

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS CONCERNING THE APPROVAL OF THE HERCULES PARCELS Q & R PROJECT**

### **1. CONSIDERATION OF THE HERCULES BAYFRONT PROJECT FINAL EIR**

Pursuant to Public Resources Code Section 21081 and California Environmental Quality Act (CEQA) Guidelines Section 15091, the City Council hereby makes these findings with respect to the potential for significant environmental impacts from approval of the Hercules Parcels Q & R Project ("proposed project") and the means for mitigating those impacts. Pursuant to CEQA (Public Resources Code Sections 21000 *et seq.*) and the State CEQA Guidelines (California Code of Regulations Sections 15000 *et seq.*), the City has considered the Final Environmental Impact Report (EIR) for the Hercules Bayfront Project ("2011 Certified EIR") and finds that the information contained in the 2011 Certified EIR reflects the independent judgment and analysis of the City, has been completed in compliance with CEQA, and contains the environmental analysis and information necessary to support approval of the proposed project.

### **2. FINDINGS**

The following findings are hereby adopted by the City as required by Public Resources Code Sections 21081, 21081.5 and 21081.6, and CEQA Guidelines Sections 15091 and 15092, in conjunction with the approval of the design of the proposed project.

#### **A. Environmental Review Process**

CEQA and the State CEQA Guidelines recognize that between the date an environmental document is completed and the date that a project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. CEQA requires the Lead Agency to evaluate any such changes, and to determine whether or not they affect the conclusions in the environmental document.

In July 2000, the Hercules City Council adopted the Hercules Waterfront District Master Plan (WDMP), which covered 167 acres along the Hercules waterfront. A subsequent ballot measure, the Waterfront Now Initiative, passed among local voters in the summer of 2008 and was adopted as an ordinance in August 2008. The Waterfront Now Initiative modified the City's General Plan, Zoning Ordinance, and WDMP, and began the entitlement process for implementing the final stages of the WDMP through the Hercules Bayfront Project. The Hercules Bayfront Project covers a 42.36-acre portion of the WDMP area.

In October 2011, the City of Hercules (City) certified the Final EIR for the Hercules Bayfront Project (2011 Certified EIR), which allowed for 1,392 residential units, 115,000 square feet of office uses, 90,000 square feet of retail uses, and 134,000 square feet of flex space on the Hercules Bayfront Project site. These buildout estimates are allocated in the 2011 Certified EIR to sub-district “blocks” A through S.

On January 10, 2012, the City adopted Ordinance 464, which updated the maximum buildout table for the Hercules Bayfront Project site by redistributing development among the blocks within the project site without exceeding the buildout estimates contained in the 2011 Certified EIR. The Hercules Bayfront Project, as amended by Ordinance 464, is herein referred to as the “Approved Project.”

The proposed project proposes the development of an apartment building on Blocks Q and R, which is a 2.2-acre portion of the Approved Project site. (Blocks Q and R are herein together referred to as the “project site.”) As further explained in section B. below, the proposed project would increase the amount of residential development previously analyzed for Blocks Q and R, but it would not increase development potential for the Hercules Bayfront Project site beyond the total amount analyzed in the 2011 Certified EIR.

Pursuant to Section 21166 of CEQA and Section 15162 of the State CEQA Guidelines, when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR or negative declaration shall be prepared for the project unless the lead agency determines that one or more of the following conditions are met:

- Substantial project changes are proposed that will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes would occur with respect to the circumstances under which the project is undertaken that require major revisions to the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or the negative declaration was adopted shows any of the following:
  - The project will have one or more significant effects not discussed in the previous EIR or negative declaration.
  - Significant effects previously examined will be substantially more severe than identified in the previous EIR.
  - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measures or alternatives.
  - Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternatives.

Where none of the conditions specified in CEQA Guidelines Section 15162(b) are present, the lead agency must determine whether to prepare an Addendum or whether no further CEQA documentation is required. Per CEQA Guidelines Section 15164, an Addendum is appropriate where minor technical changes or additions to the previously certified EIR are necessary, but there are no new or substantially more severe significant impacts.

In accordance with the CEQA Guidelines, the City has determined that no changes or additions to the 2011 Certified EIR are required. In addition, there is no new information of substantial importance, which was not known and could not have been known at the time that the 2011 Certified EIR was prepared would occur, that mitigation measures or alternatives found infeasible in the 2011 Certified EIR would in fact be feasible, or that different mitigation measures or alternatives from those analyzed in the 2011 Certified EIR would substantially reduce one or more significant impacts. As a result, no changes to the 2011 Certified EIR are required and an addendum is not appropriate. No further CEQA documentation is necessary.

## B. Relation of the Proposed Project to the 2011 Certified EIR

The proposed project implements a portion of the Approved Project that was analyzed in the 2011 Certified EIR. The proposed project would be located in the area identified as Blocks Q and R in the 2011 Certified EIR. The project site is subject to the Implementing Development Agreement for the Hercules Bayfront Project by and between the City of Hercules and Hercules Bayfront, LLC dated March 14, 2012, which provides the project developer flexibility with respect to density within the Approved Project site, so long as overall development remains within the buildout evaluated in the 2011 Certified EIR. In accordance with the below table, buildout of the project to date, including the proposed development of Blocks Q & R, will not exceed the level of development analyzed in the 2011 Certified EIR. The proposed project therefore falls within the scope of the total program analyzed in the 2011 Certified EIR.

MAXIMUM DEVELOPMENT PROGRAM BY SUB-AREA					
Project Sub-Area	Approx. gross Acreage	Maximum Residential (non-flex) Units	Maximum Office (sf) (non-flex)	Maximum Retail (sf) (non-flex)	Maximum Flex-Space (sf)
The Bowl (Blocks A, B, C)	9.96	336	75,000	0	10,000
Bayfront Boulevard (Blocks D-J)	10.03	305	35,000	77,000	40,000
The Village (Blocks K-R)	22.37	751	5,000	13,000	84,000
<b>Totals:</b>	<b>42.36</b>	<b>1,392</b>	<b>115,000</b>	<b>90,000</b>	<b>134,000</b>
Approved to date (Block N)	2.2	172	0	6,673	0

## C. Impacts of the Proposed Project

The City analyzed the proposed project in light of the impacts identified in the 2011 Certified EIR , and found that the project will incrementally contribute to impacts previously identified in the 2011 Certified EIR, but will not result in any new significant impacts, increase the severity of significant impacts previously identified in the 2011 Certified EIR, or cause any environmental effects not previously examined in the 2011 Certified EIR if the proposed project implements relevant mitigation measures identified in the 2011 Certified EIR and conditions of project approval.

In order to make this determination, the City analyzed the potential impacts of the proposed project in each CEQA Guidelines Appendix G impact category set forth in the 2011 Certified EIR. All impacts from the 2011 Certified EIR to which the proposed project could potentially contribute are identified below. As that analysis shows, the proposed project only incrementally contributes to impacts previously identified, but will not result in any new significant impacts, increase the severity of impacts previously identified, or otherwise cause environmental effects not previously examined.

Additionally, as the proposed project is consistent with the Approved Project, there does not exist new information of substantial importance that would require mitigation measures or alternatives that are different from those analyzed in the 2011 Certified EIR and since the proposed project does not involve any new or significant impacts, no additional mitigation measures are necessary. Finally, in its review and analysis of the proposed project, the City did not identify any additional mitigation measures that would substantially lessen any significant and unavoidable impacts previously identified in the 2011 Certified EIR. No changes to the 2011 Certified EIR are required, and an addendum is therefore not appropriate. Pursuant to CEQA Guidelines sections 15162 and 15164, the City finds that no further CEQA documentation is necessary.

These findings do not attempt to describe the full analysis of each environmental impact contained in the 2011 Certified EIR. Instead, the findings provide a summary description of each impact category examined in the 2011 Certified EIR, describe the mitigation measures from the 2011 Certified EIR that are applicable to the proposed project, and state the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the 2011 Certified EIR. These findings hereby incorporate by reference the discussion and analysis in the 2011 Certified EIR that supports the 2011 Certified EIR's determinations regarding significant project impacts and mitigation measures designed to address those impacts. The facts supporting these findings are found in the record as a whole for the Approved Project and proposed project.

### *Aesthetics*

The 2011 Certified EIR finds that the Approved Project would result in a significant impact (Impact 4-1) because proposed structures and landscaping would block some scenic views of the Bay and Refugio Creek. The 2011 Certified EIR finds that this impact would be significant and unavoidable if the City finds that the benefits of the proposed project layout and roadway grid outweigh the modifications that would be required to reduce this impact to a less-than-significant level. The building massing involved in the proposed project is generally consistent with the building layout and heights assumed in the 2011 Certified EIR. Therefore, the proposed project would result in the same significant and unavoidable

impact. The proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that the Approved Project would have a significant and unavoidable impact (Impact 4-2) to visual character or quality due to the conversion of the Approved Project site from waterfront open space to a mixed-use development. The proposed development of Blocks Q & R implements this change from waterfront open space to mixed-use development and does not change this analysis. Therefore, the proposed project would result in the same significant and unavoidable impact. The proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that the lighting required for the Approved Project would have a significant impact (Impact 4-3). Mitigation Measure 4-3 would reduce this impact to a less-than-significant level by requiring the project to prepare, prior to the issuance of building permits, a lighting plan that demonstrates how lighting spillover and glare will be minimized to the City's satisfaction. The proposed project will be required to comply with Mitigation Measure 4-3. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The City finds that the proposed project will not result in any new, significant aesthetic impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Air Quality*

The 2011 Certified EIR finds that the construction activities associated with the Approved Project would have a significant air quality impact (Impact 5-1). Mitigation Measure 5-1 would reduce this impact to a less-than-significant level by requiring the implementation of dust control measures identified by the Bay Area Air Quality Management District (BAAQMD). These measures would be required for all discretionary grading and construction activity and for the use of diesel-powered construction equipment. As part of project approval, the proposed project will be required to comply with Mitigation Measure 5-1. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that the Approved Project would have a significant and unavoidable impact (Impact 5-2) associated with long-term regional emissions increases. As part of project approval, the proposed project will be required to comply with Mitigation Measure 5-2. Mitigation Measure 5-2 would reduce potential emissions but would not reduce emissions increases to below BAAQMD significance thresholds. The proposed project is consistent with the overall level and type of development analyzed in the 2011 Certified EIR, and therefore contributes to the same significant and unavoidable cumulative impact. As the air quality impacts of the proposed project constitute a portion of the Approved Project air quality impacts, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The City finds that the proposed project will not result in any new, significant air quality impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

## *Biological Resources*

The 2011 Certified EIR finds that the construction activities associated with the Approved Project would have the potential to disturb nesting birds on or near the Approved Project site. This would be a significant impact (Impact 6-1). On Blocks Q and R construction activities could disturb birds associated with trees and shrubs along the North Channel. Mitigation Measure 6-1 would reduce this impact to a less-than-significant level by requiring pre-construction surveys, construction scheduling, and construction buffers. The proposed project will be required to comply with Mitigation Measure 6-1. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that the construction activities associated with the Approved Project would have the potential to disturb special-status mammal species within the Refugio Creek tidal habitat. This would be a significant impact (Impact 6-2). Mitigation Measure 6-2 would reduce this impact to a less-than-significant level by requiring pre-construction surveys, avoidance measures, monitoring activities, and worker awareness and reporting programs. The proposed project will be required to comply with Mitigation Measure 6-2. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR found that the construction activities associated with the Approved Project would have the potential to disturb vernal pool fairy shrimp (VPFS) that could occur in seasonal pools and natural depressions within ruderal habitats such as areas along the north side of Refugio Creek (Impact 6-3). However, no evidence of the presence of VPFS was detected during pre-construction surveys.<sup>1</sup> Since the proposed project is on the same site as the Approved Project, the proposed project would not result in any impact to this species.

The 2011 Certified EIR finds that the construction activities associated with the Approved Project would have the potential to disturb steelhead, western pond turtle, or California red-legged frog that could occur in Refugio Creek and the North Channel. Although it is unlikely that suitable habitat for these species exists within the Approved Project site, this would be a potentially significant impact (Impact 6-4). Mitigation Measure 6-4 would reduce this impact to a less-than-significant level by requiring pre-construction surveys, construction scheduling, construction monitoring, wildlife agency coordination and consultation, species relocation, and avoidance measures. The proposed project will be required to comply with Mitigation Measure 6-4. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that the vacant on-site buildings could contain roosting or hibernating bats and identifies a potentially significant but mitigatable impact (Impact 6-5 and Mitigation Measure 6-5). These buildings are not located on Blocks Q and R. Therefore, the proposed project would not contribute to this impact.

The 2011 Certified EIR finds that the construction activities associated with the Approved Project would result in the disturbance and loss of two special-status sensitive natural communities: Coastal Brackish Marsh Habitat covering the banks of Refugio Creek and brackish stream habitat within the Refugio Creek channel. The 2011 Certified EIR also finds that the Approved Project's realignment of Refugio Creek and

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<sup>1</sup> City of Hercules, *Hercules Bayfront Project Final EIR*, page 2-20.

North Channel, extension of John Muir Parkway and Bayfront Boulevard, and Bay Trail extension would require modifications to jurisdictional wetlands and other waters. These would be significant impacts (Impacts 6-6 and 6-7). Mitigation Measure 6-7 would reduce these impacts to less-than-significant levels. Last year the City realigned a portion Refugio Creek, constructed the North Channel, extended John Muir Parkway and Bayfront Boulevard, and constructed a section of the Bay Trail and Creekside Trail. Additionally, Blocks Q and R do not involve wetlands. Therefore, these mitigation measures are not applicable to the proposed project

The 2011 Certified EIR finds that the construction of shared facilities could result in the spread of invasive species. This would be a potentially significant impact (Impact 6-8). Mitigation Measure 6-8 would reduce this impact to a less-than-significant level by requiring equipment cleaning, inspections, and weed removal. The proposed project will be required to comply with Mitigation Measure 6-8. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The City finds that the proposed project will not result in any new, significant biological resource impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Cultural and Historic Resources*

The 2011 Certified EIR finds that the Approved Project would have the potential to disturb previously undiscovered archaeological and paleontological resources (Impact 8-1 and Impact 8-3, respectively). Mitigation Measure 8-1 and Mitigation Measure 8-3 would reduce these impacts to less-than-significant levels by requiring procedures for the accidental discovery of such resources. The proposed project will be required to comply with Mitigation Measures 8-1 and 8-3. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that changes to existing on-site buildings would result in a potentially significant but mitigatable impact to historic resources (Impact 8-2 and Mitigation Measure 8-2). These buildings are not located on Blocks Q and R. Therefore, the proposed project would not contribute to this impact.

The City finds that the proposed project will not result in any new, significant cultural resource impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Geology and Soils*

The 2011 Certified EIR identifies four potentially significant impacts associated with ground shaking; landslides, slope stability, and erosion hazards; expansive soil hazards; and groundwater impacts that could result in slope instabilities (Impact 9-1, Impact 9-2, Impact 9-3, and Impact 9-4, respectively). Mitigation Measure 9-1, Mitigation 9-2, Mitigation Measure 9-3, and Mitigation Measure 9-4, respectively, would reduce these impacts to less-than-significant levels by requiring a detailed, design-level geotechnical investigation, grading plans, and measures to reduce potential hazards. The proposed project will be required to comply with Mitigation Measures 9-1 through 9-4. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The City finds that the proposed project will not result in any new, significant geology and soils impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Climate Change*

The 2011 Certified EIR identifies a potentially significant impact (Impact 7-1) associated with sea level rise caused by climate change. The 2011 Certified EIR finds that, based on mapping released by the San Francisco Bay Conservation and Development Commission, portions of the Approved Project site near San Pablo Bay and Refugio Creek are vulnerable to mid-century and end-of-century sea level rise. As part of project approval, the proposed project will be required to comply with Mitigation Measure 7-1. Mitigation Measure 7-1 would reduce this impact to a less-than-significant level by ensuring that potential flooding hazards are considered before development proposals are approved, and by requiring retaining walls or other features where necessary to reduce associated hazards. The proposed project would be required to implement Mitigation Measure 7-1. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The City finds that the proposed project will not result in any new, significant climate change impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Hazards and Hazardous Materials*

The 2011 Certified EIR identifies a significant impact associated with potential exposure to existing hazardous materials contamination (Impact 10-1). Mitigation Measure 10-1 would reduce this impact to a less-than-significant level by requiring remediation and compliance with applicable regulations. The proposed project will be required to comply with Mitigation Measure 10-1. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that renovation and reuse of existing on-site buildings could result in asbestos, polychlorinated biphenyls (PCBs), mercury, or lead-based paint exposure, which would be potentially significant but mitigatable impacts (Impacts 10-2 and 10-3 and Mitigation Measures 10-2 and 10-3). These buildings are not located on Blocks Q and R. Therefore, the proposed project would not contribute to these impacts.

The City finds that the proposed project will not result in any new, significant hazards and hazardous materials impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Hydrology and Water Quality*

The 2011 Certified EIR finds that the construction and operation activities associated with the Approved Project would have the potential to significantly degrade water quality in Refugio Creek and San Pablo Bay. This would result in potentially significant impacts (Impact 11-1 and Impact 11-3). Mitigation Measure 11-1 and Mitigation Measure 11-3 would reduce these impacts to less-than-significant levels by requiring compliance with applicable water quality provisions and stormwater management and

discharge control requirements, preparation of a Storm Water Pollution Prevention Plan (SWPPP), construction Best Management Practices (BMPs), and construction monitoring. The proposed project involves construction activities consistent with those assumed in the 2011 Certified EIR and will be required to comply with Mitigation Measures 11-1 and 11-3. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that dredging Refugio Creek would result in a potentially significant but mitigatable impact to Refugio Creek water quality (Impact 11-2 and Mitigation Measure 11-2). The proposed project does not include dredging activities. Therefore, the proposed project would not contribute to this impact.

The 2011 Certified EIR finds that the Approved Project would place housing and other development within the 100-year flood hazard area near Refugio Creek (Impact 11-4). Mitigation Measure 11-4 would reduce this impact to a less-than-significant level by requiring compliance with mitigation from the City's General Plan Update EIR. These measures include constructing finished floor elevations above flood levels and complying with the City's General Plan and Municipal Code. The proposed project plans include construction of finished floor elevations to be above the base flood elevation of North Channel. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that restoration and enhancement of Refugio Creek would result in a significant but mitigatable impact associated with interim flooding impacts (Impact 11-5). Mitigation Measure 11-5 requires coordination with the City Engineer prior to issuance of a building permit for several blocks, including Blocks Q and R. The proposed project will be required to comply with Mitigation Measure 11-5. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

Finally, the 2011 Certified EIR outlines the stormwater utility requirements of the Approved Project. Although the proposed project would slightly increase the residential buildout of Blocks Q and R, it would not increase the total buildout considered by the 2011 Certified EIR or any stormwater-associated impacts. In addition, the proposed project will comply with all applicable stormwater treatment requirements. Therefore, the proposed project would result in similar impacts and would not worsen the stormwater facility impacts of the Approved Project.

The City finds that the proposed project will not result in any new, significant hydrology and water quality impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Land Use*

The 2011 Certified EIR finds that the Approved Project would provide beneficial environmental effects related to compatibility and the potential for dividing an established community. The 2011 Certified EIR also finds that the Approved Project would not conflict with any applicable land use policies or habitat conservation plans. The proposed project is consistent with the land uses evaluated in the 2011 Certified EIR. Therefore, the proposed project would result in the same impacts.

The City finds that the proposed project will not result in any new, significant land use impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Noise*

The 2011 Certified EIR finds that construction activities for the Approved Project would have a significant and unavoidable impact (Impact 13-1) associated with intermittent and short-term noise. The project would be required to comply with Mitigation Measure 13-1, which would reduce noise levels but would not reduce the impact to a less-than-significant level due to the prolonged length of the construction period. The proposed project is consistent with the overall level and type of development analyzed in the 2011 Certified EIR. Therefore, the proposed project would contribute to the same significant and unavoidable impact. The proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that interior noise levels for residential uses within the Approved Project could exceed applicable noise standards. This would be a potentially significant impact (Impact 13-2). Mitigation Measure 13-2 would reduce this impact to a less-than-significant level by requiring acoustical analyses for all properties where exterior noise levels exceed 60 A-weighted decibels (dBA). Blocks Q and R are shielded from lines and are further from rail lines (i.e. over 310 feet away) than several other blocks. Nevertheless, as part of project approval, the proposed project will be required to comply with Mitigation Measure 13-2. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that noise levels for outdoor uses within the Approved Project could exceed applicable noise standards, and that vibration levels would exceed applicable standards. These would be a potentially significant but mitigatable impacts (Impacts 13-3 and 13-4 and Mitigation Measures 13-3 and 13-4). Because they are shielded from the railroad, Blocks Q and R are not in one of the areas of the Approved Project site that would contribute to these impacts, and therefore would not be required to implement associated mitigation measures.

The City finds that the proposed project will not result in any new, significant noise impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Population and Housing*

The 2011 Certified EIR finds that the Approved Project would not result in population and housing impacts associated with growth inducement because the Approved Project is consistent with local planning documents and regional growth projections. The proposed project would not increase the overall buildout considered in the 2011 Certified EIR. Therefore, the project would result in the same impacts. Because the Approved Project site is currently unoccupied, neither the Approved Project nor the proposed project would result in any impacts associated with displacement of people or housing.

The City finds that the proposed project will not result in any new, significant population and housing impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Public Services and Utilities*

The 2011 Certified EIR finds that the Approved Project would increase demand for public services such that additional police officers, police staff, police equipment, future police facilities, and school facilities could be required. The 2011 Certified EIR finds that, with the payment of impact fees, this impact would be less than significant. The proposed project would not increase the overall buildout of the Approved Project and therefore would not increase public service demands above the evaluated in the 2011 Certified EIR. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts.

The 2011 Certified EIR finds that impacts to water, wastewater, and solid waste facilities would be less than significant. The proposed project is consistent with the overall buildout evaluated for the Approved Project and would therefore result in the same increase in utility demands. Therefore, the project would result in the same less-than-significant impact.

The 2011 Certified EIR finds that the Approved Project would increase demand for parks and recreational facilities such that new parks and/or equipment or upgrades would be required. This would be a potentially significant impact (Impact 15-1). Mitigation Measure 15-1 would reduce this impact to a less-than-significant level by requiring General Plan compliance as part of project review. The proposed project is consistent with the development types evaluated in the 2011 Certified EIR and does not increase the buildout evaluated for the Approved Project. In addition, the proposed project will be required to comply with Mitigation Measure 15-1. Therefore, the proposed project would not change the findings of the 2011 Certified EIR or result in new or worsened impacts. The City finds that the proposed project will not result in any new, significant services, utilities, or parks impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

### *Transportation and Circulation*

The 2011 Certified EIR finds that the Approved Project would result in a significant impact associated with cumulative plus project intersection operations at five study intersections (Impact 16-2). At four of these intersections, mitigation measures would reduce impacts to a less-than-significant level (Mitigation Measures 16-2-1, 16-2-3, 16-2-4, and 16-2-5). At the remaining intersection (San Pablo Avenue/Sycamore Avenue), potential mitigation is considered to be infeasible and the impact would be significant and unavoidable. The proposed project on Blocks Q & R would not increase the traffic levels considered in the 2011 Certified EIR. Therefore, the proposed project would result in the same impact but would not worsen the impact.

Staff requested additional traffic analysis to test potential sensitivities if a hypothetical density transfer to relocate 246 residential units from the Bowl/Crescent development to the Transit Village development site were pursued (which are attached to the March 19, 2018 Planning Commission staff report). Two memoranda were produced by Fehr & Peers, one dated November 27, 2018 for the buildout scenario in the Village area and a February 6, 2018 memo that included the Village buildout scenario with John Muir Parkway at San Pablo Avenue being added. The analysis determined that the anticipated peak periods at the intersection Bayfront and John Muir Parkway would have LOS A in the am peak and LOS A in the pm peak which is less than what was anticipated in the 2011 EIR. At John Muir Parkway at San Pablo, should this proposed transfer occur, LOS E would be anticipated in the

“Cumulative plus project condition” which is less than originally determined in the 2011 Certified EIR Table 16.13. It is anticipated that should the developer request a density transfer San Pablo Avenue at Sycamore Avenue would probably decrease, but a traffic analysis of that intersection would have to be done then.

The 2011 Certified EIR finds that the Approved Project would result in significant and unavoidable impacts associated with existing plus project and cumulative plus projects freeway operations (Impact 16-1 and Impact 16-3). Potential roadway improvements for these impacts (Mitigation Measures 16-1 and 16-3) is considered to be infeasible. Although the proposed project would increase the residential buildout of Blocks Q and R compared to the amount considered in the 2011 Certified EIR, it would not increase the total buildout considered for the Village portion of the Approved Project. Overall, the proposed project would not increase the traffic levels considered in the 2011 Certified EIR within the Village. The project would be required to implement the Transportation Design Management measures called for in Mitigation Measure 16-3. Therefore, the proposed project would result in the same significant and unavoidable impacts but would not worsen the impacts.

The 2011 Certified EIR finds that the Approved Project would result in a potentially significant impact because the Approved Project does not include a convenient connection between the Class II (on-street) bicycle lane along John Muir Parkway and the Class I (separated) bike path along Refugio Creek (Impact 16-4). Mitigation Measure 16-4 requires either a flashing crosswalk or a continued creekside trail that extends to San Pablo Avenue. These facilities are not located within the project site. Therefore, the proposed project would not contribute to this impact identified in the 2011 Certified EIR.

The City finds that the proposed project will not result in any new, significant traffic and circulation impacts that were not examined in the 2011 Certified EIR, and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists.

## **D. Additional Findings**

### *Adequacy of Prior Environmental Review*

All of the environmental effects of implementation of the Approved Project have been adequately addressed in the 2011 Certified EIR. The proposed project is consistent in all relevant respects with the original intent and goals of the Approved Project. These findings incorporate and reaffirm the Approved Project findings.

The proposed project is within the scope of the Approved Project, analyzed by the 2011 Certified EIR, and does not implicate any of the conditions set forth in Section 21166 of the CEQA or CEQA Guidelines Section 15162 requiring the preparation of a subsequent EIR or supplement to the 2011 Certified EIR. No new significant environmental impacts have been identified in connection with the proposed project that were not previously considered in the 2011 Certified EIR. As a result, no new environmental impacts are anticipated to occur, and no new mitigation measures will be required other than as identified in the 2011 Certified EIR. The potential environmental effects of the implementation of the Approved Project have been fully addressed by the 2011 Certified EIR and the Approved Project findings.

### *Incorporation by Reference*

These findings incorporate by reference in their entirety the text of the 2011 Certified EIR and the findings for the Approved Project previously certified or adopted by the City. Without limitation, this incorporation is intended to elaborate on the scope and nature of the Approved Project and proposed project, potential environmental impacts that could result from the Approved Project and proposed project, and the basis for determining the significance of the proposed project's impacts.

### *Mitigation Monitoring*

CEQA requires the Lead Agency approving a project to adopt a monitoring program for changes to the project that it adopts or makes a condition of project approval, including mitigation measures intended to eliminate or reduce potentially significant impacts of the project, in order to ensure compliance during project implementation. It has been determined that the following previously-identified Mitigation Monitoring measures of the Bayfront EIR will apply specifically to the Bayfront Parcels Q & R Project proposed on Blocks Q & R numbered in the 2011 Certified EIR as 4-3, 5-1, 5-2, 6-1, 6-2, 6-4, , 6-8, 7-1, 8-1, 8-3, 9-1, 9-2, 9-3, 9-4, 10-1, 11-1, 11-3, 11-4, 11-5, 13-1, 13-2, and 15-1, 16-2-1, 16-2-2, 16-2-3, 16-2-4, 16-2-5, and 16-3 which are more fully outlined in the Planning Commission Resolution #18-05 Exhibit A (IDA Exhibit L) with asterisked corresponding mitigations . No new mitigation measures are required as part of the proposed project, which incorporates relevant and previously adopted 2011 Certified EIR mitigation measures and continuing best practices that will be monitored pursuant to the existing 2011 Certified EIR monitoring programs previously adopted by the City.

### *Record of Proceedings*

Various documents and other materials constitute the record of proceedings upon which the City bases its findings and decision contained herein. Because of the complexity of the issues addressed in connection with the review of the proposed project, these documents and materials are located in the custody of the Planning Department and are available for reviewing by the public upon request in addition to on the City's website under the Larger Waterfront District Project.