIR) prepared for the Mossdale Landing West Specific Plan (Specific Plan or Project) and the City decision-makers' ultimate determinations of the feasibility of the project alternatives considered in the EIR. The statement of overriding considerations in Section VII, below, identifies the economic, social, technical, and other benefits of the Project that the City decision-makers have determined should override any significant environmental impacts that would result from the Project.

As required under CEQA, the Final EIR describes the Project, adverse environmental impacts of the Project, and mitigation measures and alternatives that would substantially reduce or avoid those impacts. The information and conclusions contained in the EIR reflect the City's independent judgment.

The Final EIR (which includes the Draft EIR, comments, responses to comments, and revisions to the Draft EIR) for the Project, examined the proposed Project and three alternatives to the Project including: (1) No Project (No Build) Alternative; (2) Increased Density Alternative; and (3) Lower Density Alternative.

The Findings and Statement of Overriding Considerations are presented for adoption by the City Council, as the City's findings under CEQA and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) relating to the Project. The Findings provide the written analysis, substantial evidence, and conclusions of this City Council regarding the Project's environmental impacts, mitigation measures, and alternatives to the Project, as well as the overriding considerations, which in this City Council's view, justify approval of the Project, despite its environmental effects.

II. GENERAL FINDINGS AND OVERVIEW

Project Overview

The Project site includes two distinct planning boundaries defined below. The following terms are used throughout this Draft EIR to describe the planning boundaries within the Project site:

- **Mossdale Landing West Specific Plan Area (Specific Plan Area, Plan Area, or Project site)** – totals 225.86 acres and includes the whole of the Project, including the proposed 167.42-acre Development Area, and land along the San Joaquin River (which would not be developed as part of the proposed Project).
- **Development Area** – includes 167.42 acres that is intended for development.

The Specific Plan Area is comprised of the following APNs:

- 191-190-74;
- 191-190-75;
- 191-190-76;
- 191-190-77;
- 191-190-78;
- 191-340-03;
- 191-610-02;
- 191-610-22;
- 191-620-50; and
- 191-620-59.

The majority of the Plan Area is currently undeveloped. There is a two-story single-family residential structure east of River Islands Parkway near the San Joaquin River. There are approximately six other structures associated with the residence, such as a barn structure and shed structures. Surrounding land uses include the San Joaquin River and associated tributaries to the north, west, and south, vacant agricultural land San Joaquin County to the north and west, Mossdale Landing, a mixed use master planned community with largely single-family residences in the Project vicinity to the east, and single-family residential uses to the west and south.

The Mossdale Landing West Specific Plan would include the construction and associated operation of up to 912 residential units with associated park, circulation, and utility improvements over five phases. The Mossdale Landing West Specific Plan is based upon the Mossdale Village plan and policies presented in the West Lathrop Specific Plan (WLSP), which is consistent with the City of Lathrop's General Plan.

The underlying purpose of the proposed Project is the approval and subsequent implementation of the Specific Plan as a means of increasing the housing supply in San Joaquin County and the State of California.

Refer to EIR Chapter 2.0, Project Description, for a more complete description of the details of the proposed Project.

PROCEDURAL BACKGROUND

Notice of Preparation Public Circulation: The City of Lathrop circulated a NOP of an EIR for the proposed Project on March 22, 2024 to State Clearinghouse, State Responsible Agencies, State Trustee Agencies, Other Public Agencies, and Organizations and Interested Persons. A public scoping meeting was held on April 3, 2024 to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. Concerns raised in response to the NOP were considered during preparation of the Draft EIR. The IS and NOP comments are presented in Appendix A of the Draft EIR. The commenters are provided below.

- California Department of Conservation (April 17, 2024);
- California Department of Transportation (April 22, 2024);
- Central Valley Regional Water Quality Control Board (April 22, 2024);
- Native American Heritage Commission (March 25, 2024);
- Pacific Gas and Electric Company (March 27, 2024);
- Pacific Gas and Electric Company (May 8, 2024);
- San Joaquin Council of Governments, Inc. (March 27, 2024);
- San Joaquin County Environmental Health Department (April 8, 2024); and
- San Joaquin Valley Air Pollution Control District (April 24, 2024).

Notice of Availability and Draft EIR: The City published a public Notice of Availability (NOA) for the Draft EIR on January 9, 2025 inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2024030835) and the County Clerk, and was published in a local newspaper pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review and comment from January 9, 2025 through February 24, 2025.

The Draft EIR contains a description of the Project, description of the environmental setting, identification of Project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of Project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less-than-significant impact, and provides detailed analysis of potentially significant and significant impacts. Comments received in response to the NOP were considered in preparing the analysis in the Draft EIR.

Final EIR: During the Draft EIR comment period, the City received eight comment letters regarding the Draft EIR from public agencies and other parties. In accordance with CEQA Guidelines Section 15088, the Final EIR responds to the comments received during the public review periods for the Draft EIR. The Final EIR also contains minor edits to the Draft EIR, which are included in Chapter 3.0, Errata.

The commenters are provided below.

- California Department of Conservation (February 4, 2025);

- California Department of Transportation (February 20, 2025);
- Manteca Unified School District (February 6, 2025);
- Pacific Gas and Electric Company (January 13, 2025);
- Resident (February 20, 2025);
- San Joaquin Council of Governments, Inc. (January 14, 2025);
- San Joaquin County Environmental Health Department (January 22, 2025); and
- Pacific Gas and Electric Company (February 27, 2025).

The comments received did not provide evidence of any new significant impacts or "significant new information" that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5.

RECORD OF PROCEEDINGS AND CUSTODIAN OF RECORD

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's findings and determinations consists of the following documents and testimony, at a minimum:

- The NOP, comments received on the NOP, and all other public notices issued by the City in relation to the Project (e.g., NOA).
- The Draft EIR, and Final EIR, including comment letters, and technical materials cited in the documents.
- All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants in relation to the EIR.
- Minutes and transcripts of the discussions regarding the Project and/or Project components at public hearings held by the City.
- Staff reports associated with City Council meetings on the Project.
- Those categories of materials identified in Public Resources Code § 21167.6(e).

The City Clerk is the custodian of the administrative record. The documents and materials that constitute the administrative record are available for review at the City of Lathrop, Community Development Department, 390 Towne Centre Drive, Lathrop, CA 95330 or online at:

https://www.ci.lathrop.ca.us/com-dev/page/public-review-documents

FINDINGS REQUIRED UNDER CEQA

Public Resources Code § 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" Further, the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." (*Id*.) Section 21002 also provides that "in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The mandate and principles established by the Legislature in Public Resources Code § 21002 are implemented, in part, through the requirement in Public Resources Code § 21081 that agencies must adopt findings before approving projects for which an EIR is required.

CEQA Guidelines § 15091 provides the following direction regarding findings:

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

(See also Public Resources Code, § 21081, subd. (a)(1)-(3).)

As defined by CEQA, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. (Pub. Resources Code, § 21061.1; see also CEQA Guidelines, § 15126.6(f)(1) [determining the feasibility of alternatives].) The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (See *Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1400 [court upholds findings rejecting a "reduced herd" alternative to a proposed dairy as infeasible because the alternative failed to meet the "fundamental objective" of the project to produce milk]; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1508 [agency decision-makers, in rejecting alternatives as infeasible, appropriately relied on project objective articulated by project applicant].) Moreover, "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors." (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; *see also California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002.)

With respect to a project for which significant impacts cannot be feasibly avoided or substantially lessened, a public agency may nevertheless approve the project if the agency first adopts a

statement of overriding considerations setting forth the specific reasons that the project's benefits outweigh its significant unavoidable adverse environmental effects. (Pub. Resources Code, §§ 21001, 21002.1(c), 21081(b).)

CEQA Guidelines § 15093 provides the following direction regarding a statement of overriding considerations:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to § 15091.

MITIGATION MONITORING PROGRAM

A Mitigation Monitoring Program has been prepared for the Project and, if the Project is approved, will be adopted concurrently with these Findings. (See Pub. Resources Code, § 21081.6, subd. (a)(1).) The City will use the Mitigation Monitoring Program to track compliance with Project mitigation measures.

CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT

In adopting these Findings, this City Council finds that the Final EIR was presented to this City Council, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the Project. By these findings, this City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final EIR. The City Council finds that the Final EIR was completed in compliance with CEQA. The Final EIR represents the independent judgment of the City.

SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

A. AGRICULTURAL RESOURCES

1. IMPACT 3.2-1: THE PROPOSED SPECIFIC PLAN WOULD RESULT IN THE CONVERSION OF FARMLANDS, INCLUDING PRIME FARMLAND, UNIQUE FARMLAND, AND FARMLAND OF STATEWIDE IMPORTANCE, AS SHOWN ON THE MAPS PREPARED PURSUANT TO THE FARMLAND MAPPING AND MONITORING PROGRAM OF THE CALIFORNIA RESOURCES AGENCY, TO NON-AGRICULTURAL USES.

   (a) Potential Impact. The potential for the Project to result in the conversion of Farmlands, including Prime Farmland, Unique Farmland, and Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses is discussed on pages 3.2-13 through 3.2-17 of the Draft EIR.

   (b) Mitigation Measures. 3.2-1.

   (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:

      (1) Remaining Impacts. Development of the Development Area would result in the permanent conversion of approximately 137.08 acres of Prime Farmland and 19.88 acres of Farmland of Statewide Importance, as shown on Figure 3.2-1, to nonagricultural use. It is noted that all land outside of the Development Area, but within the Project site, would not be converted to non-agricultural uses under the proposed Project. The loss of the 137.08 acres of Prime Farmland and 19.88 acres of Farmland of Statewide Importance would be a potentially significant environmental impact.

      Chapter 3.40 of the Municipal Code establishes the City's Agricultural Mitigation Fee Program, which authorizes the collection of development impact fees to offset costs associated with the loss of productive agricultural lands converted for urban uses within the City. The City’s agricultural mitigation fee program requires that future

development pay the agricultural mitigation fee, currently $3,523 per acre[1], to mitigate the conversion of agricultural land to urban use. The City will use these funds to purchase conservation easements or deed restrictions on agricultural land to ensure that the land remains in agricultural use in perpetuity. In addition to the City's agricultural mitigation fee program, the SJMSCP requires development to pay fees on a per-acre basis for impacts to agricultural lands that function as habitat for biological resources.

Mitigation Measure 3.2-1 requires participation in the City's Agricultural Mitigation Fee Program. While the implementation of this mitigation measure would assist in preserving farmland, the proposed Project would still result in the permanent conversion and loss of approximately 137.08 acres of Prime Farmland and 19.88 acres of Farmland of Statewide Importance within San Joaquin County. The use of these funds to purchase conservation easements on agricultural lands to fulfill the compensatory mitigation by the Central Valley Farmland Trust is required by the City's Agricultural Mitigation Fee Program. Thus, Mitigation Measure 3.2-1 is necessary to satisfy legal obligations originating outside of CEQA. The City recognizes, however, that, as the court explained in the King decision, these measures do not create any new farmland to offset the loss of farmland attributable to the Project. For this reason, Impact 3.2-1 will remain significant and unavoidable after mitigation.

(2) Changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided, the City Council finds that specific economic, social, policy-based, and other considerations identified in the Statement of Overriding Considerations support approval of the project.

(3) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with impacts to Important Farmland, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

2. IMPACT 3.2-2: THE PROPOSED PROJECT HAS THE POTENTIAL TO CONFLICT WITH EXISTING ZONING FOR AGRICULTURAL USE, OR WILLIAMSON ACT CONTRACTS.

(a) Potential Impact. The potential for the Project to conflict with existing zoning for agricultural use, or Williamson Act Contracts is discussed on pages 3.2-17 and 3.2-18 of the Draft EIR and determined to be significant.

[1] City of Lathrop. *Capital Facilities Fee Schedule, effective August 26, 2024.*

(b) Mitigation Measures. None feasible.

(c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:

(1) Remaining Impacts. The entire Development Area is under active Williamson Act contracts; however, notices of non-renewal have been filed for all parcels in the Development Area. Most recently, a notice of non-renewal for the northern and southeastern portions of Assessor Parcel Number (APNs) 191-190-74 and 191-190-75 (formerly APNs 191-19-010 and -720) was filed on November 29, 2021. The Williamson Act contracts have a 10-year term that is automatically renewed each year, unless the property owner requests a non-renewal or the contract is cancelled. As of April 2025, the Wiliamson Act cancellation request filed for the northern and southeastern portions of APNs 191-190-74 and 191-190-75 (formerly APNs 191-19-010 and -720) on November 29, 2021 has not been approved.

The Project includes a Williamson Act contract cancellation request. It is anticipated that a tentative Williamson Act cancellation will be included in the entitlement requests made to the City's Planning Commission and City Council. Pursuant to Lathrop Municipal Code Section 17.1280.070, required findings specified in Government Code, Article 5, Section 51282, and where applicable, in Section 21081 of the Public Resources Code, must be made. The findings will also be included in the entitlement requests made to the City's Planning Commission and City Council.

The impact of removing the property from the Williamson Act contract is taken into account when considering the impacts associated with the loss of farmland within San Joaquin County. For these reasons, implementation of the proposed Project would have a significant and unavoidable impact relative to this topic.

(2) Changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided, the City Council finds that specific economic, social, policy-based, and other considerations identified in the Statement of Overriding Considerations support approval of the project.

(3) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with impacts to Williamson Act contracts, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

3. IMPACT 4.5: CUMULATIVE IMPACT ON AGRICULTURAL RESOURCES.

(a) Potential Impact. The potential for the Project to have a cumulative impact on the agricultural resources is discussed on pages 4.0-8 and 4.0-9 of the Draft EIR.

(b) Mitigation Measures. None feasible.

(c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:

(1) Remaining Impacts. As described previously, development of the proposed Project would result in a conversion of 137.08 acres of Prime Farmland and 19.88 acres of Farmland of Statewide Importance to nonagricultural uses. Development under the proposed Project inherently involves the conversion of high-quality agricultural land. Mitigation Measure 3.2-1 requires participation in the City's Agricultural Mitigation Fee Program. While the implementation of this mitigation measure would assist in preserving farmland, the proposed Project would still result in the permanent conversion and loss of approximately 137.08 acres of Prime Farmland and 19.88 acres of Farmland of Statewide Importance within San Joaquin County.

Additionally, the entire Plan Area falls under the Williamson Act and will require existing contracts to go through the process of cancellation and non-renewal. The Williamson Act cancellation process cannot occur until after the properties are annexed to the City of Lathrop. For these reasons, cumulative impacts related to agricultural resources would be significant, and the proposed Project's contribution to those impacts would be cumulatively considerable and significant and unavoidable.

(2) Changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided, the City Council finds that specific economic, social, policy-based, and other considerations identified in the Statement of Overriding Considerations support approval of the project.

(3) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with cumulative impacts to agricultural resources, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

B. UTILITIES AND SERVICE SYSTEMS

1. IMPACT 3.14-2: THE PROPOSED PROJECT WOULD NOT HAVE SUFFICIENT WATER SUPPLIES AVAILABLE TO SERVE THE PROJECT AND REASONABLY FORESEEABLE FUTURE DEVELOPMENT DURING NORMAL, DRY AND MULTIPLE DRY YEARS.

(a) Potential Impact. The potential for the Project to have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years is discussed on page 3.14-14 through 3.14-18 of the Draft EIR.

(b) Mitigation Measures. None feasible.

(c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:

(1) Remaining Impacts. The total projected water supplies determined to be available in normal years will meet the City's existing and planned future uses, including those associated with the Proposed Project through 2040. However, supply shortfalls of three percent (450 AF) are projected to occur in 2045 for single dry years and the third and fourth years of a multiple dry year period. If supply shortfalls do occur, the City expects to meet these supply shortfalls through water demand reductions and other shortage response actions by implementing its Water Shortage Contingency Plan (WSCP), which can be enacted upon City Council declaration.

The technical analyses shows that the total projected water supplies determined to be available for the proposed Project during normal, single dry, and multiple dry years through 2040 will meet the projected water demand associated with the proposed Project, in addition to existing and planned future uses. However, supply shortfalls of three percent (450 AF) are projected to occur in 2045 for single dry years and the third and fourth years of a multiple dry year period. It should be noted that similar to Project conditions, under existing conditions (i.e., without Project implementation), the 2020 UWMP projects that the City will experience supply shortfalls (314 AF or two percent) in 2045 during single dry years and third and fourth years of a multiple dry year period. If supply shortfalls do occur, the City expects to meet these supply shortfalls through water demand reductions and other shortage response actions by implementing its WSCP, in addition to a number of strategies and actions to minimize the potential for water supply shortfalls. Nevertheless, as there would be a projected supply shortfall in 2045 for single dry years and the third and fourth years of a multiple dry year period, this is a potentially significant impact.

Availability of water supplies to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years is not directly mitigable, aside from preventing development altogether, as future reliability of water is uncertain. Beyond disallowing the project, there are no feasible mitigation measures for water supply that would also fulfill the objectives of and implement the Project as proposed. The impact would remain significant and unavoidable.

(2) Changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided, the City Council finds that specific economic, social, policy-based, and other considerations identified in the Statement of Overriding Considerations support approval of the project.

(3) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project

associated with impacts to water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

IV. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS WHICH ARE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

A. BIOLOGICAL RESOURCES

1. IMPACT 3.4-1: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT HAVE SUBSTANTIAL DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS INVERTEBRATE SPECIES, INCLUDING THROUGH SUBSTANTIAL REDUCTION OF HABITAT, SUBSTANTIAL REDUCTION OF THE NUMBER OR RESTRICTION IN THE RANGE OF A LISTED SPECIES, ELIMINATION OF AN ANIMAL COMMUNITY, OR A DROP IN POPULATION LEVELS BELOW SELF-SUSTAINING LEVELS.

(a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status invertebrate species is discussed on page 3.4-30 through 3.4-34 of the Draft EIR.

(b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.4-1 and 3.4-2.

(c) Findings. According to the California Natural Diversity Database (CNDDB), there are 11 special-status invertebrates that are documented within the nine-quadrangle Project region, including: California linderiella (*Linderiella occidentalis*), crotch bumble bee (*Bombus crotchii*), conservancy fairy shrimp (*Branchinecta conservation*), molestan blister beetle (*Lytta molesta*), Sacramento anthicid beetle (*Anthicus sacramento*), San Joaquin Valley giant flower-loving fly (*Rhaphiomidas trochilus*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), western ridged mussel (Gonidea angulate), and western bumble bee (*Bombus occidentalis*). As noted in Table 3.4-4, five of these are covered species under the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP).

The site does not contain suitable habitat for the majority of the non-SJMSCP-covered special-status invertebrate species. The only non-covered invertebrates that could potentially occur onsite are special-status bumble bees.

Potential habitat for crotch bumble bee (*Bombus crotchii*) is found on-site. This species is not covered under the SJMSCP. Additionally, potential habitat for valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) is found on-site. This species is covered under the SJMSCP. Mitigation Measure 3.4-1 requires a preconstruction survey

for special-status bumble bees and avoidance and mitigation measures should bumble bees be found. Additionally, Mitigation Measure 3.4-2 requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special-status species, including valley elderberry longhorn beetle. Coverage involves compensation for habitat impacts on covered species through implementation of incidental take and minimization measures (ITMMs) and payment of fees for conversion of lands that may provide habitat for covered special-status species. These fees are used to preserve and/or create habitat in preserves to be managed in perpetuity.

With implementation of these mitigation measures, the proposed Project would have a less than significant impact on special-status invertebrate species, including through substantial reduction of habitat, substantial reduction of the number or restriction in the range of a listed species, elimination of an invertebrate community, or a drop in population levels below self-sustaining levels.

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.4-1 and 3.4-2 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on special-status invertebrate species will be mitigated to a less than significant level.

2. IMPACT 3.4-2: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT HAVE SUBSTANTIAL DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS REPTILE AND AMPHIBIAN SPECIES, INCLUDING THROUGH SUBSTANTIAL REDUCTION OF HABITAT, SUBSTANTIAL REDUCTION OF THE NUMBER OR RESTRICTION IN THE RANGE OF A LISTED SPECIES, ELIMINATION OF A REPTILE OR AMPHIBIAN COMMUNITY, OR A DROP IN POPULATION LEVELS BELOW SELF-SUSTAINING LEVELS.

   (a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status amphibian and reptile species is discussed on pages 3.4-34 through 3.4-38 of the Draft EIR.

   (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.4-2 and 3.4-3.

   (c) Findings. According to the CNDDB, there are nine special-status amphibian and reptile species that are documented within the nine-quadrangle Project region, the: California glossy snake (*Arizona* elegans occidentalis), western pond turtle (*Emys marmorata*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), giant gartersnake (*Thamnophis gigas*), coast horned lizard (*Phrynosoma blainvillii*), California tiger salamander (*Ambystoma californiense* [*A. tigrinum c.*]), foothill yellow-legged frog (*Rana boylii*), California red-legged frog (*Rana aurora draytoni*), and western spadefoot (*Spea hammondii*). As noted in Table 3.4-4, all the amphibians are covered species under the

SJMSCP. Three of the five reptiles are covered species under the SJMSCP. Coast horned lizard and California glossy snake are not covered by the SJMSCP.

Habitat for western pond turtle (*Emys marmorata*), giant gartersnake (*Thamnophis gigas*), coast horned lizard (*Phrynosoma blainvillii*), California tiger salamander (*Ambystoma californiense* [*A. tigrinum c.*]), foothill yellow-legged frog (*Rana boylii*), California red-legged frog (*Rana aurora draytoni*), and western spadefoot (*Spea hammondii*) is not found on-site.

Potential habitat for California glossy snake (*Arizona elegans occidentalis*) and San Joaquin coachwhip (*Masticophis flagellum ruddocki*) is found on-site. California glossy snake is not covered under the SJMSCP. San Joaquin coachwhip is covered under the SJMSCP.

Mitigation Measure 3.4-2 requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special-status species, including valley elderberry longhorn beetle. Coverage involves compensation for habitat impacts on covered species through implementation of ITMMs and payment of fees for conversion of lands that may provide habitat for covered special-status species. These fees are used to preserve and/or create habitat in preserves to be managed in perpetuity. Additionally, Mitigation Measure 3.4-3 requires a preconstruction survey for California glossy snake and translocation should this species be found.

With implementation of these mitigation measures, the proposed Project would have a less than significant impact on special-status reptile and amphibian species, including through substantial reduction of habitat, substantial reduction of the number or restriction in the range of a listed species, elimination of a reptile and amphibian community, or a drop in population levels below self-sustaining levels

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.4-2 and 3.4-3 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on special-status amphibian and reptile species will be mitigated to a less than significant level.

3. IMPACT 3.4-3: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT HAVE SUBSTANTIAL DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS BIRD SPECIES, INCLUDING THROUGH SUBSTANTIAL REDUCTION OF HABITAT, SUBSTANTIAL REDUCTION OF THE NUMBER OR RESTRICTION IN THE RANGE OF A LISTED SPECIES, ELIMINATION OF A BIRD COMMUNITY, OR A DROP IN POPULATION LEVELS BELOW SELF-SUSTAINING LEVELS.

   (a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status bird species is discussed on page 3.4-38 through 3.4-43 of the Draft EIR.

(b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-2.

(c) Findings. According to the CNDDB, there are 13 special-status birds that are documented within the nine-quadrangle Project region, including: cackling (=Aleutian Canada) goose (*Branta hutchinsii leucopareia*), California black rail (*Laterallus jamaicensis coturniculus*), tricolored blackbird (Agelaius tricolor), burrowing owl (*Athene cunicularia*), Swainson's hawk (*Buteo swainsoni*), white-tailed kite (*Elanus leucurus*), California horned lark (*Eremophila alpestris actia*), yellow-headed blackbird (*Xanthocephalus xanthocephalus*), loggerhead shrike (*Lanius ludovicianus*), merlin (Falco columbarius), song sparrow ("Modesto" population) (*Melospiza melodia*), western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), and least Bell's vireo (*Vireo bellii pusillus*). As noted in Table 3.4-4, all but one of these bird species (least Bell's vireo) are covered species under the SJMSCP.

New sources of noise and light during the construction and operational phases of the Project could adversely affect nesters if they are located adjacent to the Project site in any given year. Additionally, the proposed Project would eliminate the agricultural areas on the Project site, which serve as potential foraging habitat for birds throughout the year. All of the species discussed above which have a low to high potential to occur on-site are covered by the SJMSCP. Mitigation Measure 3.4-2 requires participation in the SJMSCP. As part of the SJMSCP, SJCOG requires preconstruction surveys for projects that occur during the avian breeding season (March 1 – August 31). When active nests are identified, the biologists develop buffer zones around the active nests as deemed appropriate until the young have fledged. SJCOG also uses the fees to purchase habitat as compensation for the loss of foraging habitat.

Implementation of the proposed Project, with the Mitigation Measure 3.4-2, would ensure that potential impacts to special status birds are reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.4-2 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on special-status bird species will be mitigated to a less than significant level.

4. IMPACT 3.4-4: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT HAVE SUBSTANTIAL DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS MAMMAL SPECIES, INCLUDING THROUGH SUBSTANTIAL REDUCTION OF HABITAT, SUBSTANTIAL REDUCTION OF THE NUMBER OR RESTRICTION OF THE RANGE OF A LISTED SPECIES, ELIMINATION OF A MAMMAL COMMUNITY, OR A DROP IN POPULATION LEVELS BELOW SELF-SUSTAINING LEVELS.

   (a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status mammal species is discussed on page 3.4-43 through 3.4-46 of the Draft EIR.

   (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.4-2 and 3.4-4.

   (c) Findings. According to the CNDDB, there are eight special-status mammals that are documented within the nine-quadrangle Project region, including: pallid bat (*Antrozous pallidus*), riparian (=San Joaquin Valley) woodrat (*Neotoma fuscipes riparia*), Townsend's big-eared bat (*Corynorhinus townsendii*), western mastiff bat (*Eumops perotis californicus*), San Joaquin pocket mouse (*Perognathus inornatus*), riparian brush rabbit (*Sylvilagus bachmani riparius*), American badger (*Taxidea taxus*), and San Joaquin kit fox (*Vulpes macrotis mutica*). As noted in Table 3.4-4, all but one of these mammal species (pallid bat) are covered species under the SJMSCP.

   While there is low potential for San Joaquin pocket mouse, San Joaquin kit fox, American badger, and some special-status bat species to occur on-site, it is anticipated that any impacts to these species would be less than significant through compliance with Measures 3.4-2 and 3.4-4. Mitigation Measure 3.4-2 requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special-status species. Coverage involves compensation for habitat impacts on covered species through implementation of ITMMs and payment of fees for conversion of lands that may provide habitat for covered special-status species. These fees are used to preserve and/or create habitat in preserves to be managed in perpetuity. Mitigation Measure 3.4-4 requires a survey for bat roosts, as well as buffers, if needed, around the roost sites.

   In accordance with Public Resources Code, § 21081, Mitigation Measures 3.4-2 and 3.4-4 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on special-status mammal species will be mitigated to a less than significant level.

5. IMPACT 3.4-10: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT CONFLICT WITH AN ADOPTED HABITAT CONSERVATION PLAN.

   (a) Potential Impact. The potential for the Project to conflict with an adopted Habitat Conservation Plan is discussed on page 3.4-50 of the Draft EIR.

   (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-2.

   (c) Findings. The proposed Project is subject to the SJMSCP. The proposed Project does not conflict with the SJMSCP. Mitigation Measure 3.4-2 requires participation in the SJMSCP. Therefore, with this mitigation, the proposed Project would have a less than significant impact relative to this topic.

   In accordance with Public Resources Code, § 21081, Mitigation Measure 3.4-2 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to conflict with an adopted Habitat Conservation Plan will be mitigated to a less than significant level.

B. CULTURAL AND TRIBAL RESOURCES

1. IMPACT 3.5-1: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT HISTORICAL RESOURCE, AS DEFINED IN CEQA GUIDELINES §15064.5.

   (a) Potential Impact. The potential for the Project to cause a substantial adverse change to a significant historical resource, as defined in CEQA Guidelines §15064.5, is discussed on pages 3.5-14 and 3.5-15 of the Draft EIR.

   (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.5-1 and 3.5-2.

   (c) Findings. Portions of the Plan Area became the eastern half of a commercial ferry business in the early 1850s. An early house was also present in association in the Plan Area, that eventually become part of a larger home. The Cultural Resources Assessment concluded that there is potential for deposits in the Plan Area related to the later historic use of the Project site by William Johnson and successor owners.

   The previously recorded building complex, P-39-004602, has been formally determined to be “not significant” by the State Office of Historic Preservation. It has been concluded by the State Office of Historic Preservation that the 1929 Silveira house and adjacent

buildings themselves are not eligible for the National Register or California Register. Nevertheless, it is possible other sites are present on-site.

Although no historic resources are known to occur within the Project site, there is potential of discovery of previously unknown historic resources during ground-disturbing activities. Implementation of Mitigation Measures 3.5-1 and 3.5-2 would reduce potential impacts of the proposed Project on inadvertently discovered historical resources to a less-than-significant level by ensuring that any resources inadvertently discovered during construction would be evaluated for significance and treated appropriately, as well conducting cultural resources sensitivity training for the construction workers so they can better recognize potential cultural resources.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.5-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to cause a substantial adverse change to a significant historical resource will be mitigated to a less than significant level.

2. IMPACT 3.5-2: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT CULTURAL RESOURCE, AS DEFINED IN CEQA GUIDELINES §15064.5.

   (a) Potential Impact. The potential for the Project to cause a substantial adverse change to a significant cultural resource, as defined in CEQA Guidelines §15064.5, is discussed on pages 3.5-15 and 3.5-16 of the Draft EIR.

   (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.5-1 and 3.5-2.

   (c) Findings. The Project site is located in an area known to have archaeological, cultural, and tribal cultural resources. According to the records search results, no cultural resources have been reported within the Project site; however, several resources have been found within the vicinity of the Project site. Three prehistoric period artifacts were found in the vicinity of the Plan Area. Two isolated prehistoric period artifacts (P-39-004345 and P-39-004347), and one isolated historic period glass fragment (P-39-004346).

   The southern portion of the Project site lies at the location of "Johnson's Ferry." There is clearly a higher point in the Project site that could have been a prehistoric period site. Although no historic site was found by former surveys, it is possible that historic period activities, including residential construction, may have covered the remnants of a prehistoric site. Water crossings throughout northern and central California are historically located on high spots, allowing a safe crossing for ferries and bridges. These

high spots have proven to be the locations of prehistoric sites, at one or both ends of the bridge or ferry landings. In the Plan Area, there is a higher elevation that could be a prehistoric period site. There are no records of any findings when the bridge was installed for River Island Parkway and no prehistoric period resources were found within the boundaries of the Plan Area. However, there is potential that a site could exist and it is unknown. The findings of the Cultural Resources Assessment concluded the Project site possesses a possibility to contain previously unrecorded historic era cultural resources that are currently obscured by existing vegetation, fill, or other historic activities, leaving no surface evidence.

There is a possibility of discovery of previously unknown cultural resources during ground-disturbing activities. Implementation of Mitigation Measures 3.5-1 and 3.5-2 would reduce potential impacts of the proposed Project on inadvertently discovered archaeological resources to a less-than-significant level by ensuring that any resources inadvertently discovered during construction would be evaluated for significance and treated appropriately, as well conducting cultural resources sensitivity training for the construction workers so they can better recognize potential cultural resources.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.5-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to cause a substantial adverse change to a significant cultural resource, as defined in CEQA Guidelines §15064.5, will be mitigated to a less than significant level.

3. IMPACT 3.5-4: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE, DEFINED IN PUBLIC RESOURCES CODE SECTION 21074.

   (a) Potential Impact. The potential for the Project to cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074, is discussed on pages 3.5-17 and 3.5-18 of the Draft EIR.

   (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.5-1 through 3.5-3.

   (c) Findings. The Cultural Resource Assessment found no Native American sacred sites or human remains on the Project site. In accordance with requirements promulgated by SB 18 and AB 52, the City notified the Buena Vista Rancheria of Me-Wuk Indians, California Valley Miwok Tribe, Ione Band of Miwok Indians, Muwekma Ohlone Indian Tribe of the SF Bay Area, North Valley Yokuts Tribe, Tule River Indian Tribe, Wilton Rancheria, Wuksache Indian Tribe/Eshom Valley Band, and the Confederated Villages of Lisjan of the proposed Project on December 13, 2023, and invited the tribes to

participate in consultation (see Appendix C.2). The City received responses from Wilton Rancheria and Confederated Villages of Lisjan. The Confederated Villages of Lisjan requested a copy of the records search and to be included on notifications for the Project. The City provided a response to the tribe. The Wilton Rancheria requested consultation, and a meeting was held on January 30, 2024. During consultation, the Wilton Rancheria stated that the tribe's internal records show that the Project site is located within a sensitive area, referencing an internal map that shows records of three tribal resources and one historic resource. The Wilton Rancheria recommended that the tribe be part of the site survey for the Cultural Study by Peak & Associates and referenced that the tribe does on-site tribal monitoring and Cultural Sensitivity Training (discussions with construction staff) prior to construction. The consultation was concluded on January 30, 2024.

Based on information in the Cultural Resources Assessment, there is a moderate to high potential of discovery of previously unknown tribal cultural resources during ground-disturbing activities.

Implementation of Mitigation Measures 3.5-1, 3.5-2 and 3.5-3 would reduce potential impacts of the proposed Project on inadvertently discovered tribal cultural resources to a less-than-significant level by ensuring that any resources inadvertently discovered during construction would be evaluated for significance and treated appropriately, as well conducting cultural resources sensitivity training for the construction workers so they can better recognize potential cultural resources.

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.5-1, 3.5-2 and 3.5-3 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074, will be mitigated to a less than significant level.

C. HAZARDS AND HAZARDOUS MATERIALS

1. IMPACT 3.8-2: IMPLEMENTATION OF THE PROPOSED PROJECT, WITH MITIGATION, WOULD NOT CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT THROUGH REASONABLY FORESEEABLE UPSET AND ACCIDENT CONDITIONS INVOLVING THE RELEASE OF HAZARDOUS MATERIALS INTO THE ENVIRONMENT.

(a) Potential Impact. The potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment is discussed on pages 3.8-19 through 3.8-22 of the Draft EIR.

(b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.8-1 through 3.8-3.

(c) Findings. Due to the presence of existing on-site residential structures, there exists the possibility that the Project site contains underground well(s) and/or septic system(s). Any on-site well or septic system would be required to be properly destroyed or removed in accordance with State, County, and City standards and regulations.

According to the California Department of Conservation Well Finder tool, there is an existing on-site oil or gas well located on-site. The on-site well is a dry hole well that is plugged and was operated by the Occidental Petroleum Corporation. The well was leased by Silveira, which is likely associated with the Silveira residential complex located in the southeastern portion of the Project site. Any residual petroleum contamination (if any) near the on-site well will likely be minimal and not of significant concern to the Project site. Nevertheless, confirmation soil samples should be considered to validate the successful removal of the impacted soil. This is a potentially significant impact.

Additionally, like most agricultural and farming operations in the Central Valley, agricultural practices in the area have used agricultural chemicals including pesticides and herbicides as a standard practice. Although no contaminated soils have been identified in the Project area or the vicinity above applicable levels, residual concentrations of pesticides may be present in soil as a result of historic agricultural application and storage. Continuous spraying of crops over many years can potentially result in a residual buildup of pesticides in farm soils. Of highest concern relative to agrichemicals are chlorinated herbicides, organophosphate pesticides, and organochlorine pesticides, such as such as MCPP, Dinoseb, chlordane, DDT, and DDE. Project construction activities would involve demolition, land clearing, mass grading, and other ground-disturbing activities that could expose contaminated soils. As such, this is a potentially significant impact.

Mitigation Measure 3.8-1 requires that, in the event that hazardous materials are discovered during Project construction activities, a Soils Management Plan (SMP) would be submitted and approved by the San Joaquin County Environmental Health Department. The SMP would establish management practices for handling hazardous during construction. Such compliance would reduce the potential for accidental release of hazardous materials during construction of the proposed Project. As a result, it would lessen the risk of exposure of construction workers and the public to accidental release of hazardous materials, as well as the demand for incident emergency response.

Mitigation Measure 3.8-2 requires evenly distributed soil samples to be conducted within the Project site for analysis of pesticides and heavy metals prior to initiation of any ground disturbance activities. Additionally, soil sampling in the vicinity of the existing on-site oil or gas well in the southeastern portion of the Project site (as shown on the California Department of Conservation Well Finder tool, available at:

https://maps.conservation.ca.gov/doggr/wellfinder/) would be conducted for analysis of hydrocarbons. If elevated levels of hydrocarbons, pesticides or heavy metals are detected during the laboratory analysis of the soils, the Project applicant would be required to prepare and implement a soil cleanup and remediation plan prior to the commencement of grading activities. Implementation of Mitigation Measure 3.8-2 would ensure that development of the proposed Project on active agricultural land would not result in accidental release of or exposure to hazardous materials.

Mitigation Measure 3.8-3 requires the applicant to obtain a well destruction permit from the San Joaquin County Environmental Health Department for the known well on the Project site.

Compliance with standard construction practices and the existing regulatory requirements, and implementation of Mitigation Measures 3.8-1 through 3.8-3, would reduce potential impacts of the proposed Project to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment to a less-than-significant level by ensuring that on-site soils are sampled prior to ground disturbance and that any potentially hazardous materials encountered during construction would be handled appropriately

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.8-1 through 3.8-3 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment will be mitigated to a less than significant level.

D. NOISE

2. IMPACT 3.11-1: THE PROJECT, WITH MITIGATION, WOULD NOT GENERATE A SUBSTANTIAL TEMPORARY OR PERMANENT INCREASE IN AMBIENT NOISE LEVELS IN THE VICINITY OF THE PROJECT IN EXCESS OF STANDARDS ESTABLISHED IN THE LOCAL GENERAL PLAN OR NOISE ORDINANCE, OR APPLICABLE STANDARDS OF OTHER AGENCIES.

   (a) Potential Impact. The potential to generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies is discussed on pages 3.11-14 through 3.11-18 of the Draft EIR.

   (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.11-1.

(c) Findings. During the construction phases of the Project, noise from construction activities would add to the noise environment in the immediate Project vicinity. As indicated in Table 3.11-12, activities involved in construction would generate maximum noise levels ranging from 76 to 90 dB at a distance of 50 feet. Construction activities would also be temporary in nature and are anticipated to occur during normal daytime working hours.

Noise would also be generated during the construction phase by increased truck traffic on area roadways. A project-generated noise source would be truck traffic associated with transport of heavy materials and equipment to and from the construction site. This noise increase would be of short duration and would occur during daytime hours.

Although construction activities are temporary in nature and would occur during normal daytime working hours, construction-related noise could result in sleep interference at existing noise-sensitive land uses in the vicinity of the construction if construction activities were to occur outside the normal daytime hours. Therefore, impacts resulting from noise levels temporarily exceeding the threshold of significance due to construction would be considered potentially significant.

Mitigation Measure 3.11-1 requires that construction activities are limited to certain hours, construction equipment is properly maintained, equipment idling is limited, and stationary equipment is located away from noise-sensitive uses. Implementation of Mitigation Measure 3.11-1 would ensure this impact is less-than-significant by ensuring construction-related noise levels do not exceed ambient noise plus 12 dBA.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.11-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies will be mitigated to a less than significant level.

V. FINDINGS AND RECOMMENDATIONS REGARDING THOSE IMPACTS WHICH ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

Specific impacts within the following categories of environmental effects were found to be less than significant as set forth in more detail in the Draft EIR.

Aesthetics and Visual Resources: The following specific impacts were found to be less than significant: 3.1-1, 3.1-2, 3.1-3, and 3.1-4.

Agricultural Resources: The following specific impact was found to be less than significant: 3.2-3.

Air Quality: The following specific impacts were found to be less than significant: 3.3-1, 3.3-2, 3.3-3, 3.3-4, and 3.3-5.

Biological Resources: The following specific impacts were found to be less than significant: 3.4-5, 3.4-6, 3.4-7, 3.4-8, 3.4-9, and 3.4-11.

Cultural and Tribal Resources: The following specific impact was found to be less than significant: 3.5-3.

Geology and Soils: The following specific impacts were found to be less than significant: 3.6-1, 3.6-2, 3.6-3, 3.6-4, and 3.6-5.

Greenhouse Gases, Climate Change, and Energy: The following specific impacts were found to be less than significant: 3.7-1 and 3.7-2.

Hazards and Hazardous Materials: The following specific impacts were found to be less than significant: 3.8-1, 3.8-3, 3.8-4, 3.8-5, and 3.8-6.

Hydrology and Water Quality: The following specific impacts were found to be less than significant: 3.9-1, 3.9-2, 3.9-3, 3.9-4, and 3.9-5.

Land Use, Population and Housing: The following specific impacts were found to be less than significant: 3.10-1, 3.10-2, and 3.10-3.

Noise: The following specific impact was found to be less than significant: 3.11-2.

Public Services and Recreation: The following specific impacts were found to be less than significant: 3.12-1, 3.12-2, 3.12-3, 3.12-4, and 3.12-5.

Transportation and Circulation: The following specific impacts were found to be less than significant: 3.13-1, 3.13-2, 3.13-3, and 3.13-4.

Utilities: The following specific impacts were found to be less than significant: 3.14-1, 3.14-3, 3.14-4, 3.14-5, 3.14-6, and 3.14-7.

The Project was found to have a less than cumulatively considerable contribution to specific impacts within the following categories of environmental effects as set forth in more detail in the Draft EIR.

Aesthetics and Visual Resources: The following specific impact was found to be less than cumulatively considerable: 4.1, 4.2, and 4.3.

Air Quality: The following specific impact was found to be less than cumulatively considerable: 4.5.

Biological Resources: The following specific impact was found to be less than cumulatively considerable: 4.6.

Cultural and Tribal Resources: The following specific impact was found to be less than cumulatively considerable: 4.7.

Geology and Soils: The following specific impact was found to be less than cumulatively considerable: 4.8.

Greenhouse Gases, Climate Change, and Energy: The following specific impact was found to be less than cumulatively considerable: 4.9.

Hazards and Hazardous Materials: The following specific impact was found to be less than cumulatively considerable: 4.10.

Hydrology and Water Quality: The following specific impacts were found to be less than cumulatively considerable: 4.11, 4.12, 4.13, and 4.14.

Land Use, Population and Housing: The following specific impacts were found to be less than cumulatively considerable: 4.15 and 4.16.

Noise: The following specific impact was found to be less than cumulatively considerable: 4.17.

Public Services: The following specific impact was found to be less than cumulatively considerable: 4.18.

Transportation and Circulation: The following specific impacts were found to be less than cumulatively considerable: 4.19 and 4.20.

Utilities: The following specific impacts were found to be less than cumulatively considerable: 4.21, 4.22, 4.23, 4.24, and 4.25.

The above impacts are less than significant or less than cumulatively considerable for one of the following reasons:

- The EIR determined that the impact is less than significant for the Project;
- The EIR determined that the Project would have a less than cumulatively considerable contribution to the cumulative impact; or
- The EIR determined that the impact is beneficial (would be reduced) for the Project.

VI. PROJECT ALTERNATIVES

A. IDENTIFICATION OF PROJECT OBJECTIVES

An EIR is required to identify a range of reasonable alternatives to the project. The "range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one of more of the significant

effects." (CEQA Guidelines Section 15126.6(c).) "Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent)." (CEQA Guidelines Section 15126.6(f)(1).)

The underlying purpose of the proposed Project is the approval and subsequent implementation of the Specific Plan as a means of increasing the housing supply in San Joaquin County and the State of California.

The proposed Project identifies the following objectives:

- Complete neighborhoods which foster a mixture of compatibly scaled housing types on urban lots.
- A residential development that will incorporate traditional elements found throughout Central Valley communities including a hierarchy of interconnected streets, the incorporation of assorted architectural styles, tree lined thoroughfares, an emphasis upon pedestrian scale and access with a nod to the agricultural traditions of the Valley.
- Street patterns which are carefully configured to allow for multiple outlets from neighborhoods, and to provide for connections between neighborhoods, without encouraging through traffic to create convenience and access without a private automobile.
- A network of planned walkways and bikeways which make getting outside convenient, easy and enjoyable.
- Durable construction materials and designs suited to local conditions to contribute to the ongoing costs of the housing will be encouraged.
- Provide a range of housing opportunities to support a diverse population, lifestyles, and family groups.
- Establish a planning/zoning concept that is responsive to the market.
- Implement the Phasing Plan for logical development in line with the West Lathrop Specific Plan.
- Implement City's Infrastructure Master Plans.

B. ALTERNATIVES ANALYSIS IN EIR

The alternatives analysis provides a summary of the relative impact levels of significance associated with each alternative for each of the environmental issue areas analyzed in the Draft EIR. The environmental analysis for each of the alternatives is included in Chapter 5.0.

1. NO PROJECT (NO BUILD) ALTERNATIVE:

The **No Project (No Build) Alternative** is discussed on pages 5.0-4, 5.0-5, and 5.0-6 through 5.0-14 of the Draft EIR. Under the No Project (No Build) Alternative, development of the Plan Area would not occur, and the Plan Area would remain in its current existing condition. The majority of the Plan Area is currently undeveloped (Figure 2.0-4 in Chapter 2.0, Project Description). There is a two-story

single-family residential structure east of River Islands Parkway near the San Joaquin River. There are approximately six other structures associated with the residence, such as a barn structure and shed structures. Under this alternative, the Plan Area would not be rezoned and a General Plan Amendment would not occur. The Plan Area would remain subject to existing City planning indefinitely. It is noted that the No Project (No Build) Alternative would fail to meet the Project objectives.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction of impacts to Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural and Tribal Resources, Geology and Soils, Greenhouse Gases, Climate Change and Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use, Population and Housing, Noise, Public Services and Recreation, Transportation and Circulation, and Utilities.

While the City recognizes the environmental benefits of the No Project (No Build) Alternative, this alternative would not achieve any of the Project objectives. Specifically, this alternative would not: complete neighborhoods which foster a mixture of compatibly scaled housing types on urban lots; provide a residential development that will incorporate traditional elements found throughout Central Valley communities including a hierarchy of interconnected streets, the incorporation of assorted architectural styles, tree lined thoroughfares, an emphasis upon pedestrian scale and access with a nod to the agricultural traditions of the Valley; provide street patterns which are carefully configured to allow for multiple outlets from neighborhoods, and to provide for connections between neighborhoods, without encouraging through traffic to create convenience and access without a private automobile; provide a network of planned walkways and bikeways which make getting outside convenient, easy and enjoyable; use durable construction materials and designs suited to local conditions to contribute to the ongoing costs of the housing will be encouraged; provide a range of housing opportunities to support a diverse population, lifestyles, and family groups; establish a planning/zoning concept that is responsive to the market; implement the Phasing Plan for logical development in line with the West Lathrop Specific Plan; or, implement City's Infrastructure Master Plans.

Additionally, this alternative would not realize the project benefits of housing opportunities, additional construction employment opportunities, or new tax revenue. For all of these foregoing reasons and any one of them individually, this alternative is determined to be infeasible and rejected.

2. INCREASED DENSITY ALTERNATIVE:

The **Increased Density Alternative** is discussed on pages 5.0-4, 5.0-5, and 5.0-14 through 5.0-22 of the Draft EIR. Under the Increased Density Alternative, the proposed Project would be developed with the same amenities as described in the Project Description, but the density of the residential uses would be increased, and the total development footprint would be equal to the proposed Specific Plan. This alternative would include development of single-family homes, apartments, and

auto court multi-family units. Under the Increased Density Alternative, the same number of residential units as the proposed Project (up to 912 units) would be constructed. However, this alternative would include development of 50 percent low density units (up to 456 units), 30 percent medium density units (up to 274 units) and high density units (up to 182 units). Additionally, the park areas would increase compared to the Project. The Increased Density Alternative provides the approximate acreages of the following land uses:

- approximately 70.0 acres of low-density residential uses;
- approximately 20.0 acres of medium-density residential uses;
- approximately 10.0 acres of high-density residential uses;
- approximately 63.2 acres of public designated uses that are made up of:
    - approximately 8.0 acres of linear parks;
    - approximately 10.0 acres of neighborhood park (centrally located);
    - approximately 39.7 acres of community park (along the San Joaquin River);
    - approximately 2.0 acres of parkland dedication south of River Islands Parkway;
    - approximately 2.1 acres of other open space (including landscaped entries); and
    - approximately 1.4 acres of levee slope easement.

The residential areas would be clustered in the central and eastern portions of the Project site at increased densities to allow for an increase in park areas along the San Joaquin River. This alternative would also plan for parks, trails, circulation improvements, and utility improvements in a similar way as the proposed Project.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction or slight reduction of impacts to Aesthetics and Visual Resources, Air Quality, Biological Resources, Hydrology and Water Quality, Transportation and Circulation, and Utilities. The remaining resources areas would have equal or similar impacts to the Project.

On balance, the alternative is less desirable than the Project and does not lessen the overall environmental impacts nor provide the same level of benefits as the proposed Project. While the City recognizes the environmental benefits of this alternative, this alternative would not achieve all of the Project objectives. One of the Project objectives which this alternative does achieve is achieved to a lesser extent than the proposed Project. The Increased Density Alternative would partially meet the first objective ("complete neighborhoods which foster a mixture of compatibly scaled housing types on urban lots") because this alternative would provide a mix of residential housing products; however, this alternative includes development of 50% medium and high density units, and 50% low density units, while the proposed Project would result in a greater mix and variety of housing types.

However, due to the increased density of the residential uses under this alternative compared to the Project, this alternative would be potentially incompatible with the existing surrounding low density residential uses to the north, east, southeast, west, and southwest.

For all of these foregoing reasons and any one of them individually, this alternative is determined to be infeasible and rejected.

3. LOWER DENSITY ALTERNATIVE:

The **Lower Density Alternative** is discussed on pages 5.0-5, 5.0-6, and 5.0-22 through 5.0-28 of the Draft EIR. Under the Lower Density Alternative, the proposed Project would be developed in such a way to promote larger lot sizes and to reduce the overall footprint of the developed areas. This alternative would include development of custom homes on approximately 8,000 square foot (sf) lots, as compared to the 3,360 sf to 5,000 sf lot sizes for the low density residential units proposed by the Project. Under the Lower Density Alternative, the number of residential units constructed in the Plan Area would be reduced by 25 percent compared to the proposed Project. Under the proposed Project, up to 912 residential units would be constructed; this alternative would result in construction of up to 684 units.

The Lower Density Alternative provides the approximate acreages of the following land uses:

- approximately 146.7 acres of low-density residential uses;
- approximately 16.5 acres of Public designated uses that are made up of:
    - approximately 4.8 acres of linear park;
    - approximately 6.2 acres of neighborhood park;
    - approximately 2.0 acres of parkland dedication south of River Islands Parkway;
    - approximately 2.1 acres of other open space (including landscaped entries); and
    - approximately 1.4 acres of levee slope easement.

This alternative would also plan for parks, trails, circulation improvements, and utility improvements.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction or slight reduction of impacts to Air Quality, Geology and Soils, Greenhouse Gases, Climate Change and Energy, Hydrology and Water Quality, Land Use, Population and Housing, Noise, Public Services and Recreation, Transportation and Circulation, and Utilities. Impacts related to the remaining environmental topics would have equal impacts.

On balance, the alternative is less desirable than the Project and does not lessen the overall environmental impacts nor provide the same level of benefits as the proposed Project. While the City recognizes the environmental benefits of this alternative, this alternative would not achieve all of the Project objectives. The majority of the Project objectives which this alternative does achieve are achieved to a lesser extent than the proposed Project. For example, the Lower Density Alternative would not meet the first Project objective ("complete neighborhoods which foster a mixture of compatibly scaled housing types on urban lots") because only low density residential units would be provided; thus, a mixture of housing types would not be provided. Similarly, the Lower Density Alternative would partially meet the sixth Project objective ("provide a

range of housing opportunities to support a diverse population, lifestyles, and family groups") by developing housing types. However, this objective would be met to a lesser extent than the proposed Project as this alternative would not provide a mix of housing types accommodating a more diverse population, lifestyles, and family groups. It is also noted that this alternative would provide jobs for local residents and would result in tax revenue for the City; however, because the number of units would be reduced by 25 percent compared to the proposed Project, this alternative would result in fewer construction jobs and less tax revenue compared to the Project.

For all of these foregoing reasons and any one of them individually, this alternative is determined to be infeasible and rejected.

4. ENVIRONMENTALLY SUPERIOR ALTERNATIVE:

CEQA requires that an environmentally superior alternative be identified among the alternatives that are analyzed in the EIR. If the No Project Alternative is the environmentally superior alternative, an EIR must also identify an environmentally superior alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)(2)). The environmentally superior alternative is that alternative with the least adverse environmental impacts when compared to the proposed project.

As shown on Table 5.0-1 of the Draft EIR (on pages 5.0-30 through 5.0-32), a comparison of alternatives is presented. The No Project (No Build) Alternative is the environmentally superior alternative. However, as required by CEQA, when the No Project (No Build) Alternative is the environmentally superior alternative, the environmentally superior alternative among the others must be identified. The Increased Density Alternative would reduce impacts related to 25 impact statements, increase impacts related to one impact statement, and equal impacts related to 40 impact statements. The Lower Density Alternative would reduce impacts related to 31 impact statements and would have equal impacts related to 36 impact statements. Therefore, the Lower Density Alternative would be the next environmentally superior alternative.

It should be noted that the Lower Density Alternative does not meet all of the Project objectives to the same extent as the Project. This alternative would result in fewer construction job opportunities for Lathrop residents. This would also reduce the property tax revenue generation as compared to the Project due to the reduction in residential units. While the City recognizes the environmental benefits of the Lower Density Alternative, this alternative would not result in the amount of residential uses that are identified in the Project objectives under full buildout of the Project site.

For the reasons provided above, this alternative is determined to be infeasible and rejected.

VII. STATEMENTS OF OVERRIDING CONSIDERATIONS RELATED TO THE MOSSDALE LANDING WEST SPECIFIC PLAN FINDINGS

As described in detail in Section III of these Findings, the following significant and unavoidable impacts could occur with implementation of the Project:

- Impact 3.2-1: The proposed Specific Plan would result in the conversion of Farmlands, including Prime Farmland, Unique Farmland, and Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses;
- Impact 3.2-2: The proposed Project has the potential to conflict with existing zoning for agricultural use, or Williamson Act Contracts.
- Impact 3.14-2: The proposed Project would not have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years.
- Impact 4.4: Cumulative Impact on Agricultural Resources.

The adverse effects listed above, and described in detail in Section III, are substantive issues of concern to the City. However, the City of Lathrop has a General Plan that provides for an array of land uses throughout the City that are intended to accommodate the City's needs for growth over the foreseeable future. The proposed Project has been designated with land uses that are intended to generate tax revenue for the City while providing housing opportunities. Additionally, development of the Project would provide short-term employment opportunities within the construction, engineering, and design field, among others.

The Project would also provide housing opportunities for current and future residents. Implementation of the Project would increase and diversify the housing supply in the City, which could spur development, economic growth, and property tax generation within the area. Additionally, the proposed Project would generate tax revenue that the City would not otherwise benefit from if the Project was not developed. The additional housing opportunities and tax benefits discussed above would ultimately improve the overall quality of life in the City of Lathrop.

Based on the entire record and the EIR, the City Council has determined that the economic and social benefits of the Project in Lathrop outweigh and override the significant unavoidable environmental effects that would result from future Project implementation as more fully described in Section III, Findings and Recommendations Regarding Significant and Unavoidable Impacts. The City Council has determined that any environmental detriment caused by the proposed Project has been minimized to the extent feasible through the mitigation measures identified herein, and, where mitigation is not feasible, has been outweighed and counterbalanced by the significant social, environmental, and land use benefits to be generated within the region. The City Council finds that any one of the benefits set forth above is sufficient by itself to warrant approval of the Project. This determination is based on the findings herein and the evidence in the record. Having balanced the unavoidable adverse environmental impacts against each of the benefits, the City Council hereby adopts this Statement of Overriding Considerations for the above reasons.

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