



# FINDINGS OF FACT / STATEMENT OF OVERRIDING CONSIDERATIONS

FOR THE

## TRACY COSTCO DEPOT ANNEX PROJECT (SCH # 2020080531)

OCTOBER 2024

*Prepared for:*

City of Tracy  
Planning Division  
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Tracy, CA 95376

*Prepared by:*

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D e N o v o P l a n n i n g G r o u p

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A Land Use Planning, Design, and Environmental Firm





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**FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS**

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## FINDINGS FOR THE TRACY COSTCO DEPOT ANNEX

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 Tracy (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 Tracy Costco Depot Annex (Project 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 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, Recirculated Draft EIR, and comments, responses to comments, and revisions to the Draft EIR and Recirculated Draft EIR) for the Project, examined the proposed Project and three alternatives to the Project including: (1) No Project (No Build) Alternative; (2) Reduced Project Alternative; and (3) Agriculture Protection 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 is located at 16000 West Schulte Road in unincorporated San Joaquin County, California (Figures 2.0-1 and 2.0-2). The Project site is within the Tracy Sphere of Influence (SOI) 10-Year Planning Horizon and is immediately adjacent to the Tracy city limits to the north of the site. The Project site is immediately south of the intersection of Bud Lyons Way and West Schulte Road. The Project site is bounded on the north by West Schulte Road, on the west by an unnamed driveway serving the adjacent rural residence, on the south by the Delta Mendota Canal, and on the east by vacant agricultural land.

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

- **Annexation Area** – totals 104.46 acres and includes the whole of the Project, including the proposed 103.0-acre Development Area, and 1.46 acres of land along the Delta Mendota Canal which would not be developed as part of the proposed Project.
- **Development Area** – is a 103.0-acre parcel (Assessor's Parcel Number [APN] 209-230-02) that is intended for the development of up to 1,736,724 square feet (sf) of industrial uses.

The Project would include the construction and subsequent operation of two warehouse buildings that would serve as an annex to the existing Costco Depot located approximately 1.5-miles to the west of the Project and as a Direct Delivery Center (DDC). The two buildings (approximately 543,526 sf for Building 1 and 1,193,198 sf for Building 2) total approximately 1,736,724 sf on the Project site. The smaller Building 1 is anticipated to serve as the annex by providing additional storage for high-turnover merchandise processed through the nearby Costco Depot, a pallet repair facility, and a return to vendor facility for large items returned to a Costco warehouse. The larger Building 2 is anticipated to serve as a DDC, an ecommerce distribution center primarily for large and bulky items ordered online by Costco members for direct delivery through Market Delivery Operations (MDO) located in various smaller cities in the Northern California region. DDC warehouses distribute ordered goods to the MDOs for delivery (by appointment) to the members. Cold storage would not be provided as part of the proposed Project.<sup>1</sup> The Project also would include the required circulation, parking, and utility improvements.

The Project site is designated as Agriculture by the County's General Plan Land Use Map and is zoned as AG-40 Agriculture by the County. The site is within the City's Sphere of Influence 10-Year Planning Horizon and currently has a City General Plan land use designation of Industrial (I). The proposed Project would result in the annexation of the Annexation Area into the City of Tracy. The Project site

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<sup>1</sup> That is, there would be no refrigerated warehouse operations or transport refrigeration units (TRUs) as part of the Project. If the Project is approved, the City would include a condition of approval precluding cold uses for the Project.



is currently within the jurisdiction of San Joaquin County, and current county zoning for the Project site is AG-40. The San Joaquin County Local Agency Formation Commission (LAFCO) will require the Project site to be pre-zoned by the City of Tracy in conjunction with the proposed annexation. The City's pre-zoning will include the Light Industrial (M-1) zoning designation for the Project site. The pre-zoning would go into effect upon annexation into the City of Tracy.

The principal objective of the proposed Project is the approval and subsequent construction and operation of the Costco depot annex and DDC warehouse facility. 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 Tracy circulated an Initial Study (IS) and Notice of Preparation (NOP) of an EIR for the proposed Project on August 28, 2020 to the State Clearinghouse, State Responsible Agencies, State Trustee Agencies, Other Public Agencies, Organizations and Interested Persons. A public scoping meeting was held during the Planning Commission meeting on September 9, 2020 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, NOP, and comments received on the NOP by interested parties are presented in Appendix A of the Draft EIR. The commenters are provided below.

- California Department of Conservation;
- Central Valley Regional Water Quality Control Board;
- San Joaquin Valley Air Pollution Control District.

**Notice of Availability and Draft EIR:** The City published a public Notice of Availability (NOA) for the Draft EIR on September 16, 2022 inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2020080531) 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 September 16, 2022 through October 31, 2022.

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.

**Notice of Availability and Recirculated Draft EIR:** Upon review of certain comments received on the Draft EIR during the prior (2022) public comment period, the City concluded that the air quality and greenhouse gas analyses should be revised to employ more conservative assumptions concerning

the distance that project trucks may travel. A Recirculated Draft EIR was prepared to revise these analyses to modify Project Description to incorporate new measures and strategies to reduce emissions and vehicle trips.<sup>2</sup> The Project Description chapter and the other sections of the Draft EIR were updated to reflect such Project commitments, as well as other Project refinements (such as construction schedule, etc.), and the Recirculated Draft EIR was published by the City on December 22, 2023. The Recirculated Draft EIR was available for public review and comment from December 22, 2023 through February 5, 2024.

**Responses to Comments, EIR Revisions, and Final EIR:** During the 2022 Draft EIR comment period, the City received eight comment letters regarding the Draft EIR from public agencies and other parties. During the 2023/2024 Recirculated Draft EIR comment period, the City received five comment letters regarding the Recirculated Draft EIR from private companies, one resident, and other parties. In accordance with CEQA requirements, the City published all comments received during both public comment periods and written responses to all such comments. In addition, in response to all comments, the City made several revisions to the Draft EIR and Recirculated Draft EIR. Those revisions, and all comments and responses, were published by the City in a document titled “Response to Comments for the Tracy Costco Depot Annex Project” (the “RTC Document”) in September 2024. Together, the Draft EIR, the Recirculated Draft EIR, and the RTC Document comprise the Final EIR for the Project.

The comments received did not provide evidence of any new significant impacts or “significant new information” that would require any additional significant revisions to and thus any additional recirculation of the Draft EIR or Recirculated 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 final EIR, including all technical materials cited in the EIR 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 the public scoping meeting and public meetings/hearings held by the City.
- Staff reports associated with Environmental Sustainability Commission, Planning Commission and City Council meetings/hearings on the Project.
- Those categories of materials identified in Public Resources Code § 21167.6(e).

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<sup>2</sup> See letter from Christine Lasley, Costco, to Victoria Lombardo, City of Tracy, dated November 28, 2023.

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 Tracy, Planning Division 333 Civic Center Plaza Tracy, CA 95376 or online at:

<https://www.cityoftracy.org/our-city/departments/planning/specific-plans-environmental-impact-reports-and-initial-studies>

#### 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 Irrigated 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 AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program (MMRP) 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 MMRP to track compliance with Project mitigation measures.

#### CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT

In adopting these Findings, this City Council finds that the EIR was presented to this City Council, the decision-making body of the lead agency, which reviewed and considered the information in the 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 EIR. The City Council finds that the EIR was completed in compliance with CEQA. The 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. AESTHETICS AND VISUAL RESOURCES

1. IMPACT 3.1-1: PROJECT IMPLEMENTATION MAY RESULT IN SUBSTANTIAL ADVERSE EFFECTS ON SCENIC VISTAS.
  - (a) Potential Impact. The potential for the Project to result in substantial adverse effects on scenic vistas is discussed on pages 3.1-8 through 3.1-10 of the Draft EIR and determined to be significant.
  - (b) Mitigation Measures. No feasible mitigation measures were identified.
  - (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:
    - (1) Remaining Impacts. The Project site is not designated as a scenic vista by the City of Tracy General Plan or the San Joaquin County General Plan, nor does it contain any unique or distinguishing features that would qualify the site for designation as a scenic vista. However, most of Tracy's scenic vistas and corridors are associated with the open space and agricultural resources of the surrounding Sphere of Influence (SOI) and Planning Area, and are a valued local asset for the community. The

surrounding farming and grazing lands, and grassy hillsides of the Diablo coastal range, serve to situate the City in its local environment and landscape, and provide a reminder of its agricultural heritage.

Scenic resources in the vicinity of the Project site include:

- Views of the Diablo Range. Rising from the Southwest portion of the Tracy Planning Area, this range extends from near sea level to 1,652 feet and provides a visual barrier between the Central Valley and the San Francisco Bay Area. Generally, the eastern slopes visible from Tracy have not been developed and contain sporadic tree groupings.
- Expansive Agricultural Lands. Agricultural lands that are used for row crops and grazing are found in the Project vicinity.

The above-referenced public views are primarily available to motorists traveling along the major transportation corridors at highway speed. In addition, these public views of foothills and mountains are characteristic of San Joaquin County, and exist throughout the region. The Project site is highly visible from Old Schulte Road and portions of the project site may be visible from I-580 (between I-205 and I-5).

Implementation of the proposed Project would change the existing visual character of the site from vacant agricultural land to industrial uses. Impacts related to a change in visual character are largely subjective and very difficult to quantify. People have different reactions to the visual quality of a project or a project feature, and what is considered “attractive” to one viewer may be considered “unattractive” to other viewers. The Project site currently consists primarily of vacant agricultural lands. Agricultural lands provide visual relief from urban and suburban developments, and help to define the character of a region.

The proposed Project would result in the conversion of the vacant agricultural land, which would contribute to changes in the regional landscape and visual character of the area. In order to reduce visual impacts, development within the Project site is required to be consistent with the General Plan and the Tracy Zoning Ordinance which includes design standards in order to ensure quality and cohesive design of the Project site and ensure the public views from the transportation corridors would be of high quality. These standards include specifications for building height, massing, and orientation; exterior lighting standards and specifications; and landscaping standards. Implementation of the design standards would ensure quality design throughout the Project site, and result in a Project that would be internally cohesive while maintaining aesthetics similar to surrounding uses.

Nevertheless, the loss of the visual appearance of the existing agricultural land on the site would change the visual character of the Project site in perpetuity. This is considered a significant and unavoidable impact. There is no feasible mitigation available that would reduce this impact to a less than significant level.

(2) 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 scenic vistas, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

2. IMPACT 4.2: CUMULATIVE DEGRADATION OF THE EXISTING VISUAL CHARACTER OF THE REGION.

(a) Potential Impact. The potential for the Project to have a cumulative impact on the existing visual character of the region is discussed on pages 4.0-4 and 4.0-5 of the Draft EIR.

(b) Mitigation Measures. No feasible mitigation measures were identified.

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

(1) Remaining Impacts. Under cumulative conditions, buildout of the General Plans for Tracy and the surrounding jurisdictions could result in changes to the visual character and quality of the City of Tracy through development of undeveloped areas and/or changes to the character of existing communities. Development of the proposed Project, in addition to other future projects in the area, would change the existing visual and scenic qualities of the City. It is noted that although the Project site is undeveloped and was previously used for agricultural uses, the General Plan designates the site for Industrial uses. Additionally, the surrounding areas to the north, east, south, and west are designated for urban uses (including mainly Industrial uses) by the General Plan. As such, the General Plan and associated EIR anticipated development of the Project area for similar uses as proposed by the Project.

Development within the City would be required to be consistent with the General Plan policies and City Municipal Code, both of which cover aesthetics and visual characteristics. Further, the Municipal Code contains development standards that address the visual character of a development project, such as building height, massing, setbacks, lighting, and landscaping. Although implementation of these requirements would reduce the impacts associated with development, the impacts would remain significant and unavoidable. As such, this is a cumulatively considerable contribution and a significant and unavoidable impact.

(2) 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 the existing visual character of the region, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

### B. AGRICULTURAL RESOURCES

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1. IMPACT 3.2-1: THE PROPOSED PROJECT HAS THE POTENTIAL TO RESULT IN THE CONVERSION OF FARMLANDS, INCLUDING PRIME 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 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 3.2-12 and 3.2-13 of the Draft EIR.

- (b) Mitigation Measures. All feasible mitigation measures have been imposed. No additional feasible mitigation measures were identified. While the proposed Project would contribute fees toward the purchase of conservation easements on agricultural lands through the City's agricultural mitigation fee program and the San Joaquin County Multi-Specific Habitat Conservation and Open Space Plan (SJMSCP) (as required by Mitigation Measure 3.4-1 and existing City regulations), those fees and conservation easements would not result in the creation of new farmland to offset the loss that would occur with Project implementation.

- (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 proposed Project would result in the permanent conversion of 101.78 acres of Prime Farmland, as shown on Figure 3.2-1, to non-agricultural use. The loss of Important Farmland as classified under the Farmland Mapping and Monitoring Program (FMMP) is considered a potentially significant environmental impact.

Tracy Municipal Code Chapter 13.28 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 private urban uses. 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. The San Joaquin Council of



Governments (SJCOG) will then use these funds to purchase the conservation easements on agricultural and habitat lands in the Project vicinity. The compensation results in the purchase of conservation easements that are placed over agricultural land. As such, the Project fees paid to SJCOG as administrator of the SJMSCP will result in the preservation of agricultural lands in perpetuity.

While the proposed Project would contribute fees toward the purchase of conservation easements on agricultural lands through the City's agricultural mitigation fee program and the SJMSCP (as required by Mitigation Measure 3.4-1 and existing City regulations), those fees and conservation easements would not result in the creation of new farmland to offset the loss that would occur with Project implementation. As such, the loss of Important Farmland would be 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 EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided despite implementation of Mitigation Measure 3.4-2, 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 Farmlands, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

## 2. IMPACT 4.4: CUMULATIVE IMPACT ON AGRICULTURAL RESOURCES.

- (b) Potential Impact. The potential for the Project to have a cumulative impact on agricultural resources is discussed on pages 4.0-5 and 4.0-6 of the Draft EIR.
- (b) Mitigation Measures. No feasible mitigation measures were identified.
- (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:
  - (1) Remaining Impacts. Tracy Municipal Code Chapter 13.28 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 private urban uses. 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. SJCOG will then use these funds to purchase the conservation easements on agricultural and habitat lands in the Project vicinity. The compensation results in the purchase of conservation easements that are placed

over agricultural land. As such, the Project fees paid to SJCOG as administrator of the SJMSCP will result in the preservation of agricultural lands in perpetuity.

The purchase of conservation easements and/or deed restrictions through the City's agricultural mitigation fee program and the SJMSCP allows the landowners to retain ownership of the land and continue agricultural operations, and preserves such lands in perpetuity. Future projects would be subject to the City's agricultural mitigation fee program and the SJMSCP.

While the proposed Project, as well as future projects in the City and County, will contribute fees toward the purchase of conservation easements on agricultural lands, as required by Mitigation Measure 3.4-1, those fees and conservation easements would not result in the creation of new farmland to offset the loss that would occur with Project implementation. As such, the loss of Important Farmland would be a cumulatively considerable contribution and a significant and unavoidable impact.

- (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 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.

### C. AIR QUALITY

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1. IMPACT 3.3-1: PROJECT OPERATION WOULD CONFLICT OR OBSTRUCT IMPLEMENTATION OF THE DISTRICT'S AIR QUALITY PLAN.
  - (a) Potential Impact. The potential for the Project to conflict or obstruct implementation of the District's air quality plan is discussed on pages 3.3-30 and 3.3-35 of the Recirculated Draft EIR and was determined to be significant.
  - (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.3-1 through 3.3-36.
  - (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:
    - (1) Effects of Mitigation and Remaining Impacts. The SJCOG Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) growth projections provide for

future employment/population factors. The development of the SJVAPCD Air Quality Attainment Plan (AQAP) is based in part on the land use general plan projections of the various cities and counties that constitute the Air Basin. The City of Tracy General Plan Land Use Element designates the Project site as Industrial, which is intended to accommodate flex/office space, manufacturing, warehousing and distribution, and ancillary uses for workers' needs. Therefore, the proposed Project, which involves the development of light industrial, warehouse and distribution and related uses, is considered consistent with the site's General Plan land use designation and its traffic would be included in volumes projected for analysis of the General Plan. The SJVAPCD AQP is based on the growth assumptions of the City of Tracy General Plan and SJCOG RTP/SCS. Since the Project is consistent with the SJCOG RTP/SCS, and SJCOG RTP/SCS projections are incorporated into the SIP, the Project is also consistent with the SIP.

The Project incorporates various policy and rule-required implementation measures that would reduce related emissions, including all of the current Air District rules and regulations.<sup>3</sup> For example, the proposed Project would be required to implement Air District Rule 9510, which ensures that the Project would fulfill the Air District's emissions reduction commitments in the relevant PM<sub>10</sub> and Ozone Attainment plans.<sup>4</sup> In addition, the Project would comply with all applicable stationary source permitting rules implemented by SJVAPCD, which further confirms the Project would not cause or contribute to any ambient air quality standard exceedances.

Nevertheless, for the sake of a conservative assessment, the proposed Project's potential impact to this environmental topic is considered significant and unavoidable. Mitigation Measure 3.3-1 requires operators of heavy-duty trucks that travel to and from the Project site to use trucks that have 2010 model year or newer engines that meet the CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions, or newer, cleaner trucks and equipment. Moreover, crucially, the proposed Project would also implement various mitigation measures that would reduce Project operational and construction emissions, as provided below. The proposed Project would be required to implement Mitigation Measure 3.3-1 through Mitigation Measure 3.3-36.

- (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 EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided, the City Council finds that specific economic,

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<sup>3</sup> See here for further detail: <https://www.valleyair.org/rules/1ruleslist.htm>

<sup>4</sup> Compliance with Air District Rule 9510 is assumed under CEQA.

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 air quality, as more fully stated in the Statement of Overriding Considerations in Section VII, below.
2. IMPACT 3.3-2: THE PROPOSED PROJECT WOULD RESULT IN A CUMULATIVELY CONSIDERABLE NET INCREASE OF A CRITERIA POLLUTANT FOR WHICH THE REGION IS IN NONATTAINMENT UNDER AN APPLICABLE FEDERAL OR STATE AMBIENT AIR QUALITY STANDARD.
  - (a) Potential Impact. The potential for the Project to result in a cumulatively considerable net increase of a criteria pollutant for which the region is in nonattainment under an applicable federal or State ambient air quality standard is discussed on pages 3.3-31 through 3.3-37 of the Recirculated Draft EIR and determined to be significant.
  - (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.3-1 through 3.3-36.
  - (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:
    - (1) Effects of Mitigation and Remaining Impacts. CalEEMod™ (v. 2022.1) was used to model construction and operational emissions of the proposed Project. The SJVAPCD provides a list of applicable air quality emissions thresholds. Table 3.3-10 shows proposed Project construction emissions as provided by CalEEMod. As shown in Table 3.3-10 in Section 3.3, the proposed Project would also not exceed the daily mass screening criteria thresholds during Project construction. Table 3.3-11 and Table 3.3-12 show proposed Project emissions as provided by CalEEMod ('without Project sustainability features'), in tons per year and pounds per day, respectively. Table 3.3-11 includes the individual Project buildings' emissions separately, in addition to the total Project emissions, for the sake of additional disclosure. As shown in Table 3.3-11, total Project operational emissions would exceed the SJVAPCD thresholds of significance for NOx, under the 'without Project sustainability features' scenario, in terms of tons per day (primarily due to operation of Building 2).

Additionally, the SJVAPCD has developed daily mass emissions screening criteria for ROG, NOX, CO, SOX, PM10, and PM2.5 to determine whether project emissions would result in a violation of an AAQS. Because the NAAQS and CAAQS are concentration-based standards, Project emissions were evaluated using the SJVAPCD mass emissions screening approach, which provides a preliminary assessment to determine whether a project would contribute to a violation of an AAQS. The screening is conducted by evaluating daily Project emissions against a

100 pound per day threshold for each criteria air pollutant. Table 3.3-12 provides the proposed Project's 'without Project sustainability features' operational emissions in pounds per day in comparison to these screening thresholds. As shown in Table 3.3-12, under the 'without Project sustainability features' scenario, the proposed Project's operational emissions would not exceed any of the daily mass screening criteria thresholds.

Proposed Project operational emissions 'inclusive of quantified Project Sustainability features' are shown in Table 3.3-13 and Table 3.3-14, based on implementation of SJVAPCD Rule 9510. While compliance with SJVAPCD Rule 9510 is regulatorily required, the rule itself is an indirect source rule designed to achieve emission reductions from development projects. Thus, it is included here to represent the SJVAPCD regulatory requirement to mitigate the operational emissions. The proposed Project would also be required to implement Mitigation Measure 3.3-1 through Mitigation Measure 3.3-36, as provided under Impact 3.3-1. However, due to the difficulty in modeling the emissions (i.e., NO<sub>x</sub> emissions) reductions that would occur due to implementation of Mitigation Measure 3.3-1 through Mitigation Measure 3.3-36, the emissions reductions associated with Mitigation Measure 3.3-1 through Mitigation Measure 3.3-36 were not modeled. Thus, Table 3.3-13 and Table 3.3-14 provide a conservative estimate of the operational emissions results for the proposed Project, with the quantified Project sustainability features accounted for.

The emission estimates provided in Table 3.3-13 and Table 3.3-14 demonstrate a reasonable worst-case scenario for Project operation. Because the operational emissions shown therein would exceed the SJVAPCD's significance thresholds for NO<sub>x</sub>, even with implementation of Project sustainability features and mitigation measures, this impact would remain significant and unavoidable.

Criteria pollutant emissions generated by the proposed Project during operation would exceed applicable thresholds after compliance with all rules and regulations, even after implementation of Mitigation Measure 3.3-1 through Mitigation Measure 3.3-36. No other feasible mitigation measure exists to reduce the applicable operational criteria pollutant impacts to below the applicable SJVAPCD thresholds. Therefore, this impact would be 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 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 air quality, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

### 3. IMPACT 4.5: CUMULATIVE IMPACT ON THE REGION'S AIR QUALITY.

- (c) Potential Impact. The potential for the Project to have a cumulative impact on the region's air quality is discussed on pages 4.0-6 and 4.0-7 of the Recirculated Draft EIR.
- (b) Mitigation Measures. Mitigation Measures 3.3-1 through 3.3-36.
- (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:
  - (1) Remaining Impacts. Under buildout conditions in the San Joaquin County, the SJVAB would continue to experience increases in criteria pollutants and efforts to improve air quality throughout the basin would be hindered. As described in Section 3.3, San Joaquin County has a state designation of Nonattainment for ozone, PM<sub>10</sub> and PM<sub>2.5</sub>. Table 3.3-2 in Section 3.3 presents the State and Federal attainment status for San Joaquin County.

As discussed in Impact 3.3-2, the proposed Project, without mitigation, would not exceed the SJVAPCD thresholds of significance for construction criteria pollutants. Additionally, as shown in Table 3.3-9, the proposed Project would not exceed the daily mass screening criteria thresholds during Project construction. Additionally, under the unmitigated scenario, the proposed Project's operational emissions would not exceed any of the daily mass screening criteria thresholds. Proposed Project mitigated operational emissions are shown in Table 3.3-12 based on implementation of SJVAPCD Rule 9510. While compliance with SJVAPCD Rule 9510 is regulatorily required, the rule itself is an indirect source rule designed to achieve emission reductions from development projects. Thus, it is included here to represent the SJVAPCD regulatory requirement to mitigate the operational emissions. The proposed Project would also be required to implement Mitigation Measure 3.3-1, as provided under Impact 3.3-1. However, due to the difficulty in modeling the emissions (i.e. NO<sub>x</sub> emissions) reductions that would occur due to implementation of Mitigation Measure 3.3-1, and for the sake of a conservative analysis, the emissions reductions associated with Mitigation Measure 3.3-1 were not modeled. There are no further mitigation measures identified and thus Table 3.3-13 and Table 3.3-14 provide a conservative estimate of the operational emissions results for the proposed Project, with the quantified Project sustainability features accounted for. Therefore, this impact would be significant and unavoidable.

The increase in industrial warehouse square footage anticipated with buildout of the Project is generally consistent with growth projections assumed in the Tracy General Plan for the same time horizon. While the proposed Project, as well as

future projects in the City and County, will be subject to the requirements of the SJVAPCD, even with the application of the mitigation measures included in Section 3.3, emissions levels would remain above the defined threshold of significance for NOx, since Mitigation Measure 3.3-1 may not be feasible to implement in full. As such, cumulative impacts on the region's air quality would be a significant and unavoidable impact. The Project's contribution to this significant impact would be cumulatively considerable.

Overall, even with the application of the mitigation measures included in Section 3.3, emissions levels would remain above the defined thresholds of significance. As such, implementation of the proposed Project would have a cumulatively considerable contribution and significant and unavoidable impact from air emissions.

- (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 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 the region's air quality, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

## D. NOISE

1. IMPACT 3.11-1: THE PROPOSED PROJECT HAS 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.
  - (a) Potential Impact. The potential for the Project 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 3.11-11 through 3.11-16 of the Draft EIR.
  - (b) Mitigation Measure. The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.11-1 and 3.11-2.
  - (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:

- (1) Effects of Mitigation and Remaining Impacts. Operational noise levels at the existing residential receptors to the west of the site resulting from the proposed Project are quantified and shown in Figures 3.11-2 and 3.11-3 in Section 3.11. Figure 3.11-2 shows the average (Leq) Project noise contours and Figure 3.11-3 shows the maximum (Lmax) Project noise contours.

Based upon Figure 3.11-2, the proposed Project would generate peak hour noise levels of up to 54 dBA Leq at the outdoor activity areas of adjacent residential uses. The adjacent residential uses would remain outside of the City of Tracy limits, so noise generated by the proposed Project at these locations would be subject to the San Joaquin County noise criteria. The predicted noise levels of up to 54 dBA Leq would exceed the San Joaquin County non-transportation noise limits of 50 dBA Leq during daytime (7:00 a.m. to 10:00 p.m.) hours and 45 dBA Leq during nighttime (10:00 p.m. to 7:00 a.m.) hours.

Based upon Figure 3.11-3, the proposed Project is predicted to generate maximum noise levels of approximately 68 dBA Lmax at the residential uses to the west of the Project site. This would comply with the San Joaquin County maximum noise level limits of 70 dBA Lmax during daytime hours but would exceed the County's 65 dBA Lmax standard during nighttime hours.

In order to reduce project-related noise levels, Saxelby Acoustics used the Sound PLAN noise model to evaluate the use of noise barriers for reducing project-related noise levels at the adjacent residential uses. Figure 3.11-4 shows the exterior noise levels in terms of the peak hour average (Leq) noise level, with a 20-foot-tall acoustically absorbent screen wall located along the western boundary of the Project site. The resulting noise levels of up to 50 dBA Leq would comply with the County's 50 dBA Leq daytime standard but would still exceed the County's 45 dBA Leq nighttime noise standard. As such, a sound wall would not result in noise levels at or below the County's nighttime noise standard. Mitigation Measure 3.11-2 requires a minimum 6-foot tall sound wall and/or landscaped berm. Overall, the County's exterior noise standards would still be exceeded and this would be a significant and unavoidable impact.

- (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 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 related to operational noise, as more fully stated in the Statement of Overriding Considerations in Section VII, below.



2. IMPACT 4.15: CUMULATIVE EXPOSURE OF EXISTING NOISE-SENSITIVE LAND USES TO INCREASED NOISE RESULTING FROM CUMULATIVE DEVELOPMENT.

(d) Potential Impact. The potential for the Project to have a cumulative impact on existing noise-sensitive land uses is discussed on pages 4.0-19 and 4.0-20 of the Draft EIR.

(b) Mitigation Measures. Mitigation Measure 3.11-2.

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

(1) Remaining Impacts. As discussed in Section 3.11, based upon Figure 3.11-3, the proposed Project is predicted to generate maximum noise levels of approximately 68 dBA Lmax at the property line of the residential uses to the west of the Project site. This would comply with the San Joaquin County maximum noise level limits of 70 dBA Lmax during daytime hours but would exceed the County's 65 dBA Lmax standard during nighttime hours. In order to reduce project-related noise levels, Saxelby Acoustics used the Sound PLAN noise model to evaluate the use of noise barriers for reducing project-related noise levels at the adjacent residential uses. Figure 3.11-4 shows the exterior noise levels in terms of the peak hour average (Leq) noise level, with a 20-foot-tall acoustically absorbent screen wall located along the western boundary of the Project site. The resulting noise levels of up to 50 dBA Leq would comply with the County's 50 dBA Leq daytime standard but would still exceed the County's 45 dBA Leq nighttime noise standard. As such, a sound wall would not result in noise levels at or below the County's nighttime noise standard. Therefore, the County's exterior noise standards would still be exceeded. Because the County's exterior noise standards would still be exceeded as a result of operational noise at the Project site, the proposed Project would have a significant and unavoidable cumulative impact relative to this environmental topic. As such, impacts related to cumulative operational noise would result a cumulatively considerable contribution.

(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 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 related to noise, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

### E. TRANSPORTATION AND CIRCULATION

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1. IMPACT 3.13-1: PROJECT IMPLEMENTATION WOULD CONFLICT WITH OR BE INCONSISTENT WITH CEQA GUIDELINES SECTION 15064.3, SUBDIVISION (B).

(b) Potential Impact. The potential for the Project to conflict with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b) is discussed on pages 3.13-12 through 3.13-17 of the Draft EIR.

(b) Mitigation Measure. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.13-1.

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

- (1) Effects of Mitigation and Remaining Impacts. The proposed Project was evaluated using the City of Tracy VMT Calculator. For the surrounding industrial land use area, the City's threshold is 9.4 VMT per employee. The City's VMT Calculator estimates that the Project would generate 24.8 VMT per employee, and the Project exceeds the threshold by 164 percent. It should be noted that truck trips are exempted from VMT analysis per SB 743.

Per the City's VMT threshold and CEQA guidance per SB 743, this impact would be significant. For projects that would cause a VMT impact, VMT reduction strategies (such as introducing TDM, or additional multimodal infrastructure) can be implemented to reasonably mitigate the VMT impact. The reductions strategies and effectiveness are estimated from research literature and case studies.

However, because the Project exceeds the City threshold by 164 percent, a reduction below the City's VMT threshold is not feasible using solely TDM strategies. Based on empirical data, the California Air Pollution Control Officers Association (CAPCOA) indicates that up to 15 percent of VMT reduction can reasonably be achieved through TDM strategies. Because the City is developing the VMT Mitigation Banking program, assuming the City adopts the program, the applicant will have the option to also pay a fee to "purchase" VMT reductions (i.e., pay to offset the Project VMT impact) to further reduce the impact beyond the reductions attributable to Project-appropriate TDM measures. For the purpose of this analysis, a maximum of 15 percent banking is assumed, i.e., the project will reduce its VMT impact by 15% using TDM measures and/or the VMT Mitigation Banking program.

Mitigation Measure 3.13-1, which requires travel demand management (TDM) strategies, would be required. Implementation of Mitigation Measure 3.13-1 is feasible because it is within the applicant's purview to implement and the TDM measures have been found effective in previous academic studies. However, the precise effectiveness of specific TDM strategies can be difficult to accurately

measure due to a number of external factors such as employee responses to strategies and changes to technology.

As part of Mitigation Measure 3:13-1, the proposed Project would be required to monitor and evaluate the effectiveness of the Project's TDM Plan and provide the results to the City of Tracy. Based on the results of the evaluation, modifications to the TDM Plan may be required by the City in order to improve effectiveness toward achieving the home-based work VMT per worker target.

Based on the above, even with the implementation of Mitigation Measure 3.13-1, the impact would remain significant and unavoidable when compared to the City of Tracy's VMT threshold of significance.

- (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 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 related to conflicts with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b), as more fully stated in the Statement of Overriding Considerations in Section VII, below.
2. IMPACT 4.17: UNDER CUMULATIVE CONDITIONS, THE PROPOSED PROJECT WOULD CONFLICT WITH OR BE INCONSISTENT WITH CEQA GUIDELINES SECTION 15064.3, SUBDIVISION (B).
  - (a) Potential Impact. The potential for the Project to have a cumulative impact related to CEQA Guidelines Section 15064.3, subdivision (b) is discussed on page 4.0-22 of the Draft EIR.
  - (b) Mitigation Measure. Mitigation Measure 3.13-1.
  - (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:
    - (1) Remaining Impacts. The proposed Project was evaluated using the City of Tracy VMT Calculator. For the surrounding industrial land use area, the City's threshold is 9.2 VMT per employee. The City's VMT Calculator estimates that the Project would generate 24.8 VMT per employee, and the Project exceeds the threshold by 164 percent. Because the Project exceeds the City threshold by 164 percent, a reduction below the City's VMT threshold is not feasible.

Mitigation Measure 3.13-1, which requires travel demand management (TDM) strategies, would be required. Implementation of Mitigation Measure 3.13-1 is feasible because it is within the applicant's purview to implement and has been found effective in previous academic studies. However, the precise effectiveness of specific TDM strategies can be difficult to accurately measure due to a number of external factors such as types of tenants, employee responses to strategies, and changes to technology.

In order for a specific project to have a less than significant impact related to VMT, the project must demonstrate that per capita VMT would be 15 percent below the regional average. Because future development would likely be equal to the regional average, or above average (or less than average but not fully 15 percent less than average), impacts relate to VMT would be significant and unavoidable. Exceptions to this would be infill projects, or small projects which include VMT reducing strategies. Due to the size of the Project and the fact that the Project exceeds the City threshold by 164 percent, the incremental contribution to this cumulative VMT impact would be cumulatively considerable.

- (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 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 related to CEQA Guidelines Section 15064.3, subdivision (b), as more fully stated in the Statement of Overriding Considerations in Section VII, below.

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

### A. AGRICULTURAL RESOURCES

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1. IMPACT 3.2-3: THE PROPOSED PROJECT HAS THE POTENTIAL TO RESULT IN CONFLICTS WITH ADJACENT AGRICULTURAL LANDS OR INDIRECTLY CAUSE CONVERSION OF AGRICULTURAL LANDS.
  - (a) Potential Impact. The potential for the Project to result in conflicts with adjacent agricultural lands or indirectly cause conversion of agricultural lands is discussed on page 3.2-13 through 3.2-15 of the Draft EIR.

- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.2-1.
- (c) Findings. Neighboring agricultural land, including Prime Farmland and Farmland of Local Importance, are located to the north, south, and east the Project site. Industrial warehouses would be developed on the 103-acre Development Area with implementation of the proposed Project. The City's General Plan anticipates that agricultural lands to the north, east, south, and west of the Project site would develop with urban uses. Existing agricultural lands that are located adjacent to the Project site to the west may be impacted by the increased human presence on the Project site. It is noted that a development application to develop and annex the parcel west of the site has been submitted to the City. The City's Right-to-Farm Ordinance reduces the potential for conflict between existing agricultural lands and adjacent uses. The notification procedures in the ordinance serves to inform landowners and developers of non-agricultural uses in the area and the expectations with regard to agricultural activities in order to reduce complaints.

General Plan Policy OSC-2.2-P-1 requires buffer zones, such as roads, setbacks and other physical boundaries, at the interface of urban development and farmland in order to minimize conflicts between the uses. These buffer zones are required to be of sufficient size to protect the agriculture operations from the impacts of incompatible development and be established based on the proposed land use, site conditions and anticipated agricultural practices. Additionally, Policy OSC-2.2-P-2 requires that the land uses near agricultural operations be limited to those not negatively impacted by dust, noise, and odors.

Neither the City's Right-to-Farm Ordinance nor its General Plan Policies define the width or specifics of desired buffer types for agricultural uses. Most of the proposed development would be buffered from existing agricultural operations by Old Schulte Road on the northern side of the Project site and by the Delta Mendota Canal on the southern side of the Project site. Additionally, the proposed Project includes parking areas, stormwater drainage areas, and landscaping along the perimeter of the site. These areas would provide a buffer between agricultural uses and the Project site. Further, land opposite Old Schulte Road to the north of the Project site is within the recently approved Cordes Ranch Specific Plan, which plans for the development of a 1,780-acre commerce and business park, consisting of 55.1 acres of General Commercial uses, 152.2 acres of General Office uses, 1,476.9-acres of Business Park Industrial uses, and 96.3-acres of Park uses. However, the agricultural land to the west and east of the Project site would not be buffered from the proposed industrial development. As discussed previously, the City's Right to Farm Ordinance is intended to reduce the occurrence of such conflicts between nonagricultural and agricultural land uses within the City through requiring the transferor of any property in the City to provide a disclosure statement describing that the City permits agricultural operations, including those that utilize chemical fertilizers and pesticides. Compliance with the City's Right to

Farm Ordinance would be ensured through Mitigation Measure 3.2-1. Implementation of Mitigation Measure 3.2-1 would ensure that the Project includes adequate measures to buffer Project uses from adjacent agricultural uses and would help to reduce adverse effects on neighboring agricultural uses. The proposed project is not anticipated to lead to the permanent indirect conversion of offsite agricultural lands to a non-agricultural use. The project would not extend infrastructure or roadway access to offsite agricultural lands. Implementation of Mitigation Measure 3.2-1 would ensure that the Project applicant complies with the County's right-to-farm ordinance due to the potential conflicts between the proposed residences in the southern and western portions of the Plan Area and the existing agricultural operations to the south and west of the Plan Area. Implementation of this mitigation measure would ensure that impacts associated with the potential to result in conflicts with adjacent agricultural lands or indirectly cause conversion of agricultural lands are less than significant.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.2-1 is an appropriate change or alteration that has 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 result in conflicts with adjacent agricultural lands or indirectly cause conversion of agricultural lands will be mitigated to a less than significant level.

### B. BIOLOGICAL RESOURCES

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#### 1. IMPACT 3.4-1: THE PROPOSED PROJECT IMPLEMENTATION MAY RESULT IN DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS INVERTEBRATE SPECIES.

- (a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status invertebrate species is discussed on page 3.4-28 through 3.4-30 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.4-1.
- (c) Findings. Special-status invertebrates that occur within the 9-quad region (which includes the following USGS quadrangles: Byron Hot Springs, Clifton Court Forebay, Union Island, Altamont, Midway, Tracy, Mendenhall Springs, Cedar Mountain, and Lone Tree Creek) for the Project site include: Longhorn fairy shrimp (*Branchinecta longiantenna*), Vernal pool fairy shrimp (*Branchinecta lynchi*), Midvalley fairy shrimp (*Branchinecta mesovallensis*), California linderiella (*Linderiella occidentalis*), Crotch bumble bee (*Bombus crotchii*), Western bumble bee (*Bombus occidentalis*), and Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). As noted in Table 3.4-2 in Section 3.4, Longhorn fairy shrimp (*Branchinecta longiantenna*), Vernal pool fairy shrimp (*Branchinecta lynchi*), Midvalley fairy shrimp (*Branchinecta mesovallensis*), and

Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) are covered species under the SJMSCP.

The Project site is located within the jurisdiction of the SJMSCP and is located within the Central/Southwest Transition Zone of the SJMSCP. Within the Southwest Transition Zone, the Project site is located in the Category C/Pay Zone B. The Category C/Pay Zone B includes parcels containing habitat types classified as Agricultural Habitat Lands which are not otherwise exempt. Applicants pay mitigation fees on a per-acre basis, as established by the JPA, according to the measures needed to mitigate impacts to the various habitat and biological resources. The project applicant would be required to seek coverage under the SJMSCP and would be subject to the Category C/Pay Zone B fees in order to mitigate for any habitat impacts. Coverage involves compensation for habitat impacts on covered species through payment of development 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. In addition, coverage includes incidental take avoidance and minimization measures for species that could be affected as a result of the proposed project. The valley elderberry longhorn beetle, longhorn fairy shrimp, vernal pool fairy shrimp, and midvalley fairy shrimp are covered species under the SJMCP.

The Project site is currently undeveloped and has been historically used for agricultural uses (orchards). There are five documented special-status invertebrates located within the 9-quad region for the project site. According to the CNDDDB records search, there are no documented or observed special-status invertebrate species on the Project site. Additionally, appropriate habitat for these special-status invertebrates were not observed within the Project site or offsite improvement corridors during the field survey and none are expected to be affected by the proposed Project. While there are no special status invertebrate species that are anticipated to be affected by the proposed project, participation in the SJMSCP will provide the coverage for the incidental take of a species if it were to occur. Mitigation Measure 3.4-1 will ensure coverage under the SJMSCP. Therefore, the proposed project would have a less than significant impact on special status invertebrate species.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.4-1 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 have direct or indirect effects on special-status invertebrate species will be mitigated to a less than significant level.

### 2. IMPACT 3.4-2: THE PROPOSED PROJECT HAS THE POTENTIAL TO HAVE DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS AMPHIBIAN AND REPTILE SPECIES.

- (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 3.4-30 through 3.4-35 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.4-1.
- (c) Findings. Special-status amphibians and reptiles that occur within the 9-quad region for the Project site according to the CNDDDB include: California tiger salamander (CTS) (*Ambystoma californiense*), Foothill yellow-legged frog (*Rana boylei*), California red-legged frog (CRLF) (*Rana aurora draytoni*), Western spadefoot (*Spea hammondi*), Northern California legless lizard (*Anniella pulchra*), California glossy snake (*Arizona elegans occidentalis*), Western pond turtle (*Emys marmorata*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), and Coast horned lizard (*Phrynosoma blainvillii*). As noted in Table 3.4-2 in Section 3.4, California tiger salamander (*Ambystoma californiense*), Foothill yellow-legged frog (FYLF) (*Rana boylei*), California red-legged frog (CRLF) (*Rana aurora draytoni*), Western spadefoot (*Spea hammondi*), Western pond turtle (*Emys marmorata*), and San Joaquin coachwhip (*Masticophis flagellum ruddocki*) are covered species under the SJMSCP.

While there is a low potential for CTS to occur within the Project site, the Project applicant will be required to obtain coverage under the SJMSCP. The CTS is a covered species under the SJMCP; therefore, it is anticipated that any impacts to CTS would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to seek coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

FYLF is known to occur in aquatic habitats, such as creeks or rivers in woodland, forest, mixed chaparral, and wet meadow habitats with rock and gravel substrate and low overhanging vegetation along the edge. They are usually found near riffles with rocks and sunny banks nearby. The FYLF is not documented in the immediate vicinity of the Project site. Additionally, the Project site does not provide the necessary habitat for FYLF. The FYLF is a covered species under the SJMSCP; therefore, it is anticipated that any impacts to FYLF would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

The farmland fringe areas, as well as the fallow conditions in the Project site and vicinity area provide some very limited upland habitat for CRLF. The Delta Mendota Canal along the southern boundary of the Project site would provide marginal habitat for CRLF, however, this aquatic feature has large populations of predatory fish species that inhibit



CRLF populations. Because the closest documented occurrences within the Project vicinity are almost outside of the dispersal range of CRLF and the Project site has marginal habitat, there is a low potential for CRLF to occur on-site. This species is not documented on and has not been observed on the Project site. The CRLF is a covered species under the SJMSCP; therefore, it is anticipated that any impacts to CRLF would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

There are no CNDDDB records of western spadefoot within five miles of the Project site. Additionally, appropriate habitat for this species is limited within the project site, and this species has a low potential to occur on-site. However, limited habitat is present along the Delta Mendota Canal along the southern boundary of the project site. The western spadefoot is a covered species under the SJMSCP; therefore, it is anticipated that any impacts to western spadefoot would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

The necessary habitat for western pond turtle is not present within the project site, and this species has a low potential to occur on-site. However, marginal habitat (i.e., habitat which supports only a few species or individuals because of the limiting environmental conditions) is present along the Delta Mendota Canal along the southern boundary of the project site. The Project site could provide some upland habitat, including nesting opportunities during fallow periods, however, active agricultural activities in the immediate vicinity, as well as regular disking for weed abatement on-site, largely inhibit upland nesting for this species. The western pond turtle is a covered species under the SJMSCP; therefore, it is anticipated that any impacts to western pond turtle would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

Previous disking on-site for agriculture likely eliminated the San Joaquin coachwhip's food base and the mammal burrows it uses for refuge; therefore, this species has a low potential to occur. The San Joaquin coachwhip is a covered species under the SJMSCP; therefore, it is anticipated that any impacts to the San Joaquin coachwhip would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

Additionally, the Project site does not contain suitable habitat for Alameda whipsnake, Northern California legless lizard, California glossy snake, or coast horned lizard.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.4-1 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 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: THE PROPOSED PROJECT HAS THE POTENTIAL TO HAVE DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS BIRD SPECIES.

- (a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status bird species is discussed on page 3.4-35 through 3.4-37 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.4-1.
- (c) Findings. Special-status birds that are documented in the CNDDDB within a ten-mile radius of the Project site include: Cooper's hawk (*Accipiter cooperii*), tricolored blackbird (*Agelaius tricolor*), grasshopper sparrow (*Ammodramus savannarum*), golden eagle (*Aquila chrysaetos*), short-eared owl (*Asio flammeus*), burrowing owl (*Athene cunicularia*), ferruginous hawk (*Buteo regalis*), Swainson's hawk (*Buteo swainsoni*), northern harrier (*Circus hudsonius*), white-tailed kite (*Elanus leucurus*), California horned lark (*Eremophila alpestris actia*), prairie falcon (*Falco mexicanus*), bald eagle (*Haliaeetus leucocephalus*), loggerhead shrike (*Lanius ludovicianus*), song sparrow ("Modesto" population) (*Melospiza melodia*), and least Bell's vireo (*Vireo bellii pusillus*). Least Bell's vireo is not covered by the SJMSCP; the remaining bird species are covered by the SJMSCP.

The Project site may provide suitable foraging habitat for a variety of potentially occurring special-status birds, including those listed above. Potential nesting habitat is present in a variety of trees located within in the Project vicinity. There is also the potential for other special-status birds that do not nest in this region and represent migrants or winter visitants to forage on the Project site.

Powerlines and trees located in the region represent potentially suitable nesting habitat for a variety of special-status birds. Powerlines exist throughout the region; however, mature trees are fairly limited in the region, and are absent from the Project site. Least Bell's vireos, a riparian species, depends on dense, low-growing thickets of willows, mulefat, mugwort, and California wild rose. Vireos inhabit areas where an overstory of taller willows, cottonwoods, and sycamores is also present. During the winter, they are known to occur in mesquite scrub vegetation. Foraging sometimes takes place in adjacent chaparral and coastal sage scrub. Nesting or foraging habitat for least Bell's vireo is not found on-site; as such, this species has no potential to be present.

The agricultural land represents potentially suitable nesting habitat for the ground-nesting birds. In general, most nesting occurs from late February and early March through late July and early August, depending on various environmental conditions. The

CNDDDB currently contains nesting records for Swainson's hawk and burrowing owl in the vicinity of the Project site. In addition to the species described above, common raptors and migratory birds may nest in or adjacent to the Project site.

New sources of noise and light during the construction and operational phases of the project could adversely affect nesters if they 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. Mitigation Measure 3.4-1 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 3.4-1, 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 3.4-1 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 have direct or indirect effects on special-status bird species will be mitigated to a less than significant level.

4. IMPACT 3.4-4: THE PROPOSED PROJECT HAS THE POTENTIAL TO HAVE DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS MAMMAL SPECIES.

- (a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status bird species is discussed on page 3.4-37 through 3.4-39 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.4-1.
- (c) Findings. Special-status mammals that occur within the 9-quadrant region for the Project site according to the CNDDDB include: Pallid bat (*Antrozous pallidus*), Berkeley kangaroo rat (*Dipodomys heermanni berkeleyensis*), Townsend's big-eared bat (*Eumops perotis californicus*), Western mastiff bat (*Eumops perotis californicus*), hoary bat (*Lasiurus cinereus*), 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 3.4-2 in Section 3.4, Berkeley kangaroo rat (*Dipodomys heermanni berkeleyensis*), Townsend's big-eared bat (*Eumops perotis californicus*), 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*) are covered species under the SJMSCP.

While there is low potential for Berkeley kangaroo rat, riparian brush rabbit, San Joaquin pocket mouse, and American badger to occur on-site, the Berkeley kangaroo rat and riparian brush rabbit are both covered species under the SJMSCP; therefore, it is anticipated that any impacts to these species would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

Additionally, according to the CNDDB, the nearest occurrence of the San Joaquin Kit Fox is approximately 0.25-miles south of the Project site between the Delta Mendota Canal and the California Aqueduct while the majority of occurrences are reported to the south and west of the California Aqueduct. Suitable grassland foraging habitat occurs in the vicinity of the Project site where ground squirrels are abundant. This is a highly mobile species. Therefore, there is a moderate to high potential for the San Joaquin Kit Fox to forage on the Project site at times, especially during fallow periods. There were no dens present on-site during the reconnaissance level site survey, and the active agricultural operations adjacent to the site, as well as the regular disking of the site for weed abatement, inhibit any establishment of dens. The San Joaquin kit fox is covered species under the SJMSCP; therefore, it is anticipated that any impacts to this species would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to mitigate for habitat impacts to covered special status species.

Further, the Project site contains potentially suitable habitat for special-status bat species. It is anticipated that any impacts to the Pallid bat, Townsend's big-eared bat, and Western mastiff bat would be less than significant through compliance with Mitigation Measure 3.4-1, which requires the Project proponent to obtain coverage under the SJMSCP to provide compensation for the loss of the potential foraging habitat.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.4-1 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 have direct or indirect effects on special-status mammal species will be mitigated to a less than significant level.

5. **IMPACT 3.4-9: THE PROPOSED PROJECT HAS THE POTENTIAL TO 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 3.4-42 of the Draft EIR.
  - (b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.4-1.

- (c) Findings. The proposed Project is subject to the SJMSCP. The proposed Project does not conflict with the SJMSCP. Mitigation Measure 3.4-1 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 3.4-1 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 conflict with an adopted Habitat Conservation Plan will be mitigated to a less than significant level.

## C. CULTURAL AND TRIBAL RESOURCES

### 1. IMPACT 3.5-1: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO 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 3.5-12 and 3.5-13 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.5-1.
- (c) Findings. A California Historic Resources Information System (CHRIS) search was requested from the Central California Information Center (CCIC), which included the Project area and a one-half mile radius (CCIC File #11244L). The results of the CCIC records search indicated that the Project site does not contain any recorded buildings or structures listed on the State Office of Historic Preservation Historic Property Directory (which includes listings of the California Register of Historical Resources [CRHR], California State Historical Landmarks, California State Points of Historical Interest, and the National Register of Historic Places [NRHP]). The records search also noted that the General Land Office Survey Plat does not reference any historic features in the Project area.

While the CCIC records search found nothing documented on-site that could be considered a “historical resource” under Section 15064.5 in the CEQA Guidelines, as with most projects in the region, there is also the potential for discovery of previously unknown historical resources during ground disturbing activities. For the above-stated reasons, the Project will be required to implement Mitigation Measure 3.5-1, which requires construction work to be halted and if any historical resources, cultural resources, including prehistoric or historic artifacts, or other indications of archaeological resources, are found during grading and construction activities during any phase of the Project. The find would then be evaluated. The implementation of

Mitigation Measure 3.5-1 would ensure that this potential impact is reduced to a less than significant level.

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: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT ARCHAEOLOGICAL RESOURCE, AS DEFINED IN CEQA GUIDELINES § 15064.5, OR A SIGNIFICANT TRIBAL CULTURAL RESOURCE, AS DEFINED IN PUBLIC RESOURCES CODE § 21074.**

- (a) **Potential Impact.** The potential for the Project to cause a substantial adverse change to a significant archaeological resource, as defined in CEQA Guidelines § 15064.5, or a significant tribal cultural resource, as defined in Public Resources Code § 21074 is discussed on pages 3.5-13 and 3.15-14 of the Draft EIR.
- (b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: 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. As noted above, the CHRIS search results indicated that the Project area does not contain any recorded prehistoric or historic archaeological resources or historic buildings, and the General Land Office Survey Plat does not reference any historic features in the Project area. Additionally, the Sacred Lands File (SLF) check failed to reveal any resources on the Project site. Two tribal representatives were contacted pursuant to Senate Bill (SB) 18 and Assembly Bill (AB) 52. The Confederated Villages of Lisjan responded noting their tribal ancestors inhabited this area resulting in the potential for unintentionally finding remains or cultural/tribal cultural resources on the Project site during ground disturbing activities. Additionally, as with most projects in the region that involve ground-disturbing activities, there is also the potential for discovery of a previously unknown archaeological resources and cultural resources, including prehistoric or historic artifacts. Mitigation Measure 3.3-2 would ensure that any discovered human remains are evaluated and addressed in compliance with State law and would reduce this impact to a less-than-significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.3-1 and 3.3-2 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 disturb human remains, including those interred outside of formal cemeteries will be mitigated to a less than significant level.

3. IMPACT 3.5-3: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO DISTURB HUMAN REMAINS, INCLUDING THOSE INTERRED OUTSIDE OF FORMAL CEMETERIES.

- (a) Potential Impact. The potential for the Project to disturb human remains, including those interred outside of formal cemeteries is discussed on pages 3.5-14 and 3.15-15 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.5-2.
- (c) Findings. Indications suggest that humans have occupied San Joaquin County for over 10,000 years and it is not always possible to predict where human remains may occur outside of formal burials. Therefore, excavation and construction activities, regardless of depth, may yield human remains that may not be interred in marked, formal burials. Under CEQA, human remains are protected under the definition of archaeological materials as being “any evidence of human activity.” Additionally, Public Resources Code Section 5097 has specific stop-work and notification procedures to follow in the event that human remains are inadvertently discovered during Project implementation.

While no human remains are documented on or near the Project site, implementation of the following mitigation measure would ensure that all construction activities which inadvertently discover human remains implement state-required consultation methods to determine the disposition and historical significance of any discovered human remains. Mitigation Measure 3.3-2 would ensure that any discovered human remains are evaluated and addressed in compliance with State law and would reduce this impact to a less-than-significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.5-2 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 disturb human remains, including those interred outside of formal cemeteries will be mitigated to a less than significant level.

## D. GEOLOGY AND SOILS

1. IMPACT 3.6-2: IMPLEMENTATION AND CONSTRUCTION OF THE PROPOSED PROJECT MAY RESULT IN SUBSTANTIAL SOIL EROSION OR THE LOSS OF TOPSOIL.

- (a) Potential Impact. The potential for the Project to result in substantial soil erosion or the loss of topsoil is discussed on pages 3.6-13 and 3.6-14 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.9-1.

- (c) Findings. The Project site contains high clay content surface soils; therefore, the Project site would potentially be subject to water erosion. The Custom Soil Survey identified the Project site as having a moderate potential for erosion. Further, there is the potential for human caused erosion associated with construction activities or through the operational phase of a project. Grading, excavation, removal of vegetation cover, and loading activities associated with construction activities temporarily expose soils and increase the potential for soil erosion and sedimentation during rain events. Construction activities can also result in soil compaction and wind erosion effects that can adversely affect soils and reduce the revegetation potential at construction sites and staging areas.

In accordance with the NPDES Stormwater Program, projects in California must prepare a Stormwater Pollution Prevention Plan (SWPPP) containing Best Management Practices (BMPs) to reduce erosion and sediments to meet water quality standards. Such BMPs may include: temporary erosion control measures such as silt fences, staked straw bales/wattles, silt/sediment basins and traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover. The BMPs and overall SWPPP is reviewed by the Regional Water Quality Control Board as part of the permitting process. Mitigation Measure 3.9-1 in Section 3.9, Hydrology and Water Quality, requires an approved SWPPP for the Project designed to control erosion and the loss of topsoil to the extent practicable using BMPs that the RWQCB has deemed effective in controlling erosion, sedimentation, runoff during construction activities. The RWQCB has stated that these erosion control measures are only examples of what should be considered and should not preclude new or innovative approaches currently available or being developed. The specific controls are subject to the review and approval by the RWQCB and are existing regulatory requirements.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.9-1 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 result in substantial soil erosion or the loss of topsoil will be mitigated to a less than significant level.

**2. IMPACT 3.6-3: THE PROPOSED PROJECT HAS THE POTENTIAL TO BE LOCATED ON A GEOLOGIC UNIT OR SOIL THAT IS UNSTABLE, OR THAT WOULD BECOME UNSTABLE AS A RESULT OF PROJECT IMPLEMENTATION, AND POTENTIALLY RESULT IN LANDSLIDE, LATERAL SPREADING, SUBSIDENCE, LIQUEFACTION OR COLLAPSE.**

- (a) Potential Impact. The potential for the Project to be located on a geologic unit or soil that is unstable, or that would become unstable as a result of Project implementation, and potentially result in landslide, lateral spreading, subsidence, liquefaction or collapse is discussed on pages 3.6-14 and 3.6-15 of the Draft EIR.



- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.6-1.
- (c) Findings. The Project site does not have a significant risk of becoming unstable as a result landslide, subsidence, or soil collapse. There is a low potential for liquefaction, liquefaction induced settlement, and lateral spreading. As described above, the Geotechnical Review determined development of the Project is geotechnically feasible. The Project would be required to be constructed using standard engineering and seismic safety design techniques of the California Building Code, which would reduce potential impacts associated with unstable geologic and soil conditions. Additionally, the Project would be required to comply with Mitigation Measure 3.6-1, which requires a final geotechnical evaluation be prepared and design recommendations identified to address any soil conditions within the Project site. Mitigation Measure 3.6-1 requires the preparation of a final geotechnical evaluation of soils at a design-level, consistent with the requirements of the CBC. Implementation of this mitigation measure would ensure that all on-site fill soils are properly compacted and comply with the applicable safety requirements established by the CBC to reduce risks associated with unstable soils and excavations and fills, and that any issues associated with unstable soils are addressed at the design level.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.6-1 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 for the Project to be located on a geologic unit or soil that is unstable, or that would become unstable as a result of Project implementation, and potentially result in landslide, lateral spreading, subsidence, liquefaction or collapse will be mitigated to a less than significant level.

3. IMPACT 3.6-4: THE PROPOSED PROJECT HAS THE POTENTIAL FOR EXPANSIVE SOILS TO CREATE SUBSTANTIAL RISKS TO LIFE OR PROPERTY.

- (a) Potential Impact. The potential for expansive soils to create substantial risks to life or property is discussed on pages 3.6-15 and 3.6-16 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.6-1.
- (c) Findings. According to the Geotechnical Review, the near surface soils in the Project site exhibit moderate to high expansion characteristics and are moderately compressible. Additionally, the Geotechnical Review anticipates site grading activities would expose expansive clays. Therefore, measures to reduce potentially significant impacts related to expansive site soils would be necessary. Measures may include importing non-expansive fill for placement over the subgrade (in fill areas), removing and replacing with non-expansive fill at subgrade level, or using cement or lime treating the upper 12

to 18 inches of the subgrade. In addition, due to the tendency of expansive clays to swell and heave, site drainage would need to be directed away from building footprints to minimize moisture and volume change underneath floor slabs or foundations.

As discussed in Impact 3.6-3, the California Building Code Title 24, Part 2, Chapter 18, Section 1803.1.1.2 requires specific geotechnical evaluation when a preliminary geotechnical evaluation determines that expansive or other special soil conditions are present, which, if not corrected, would lead to structural defects. The City of Tracy also requires a geotechnical evaluation be prepared for developments in areas where potentially serious geologic risks exist, such as expansive soils, that address the degree of hazard, design parameters for the project based on the hazard, and appropriate measures be incorporated into the overall design and construction. Mitigation Measure 3.6-1, provides the requirement for a final geotechnical evaluation in accordance with the standards and requirements outlined in the California Building Code, Title 24, Part 2, Chapter 16, Chapter 17, and Chapter 18, which addresses structural design, tests and inspections, and soils and foundation standards. The final geotechnical evaluation would include design recommendations to ensure that soil conditions do not pose a threat to the health and safety of people or structures. The grading and improvement plans, as well as the storm drainage and building plans, would be required to be designed in accordance with the recommendations provided in the final geotechnical evaluation.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.6-1 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 for expansive soils to create substantial risks to life or property will be mitigated to a less than significant level.

**4. IMPACT 3.6-5 THE PROPOSED PROJECT HAS THE POTENTIAL TO DIRECTLY OR INDIRECTLY DESTROY A UNIQUE PALEONTOLOGICAL RESOURCE OR SITE OR UNIQUE GEOLOGIC FEATURE.**

- (a) Potential Impact. The potential to directly or indirectly destroy a unique geological feature or paleontological resource is discussed on pages 3.6-16 and 3.6-17 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.6-2.
- (c) Findings. The Project site is located in an area known to have paleontological resources. The Cordes Ranch Specific Plan EIR, prepared for the 1,780-acres north of the Project site, indicated the UCMP database lists five localities north of the Project site, specifically, where Pleistocene vertebrate finds were found in 1948 during construction of the Delta Mendota Canal. These fossils include mammoth/mastodon, horse, pocket gopher, and other unspecified rodents, and unidentified artiodactyl (hoofed mammal)

bone. Because the Delta Mendota Canal borders the southern boundary of the Project site, ground disturbing activities have the potential to reveal previously unknown significant paleontological resources, resulting in a potentially significant impact to paleontological resources or unique geologic features.

Damage to or destruction of a paleontological resource would be considered a potentially significant impact under local, state, or federal criteria. Implementation of Mitigation Measure 3.6-2 requires that if subsurface deposits believed to be paleontological in origin are discovered during construction, all work must halt within a 200-foot radius of the discovery and a qualified paleontologist must be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.6-2 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 directly or indirectly destroy a unique geological feature or paleontological resource will be mitigated to a less than significant level.

## E. HAZARDS AND HAZARDOUS MATERIALS

1. IMPACT 3.8-1: POTENTIAL TO CREATE A SIGNIFICANT HAZARD THROUGH THE ROUTINE TRANSPORT, USE, OR DISPOSAL OF HAZARDOUS MATERIALS OR THROUGH THE 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 through the routine transport, use, or disposal of hazardous materials or through the reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment is discussed on pages 3.8-14 through 3.8-18 of the Draft EIR.
  - (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.8-1 through 3.8-3 and 3.9-1.
  - (c) Findings. Construction workers and the general public could be exposed to hazards and hazardous materials as a result of improper handling or use during construction activities (particularly by untrained personnel); transportation accidents; or fires, or other emergencies. Construction workers could also be exposed to hazards associated with accidental releases of hazardous materials, which could result in significant impacts to the health and welfare of people and/or wildlife. Additionally, an accidental release into the environment could result in the contamination of water, habitat, and countless resources. Mitigation Measure 3.9-1 contained in Section 3.9, Hydrology and Water

Quality, ensures compliance with existing regulatory requirements of the Regional Water Quality Control Board, which require the preparation a project specific SWPPP. The SWPPP is required to include project specific best management measures that are designed to control erosion and the loss of topsoil to the extent practicable using BMPs that the RWQCB has deemed effective in controlling erosion, sedimentation, and runoff during construction activities.

Contractors would be required to comply with Cal-EPA's Unified Program; regulated activities would be managed by San Joaquin County Department of Environmental Health, the designated CUPA for San Joaquin County, in accordance with the regulations included in the Unified Program (e.g., hazardous materials release response plans and inventories, California UFC hazardous material management plans and inventories). Additionally, in the event that hazardous materials are discovered during construction, a Soils Management Plan (SMP) will need to be submitted and approved by the San Joaquin County Department of Environmental Health, as required by Mitigation Measure 3.8-1. The SMP will establish management practices for handling hazardous materials, including fuels, paints, cleaners, solvents, etc., 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.

Any operations that involve the use of hazardous materials would be required to have the hazardous material transported, stored, used, and disposed of in compliance with local, state, and federal regulations. The San Joaquin County Department of Environmental Health is the CUPA for San Joaquin County and is responsible for the implementation of statewide programs within the city including Hazardous Materials Business Plan (HMBP) requirements, among numerous other programs. Additionally, businesses are regulated by Cal/OSHA and are therefore required to ensure employee safety. Specific requirements include identifying hazardous materials in the workplace, providing safety information to workers that handle hazardous materials, and adequately training workers. To further ensure the safety of employees, and reduce the potential for accidental release of hazardous materials into the environment, the applicant must submit a HMBP to San Joaquin County Department of Environmental Health for review and approval prior to bringing hazardous materials onsite, as required by Mitigation Measure 3.8-2.

Crimson Oil operates a crude oil pipeline beneath the Project site and PG&E operates two natural gas pipelines, which both run across the northeastern portion of the Project site. While the *Phase I ESA* notes no incidental/accidental releases in the Project vicinity have been reported along the pipelines to date, the presence of natural gas pipelines and the potential for undocumented leaks to occur from the crude oil pipeline represents a REC. Undocumented leaks that could occur on-site would result in the release of hazardous materials into the environment contaminating the site and

potentially exposing employees and the public to hazardous materials. The *Phase I ESA* notes that Crimson Pipeline, L.P. (or the current pipeline operator at the time of the leak) would be responsible for subsurface contamination as a result of leaks from this pipeline; therefore, the site cleanup from the subsurface contamination would be the responsibility of Crimson Pipeline, L.P. (or the current pipeline operator at the time of the leak). Mitigation Measure 3.8-3 would require the Project applicant to notify the San Joaquin County Department of Environmental Health, who would facilitate the site cleanup.

Implementation of the mitigation measures in Section 3.8 and 3.9 will ensure that these potential impacts are reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Measures 3.8-1 through 3.8-3 and 3.9-1 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 through the routine transport, use, or disposal of hazardous materials or through the reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment will be mitigated to a less than significant level.

## F. HYDROLOGY AND WATER QUALITY

### 2. IMPACT 3.9-1: THE PROPOSED PROJECT HAS THE POTENTIAL TO VIOLATE WATER QUALITY STANDARDS OR WASTE DISCHARGE REQUIREMENTS OR OTHERWISE SUBSTANTIALLY DEGRADE SURFACE OR GROUND WATER QUALITY.

- (a) Potential Impact. The potential to violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality is discussed on pages 3.9-18 through 3.9-21 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the MMRP: Mitigation Measures 3.9-1 and 3.9-2.
- (c) Findings. Grading, excavation, removal of vegetation cover, and loading activities associated with construction activities could temporarily increase runoff, erosion, and sedimentation. Construction activities also could result in soil compaction and wind erosion effects that could adversely affect soils and reduce the revegetation potential at the construction site and staging areas.

The Project would be required to comply with Chapter 11.34 of the Tracy Municipal Code, Stormwater Management and Discharge Control, which outlines City requirements for stormwater management and discharge control, including controlling non-stormwater discharges to the stormwater conveyance system, eliminating discharges to the stormwater conveyance system from spills, dumping or disposal of materials other than stormwater, and reducing pollutants in urban stormwater

discharges to the maximum extent practicable. To ensure Project construction activities are covered under General Permit 2009-0009-DWQ (amended by 2010-0014-DWQ & 2012-0006-DWQ), as per Chapter 11.34 of the Tracy Municipal Code, the Project would be required to prepare a Stormwater Pollution Prevention Plan (SWPPP) containing Best Management Practices (BMPs) to reduce erosion and sediments to meet water quality standards (Mitigation Measure 3.9-1) before any grading or building permit for the construction Project is issued.

According to the Multi-Agency Post Construction Stormwater Standards Manual, the Project is considered a Hydromodification Management Project as it would result in the development of one acre or more of impervious surface. Hydromodification Management Projects are required to prepare and submit a Project Stormwater Quality Control Plan that demonstrates the Project incorporates site design measures, landscape features, and engineered treatment facilities (typically bioretention facilities) that will minimize imperviousness, retain or detain stormwater, slow runoff rates, and reduce pollutants in post-development runoff. In particular, the Project Stormwater Quality Control Plan will need to specify BMPs the Project will use and design specifications for selected BMPs. The Project Stormwater Quality Control Plan must be submitted for review and approval by the City of Tracy, as required by Mitigation Measure 3.9-2. Implementation of Mitigation Measure 3.9-2 would require the Project to be consistent with regulatory requirements.

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.9-1 and 3.9-2 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 violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality will be mitigated to a less than significant level.

### G. TRANSPORTATION AND CIRCULATION

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1. IMPACT 3.13-3: PROJECT IMPLEMENTATION WOULD NOT SUBSTANTIALLY INCREASE HAZARDS DUE TO A GEOMETRIC DESIGN FEATURE (E.G., SHARP CURVES OR DANGEROUS INTERSECTIONS) OR INCOMPATIBLE USES (E.G., FARM EQUIPMENT).
  - (a) Potential Impact. The potential for the proposed Project to substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) is discussed on pages 3.13-18 and 3.13-19 of the Draft EIR.
  - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the MMRP: Mitigation Measure 3.13-2.

- (c) Findings. Construction of the proposed project would require regular deliveries of equipment and materials to the Project site as well as daily trips by construction workers. Project construction activities, including the extension of utility infrastructure, may result in some temporary lane closures in the area. Furthermore, standard construction traffic control measures would be implemented consistent with applicable Caltrans and City policies, such as Mitigation Measure 3.13-2, which would require the preparation and implementation of a construction traffic control plan that would reduce the potential for construction vehicle conflicts with other roadway users.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.13-2 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 for the proposed Project to substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) will be mitigated to a less than significant level.

## V. FINDINGS AND RECOMMENDATIONS REGARDING THOSE IMPACTS THAT 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 and Recirculated Draft EIR.

**Aesthetics and Visual Resources:** The following specific impact was found to be less than significant: 3.1-2, 3.1-3, and 3.1-4.

**Agricultural Resources:** The following specific impact was found to be less than significant: 3.2-2.

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

**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, and 3.4-10.

**Geology and Soils:** The following specific impact was found to be less than significant: 3.6-1.

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

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

**Land Use:** The following specific impacts were found to be less than significant: 3.10-1.

**Noise:** The following specific impacts were found to be less than significant: 3.11-2.

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

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

**Utilities:** The following specific impacts were found to be less than significant: 3.14-1, 3.14-2, 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 and Recirculated Draft EIR.

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

**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, and 4.13.

**Land Use:** The following specific impact was found to be less than cumulatively considerable: 4.14.

**Public Services:** The following specific impact was found to be less than cumulatively considerable: 4.16.

**Transportation and Circulation:** The following specific impact was found to be less than cumulatively considerable: 4.18.



**Utilities:** The following specific impacts were found to be less than cumulatively considerable: 4.19, 4.20, 4.21, and 4.22.

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 or 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 whether or not the site is already owned by the proponent).” (CEQA Guidelines Section 15126.6(f)(1).)

The principal objective of the proposed Project is the approval and subsequent construction and operation of the Costco depot and Direct Delivery Center warehouse facility.

The Tracy Costco Depot Annex Project is intended to achieve the following objectives:

- Construct and operate a new state-of-the-art Costco depot annex and DDC warehouse facility with two separate buildings containing ground-level shipping and receiving truck loading docks along the eastern and western sides that is of sufficient size to efficiently ship, receive, store and distribute regional merchandise and products.
- Annex the property into the City Limits and develop the site with light industrial uses that the City’s General Plan already designates the site for.
- Locate an industrial Project in an area with nearby access to a regional roadway network.
- Create approximately 150 to 250 full time jobs along with approximately 400 construction jobs during Project buildout within the City of Tracy, thus improving the local jobs/housing balance.
- Ensure that the industrial area along West Schulte Road continues to be developed in a visually pleasing manner.
- Increase contributions to the City’s tax base.

- Reduce energy consumption by incorporating onsite renewable energy generation and storage (solar PV panels and batteries) as well as sustainable design features and systems with enhanced energy efficiencies meeting State and Federal code requirements.
- Locate necessary Costco facilities on a site which can be purchased (rather than leased) in order to protect Costco's substantial investment of time, money and goodwill in the proposed location.
- Locate the facilities in close proximity to Costco's existing distribution operations (i.e., Costco Depot located at 25501 Gateway Blvd, Tracy, CA) and centrally located to service Costco's retail warehouse locations within northern California.
- Provide site ingress access for trucks at one gated access point to manage security of the site. Provide site egress for trucks at two access points to allow for efficient on-site circulation.
- Improve services to Costco members, including by making appliances and big/bulky products more readily available.
- Complete the Project on schedule and within budget.

### B. ALTERNATIVES ANALYSIS IN EIR

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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 5.0-3, and 5.0-4 through 5.0-11 of the Draft EIR. Under the No Project (No Build) Alternative development of the Project site would not occur, and the Project site would remain in its current existing condition and not be annexed into the City. The Project site is currently comprised of vacant land previously used for agricultural purposes. It is noted that the No Project (No Build) Alternative would fail to meet the Project objectives identified by the Project applicant.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction of impacts to Aesthetics and Visual Resources, 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, Noise, Public Services, 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: construct and operate a new state-of-the-art Costco depot annex and Direct Delivery Center warehouse facility with two separate buildings containing ground-level shipping and receiving truck loading docks along the eastern and western sides that is of sufficient size to efficiently ship, receive, store and distribute regional merchandise and food products; annex the property into the City Limits and

develop the site with light industrial uses that the City's General Plan already designates the site for; locate an industrial Project in an area with nearby access to a regional roadway network; create approximately 150 to 250 full time jobs along with approximately 400 construction jobs during Project buildout within the City of Tracy, thus improving the local jobs/housing balance; ensure that the industrial area along West Schulte Road continues to be developed in a visually pleasing manner; increase contributions to the City's tax base; reduce energy consumption by incorporating sustainable design features and systems with enhanced energy efficiencies meeting State and Federal code requirements; locate needed Costco facilities on a site which can be purchased (rather than leased) in order to protect Costco's substantial investment of time, money and goodwill in the proposed location; locate the facilities in close proximity to Costco's existing distribution operations (i.e., Costco Depot located at 25501 Gateway Blvd, Tracy, CA) and centrally located to service Costco's retail warehouse locations within northern California; provide site ingress access for trucks from West Schulte at one gated access point to manage security of the site; provide site egress for trucks to West Schulte at two access points to allow for efficient on-site circulation; improve services to Costco members, including by making appliances and big/bulky products more readily available; or complete the Project on schedule and within budget.

Additionally, this alternative would not realize the project benefits of increased industrial areas, additional employment opportunities, or new tax revenue. For these reasons, this alternative is determined to be infeasible and rejected.

## 2. REDUCED PROJECT ALTERNATIVE:

The **Reduced Project Alternative** is discussed on pages 5.0-3, and 5.0-11 through 5.0-14 of the Draft EIR. Under the Reduced Project Alternative, the proposed Project would be developed with the same types of industrial uses as described in the Project Description, but the industrial square footage would decrease by 25 percent and the amount of developed land would decrease by 25 percent. Under the Reduced Project Alternative, the total Development Area would decrease from approximately 103.0 acres under the proposed Project to approximately 75 acres. The remaining 25 acres outside of the Reduced Project Alternative area would remain in their current condition (vacant land). The 25 acres, which would not be included in the development area for this alternative, would be located in the western and southern portions of the site in order to preserve the urban fringe.

The amount of industrial uses would decrease from 1,745,052 square feet (sf) to 1,308,788.25 sf. Because the amount of urban development would decrease, the size of the parking areas and storm basins would also decrease. The areas developed with urban uses would be located in the eastern portion of the Project site.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction or slight reduction of impacts to Aesthetics and Visual Resources, 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, Noise Transportation and Circulation, and Utilities. The remaining resources areas (Land Use and Public Services) would have equal or similar impacts to the Project.

This alternative does not lessen the overall environmental impacts nor provide the same level of benefits as the proposed Project and would not achieve all of the Project objectives. The Project objectives that this alternative does achieve would be achieved to a lesser extent than the proposed Project. For example, the Reduced Project Alternative would partially meet the first Project objective because this alternative would provide new state-of-the-art Costco depot facilities; however, because the size of Development Area and the warehouse buildings would be reduced by 25 percent compared to the Project, the warehouses may not be a sufficient size to alleviate pent-up demand at the nearby Costco depot and to replace the Direct Distribution Center currently operating on leased land in Stockton. This alternative would provide a 25 percent reduction in industrial area, which would result in fewer job opportunities for Tracy residents. This would also reduce the property tax and sales tax revenue generation as compared to the Project.

In conclusion, this alternative would not provide the amount of new industrial opportunities for the City and would not meet the basic project objectives to the same extent as the proposed Project. For these reasons, this alternative is determined to be infeasible and rejected.

### 3. AGRICULTURE PROTECTION ALTERNATIVE:

The **Agriculture Protection Alternative** is discussed on pages 5.0-4, and 5.0-15 through 5.0-218 of the Draft EIR. Under the Agriculture Protection Alternative, the proposed Project would be developed in such a way to protect some of the on-site Important Farmland by reducing the overall footprint of the developed areas to a greater extent than the Reduced Project Alternative. The reasoning behind this alternative is to present an alternative to protect some of the agricultural land on the Project site. Development of the proposed Project would result in the permanent conversion of approximately 101.78 acres of Prime Farmland, which is a significant and unavoidable impact.

Under this alternative, the proposed Project would be developed with the same components as described in the Project Description, but the size of the footprint of the industrial development area would be reduced resulting in an increase of undeveloped land beyond the Reduced Project Alternative. The industrial use would be contained within one two-story building in order to reduce the developed area footprint by approximately 50 percent while providing the same square footage as the Project. The 103.0-acre Development Area would be reduced to 50 acres. The total acreage dedicated to the proposed Project would be reduced by approximately 50 percent. The total acreage developed would be 50 acres, with 50 acres remaining in its current state. The 50 acres that would not be included in the Development Area for this alternative would be located in the western portion of the site in order to preserve the urban fringe.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction or slight reduction of impacts to Agricultural Resources, Biological Resources, Cultural and Tribal Resources, Hydrology and Water Quality, and Noise. Impacts related to Aesthetics and Visual Resources would be increased, and the remaining environmental topics would have equal impacts.

This alternative would not provide the same level of benefits as the proposed Project and would not achieve all of the Project objectives and, to the extent that it achieved any of the Project objectives, it would not achieve them to the same degree as the proposed Project. For example, the Agriculture Protection Alternative would partially meet the first Project objective because it would provide new state-of-the-art Costco depot facilities. However, two buildings would not be constructed, and the ground-level shipping and receiving truck loading docks would be decreased by fifty percent as half of the warehouse would be on the second story and not the ground-level. Further, this alternative would result in one warehouse building along the eastern side of the property. While this alternative may help satisfy demand for annex facilities to the nearby Costco depot, Costco's proposed Direct Distribution Center facilities, currently located on leased land in Stockton, could not be located on site. Because this alternative would provide a 50 percent reduction in industrial area, it would also result in fewer job opportunities for Tracy residents and would also reduce the property tax and sales tax revenue generation as compared to the proposed Project.

This alternative may also be economically infeasible due to the elimination of approximately half of the Project site. This landowner, or landowners, would be left with fully or partially undeveloped parcels. Additionally, the two-story building developed under this alternative is likely to substantially increase construction costs while limiting the number of trucks that could utilize the drive-up loading docks.

For these reasons, 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 page 5.0-19), 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 Reduced Project Alternative and Agriculture Protection Alternative would both result in less severe environmental impacts than the proposed Project. The Reduced Project Alternative would have equal impacts in two areas, slightly less impacts in seven areas, and less impacts in six areas. The

Agriculture Protection Alternative would have greater impacts in one area, equal impacts in eight areas, slightly less impacts in one area, and less impacts in four areas. Therefore, the Reduced Project Alternative would be the next environmentally superior alternative.

It should be noted that the Reduced Project Alternative does not meet all of the basic Project objectives, would result in fewer job opportunities for Tracy residents, and would reduce the property tax and sales tax revenue generated for the City as compared to the proposed Project. While the City recognizes the potential environmental advantages of the Reduced Intensity Alternative, this alternative would not provide the same benefits to the City and its residents that would result from full buildout of the proposed Project on 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 TRACY COSTCO DEPOT ANNEX 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 3.1-1: Project implementation may result in substantial adverse effects on scenic vistas and resources
- Impact 3.2-1: The proposed Project has the potential to result in the conversion of Farmlands, including Prime 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 3.3-1: Project operation would result in a cumulatively considerable net increase of a criteria pollutant for which the Project region is in non-attainment, or conflict or obstruct implementation of the District's air quality plan.
- Impact 3.3-2: The proposed Project would result in a cumulatively considerable net increase of a criteria pollutant for which the region is in nonattainment under an applicable federal or State ambient air quality standard.
- Impact 3.11-1: The proposed Project has 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
- Impact 3.13-1: Project implementation would conflict with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)
- Impact 4.2: Cumulative Degradation of the Existing Visual Character of the Region
- Impact 4.4: Cumulative Impact on Agricultural Resources
- Impact 4.5: Cumulative Impact on the Region's Air Quality
- Impact 4.15: Cumulative Exposure of Existing Noise-Sensitive Land Uses to Increased Noise Resulting from Cumulative Development
- Impact 4.17: Under Cumulative conditions, the proposed Project would conflict with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)

The adverse effects listed above, and described in detail in Section III, are substantive issues of concern to the City. However, the City of Tracy 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 jobs and tax revenue for the City, while providing industrial opportunities. The proposed Project would provide an increase in local jobs that could be filled by the citizens of Tracy, which could reduce the number of citizens commuting to areas outside of the City. Implementation of the proposed Project would provide job growth to the area. It is anticipated that local employment would be increased to provide administrative, management, and technical services. The proposed Project is expected to require both full-time and part-time employees. Additionally, development of the Project would provide short-term employment opportunities within the construction, engineering, and design field, among others.

Additionally, the proposed Project would generate tax revenue that the City would not otherwise benefit from if the Project was not developed. The job-creating uses, additional employment opportunities, and tax benefits discussed above would ultimately improve the overall quality of life in the City of Tracy.

Further, the Project would advance Costco's goals to efficiently provide goods to its members within the region. As shopping habits have continued to shift and evolve (including increased online ordering), additional depot facilities are critical to fulfilling Costco's mission to serve its members' needs. The Project will (i) provide much-needed additional space to supplement Costco's nearby space-constrained depot operation and (ii) provide a permanent location for Costco's Direct Distribution Center that provides large and bulky items to members in the region. These are benefits of the Project.

Based on the entire record and the EIR, the City Council has determined that the economic and social benefits of the Project in Tracy 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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