

RESOLUTION NO. 14774

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL: 1) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS OF FACT, 2) ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, 3) APPROVING AN EXCEPTION TO THE CITY-ADOPTED LEVEL OF SERVICE STANDARDS SET FORTH IN SAN RAFAEL GENERAL PLAN 2020 CIRCULATION ELEMENT POLICY C-5, AND 4) APPROVING THE MITIGATION MONITORING PROGRAM (MMRP) FOR THE BIOMARIN / WHISTLESTOP / EDEN HOUSING PROJECT AT 999 3rd STREET AND ADJACENT SAN RAFAEL CORPORATE CENTER

(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story Research and Development buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street and adjacent San Rafael Corporate Center (the "Project"); and

WHEREAS, on March 12, 2019, the Planning Commission held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, Cumulative effects and a reasonable range of alternatives; and

WHEREAS, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning August 9, 2019 and ending September 23, 2019 (SCH # 2019029046). Following this review, on September 24, 2019, the Planning Commission held a duly noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Land Use and Planning and Transportation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

WHEREAS, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

WHEREAS, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed. On January 10, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the

Project property and to all responsible, trustee and other public agencies that commented on the DEIR; A Notice of Availability was also published in the Marin Independent Journal on January 11, 2020 and February 28, 2020; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared, which outlines the procedures and requirements for implementing all mitigation measures identified in the FEIR, and is provided in attached Exhibit A of this Resolution; and

WHEREAS, the FEIR concludes that all impacts identified in the FEIR have been or can be mitigated to a level of less-than-significant, with the exception of one “Land Use and Planning” impact and three “Transportation” impacts. The FEIR concludes that the project will result in the following significant, unavoidable environmental impacts:

Land Use and Planning. Implementation of the proposed project could potentially conflict with some of the applicable goals, policies, and programs of the General Plan 2020, which were adopted by the City of San Rafael for the purpose of avoiding or mitigating an environmental effect. This potential conflict is with the following General Plan policies:

LU-2, Development Timing. For health, safety and general welfare reasons, new development should only occur when adequate infrastructure is available consistent with the following findings:

- a. Project-related traffic will not cause the level of service established in the Circulation Element to be exceeded;
- b. Any circulation improvements needed to maintain the level of service standard established in the Circulation Element have been programmed and funding has been committed;
- c. Environmental review of needed circulation improvement projects has been completed;
- d. The time frame for completion of the needed circulation improvements will not cause the level of service in the Circulation Element to be exceeded, or the findings set forth in Policy C-5 have been made; and
- e. Sewer, water, and other infrastructure improvements will be available to serve new development by the time the development is constructed.

Transportation. Implementation of the proposed project would contribute potentially significant project-related impacts involving conflicts with a program, plan, ordinance, or policy addressing the circulation system listed below:

Impact TRANS-2: Project-related traffic, under Cumulative-plus-Project conditions, would contribute to continued LOS F conditions at the US 101 southbound off-ramp to Mission Avenue, increasing the volume-to-capacity (V/C) ratio of the off-ramp by 0.033 during the AM peak hour. Traffic operations and safety at the highway ramp diverge and along the offramp would worsen. This condition would conflict with standards provided in the Marin County Congestion Management Plan.

Impact TRANS-3: Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetheron Street and D Street during the AM peak hour, with an increase in the arterial roadway segment’s volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel speeds that conflict

with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (*Traffic Level of Service Standards*).

Impact TRANS-4: Under Cumulative-Plus-Project conditions, project-related traffic would worsen the service level at the 3rd Street and Tamalpais Avenue West intersection from LOS E to LOS F during the AM peak hour, with average delays increasing from 65.6 seconds to 96.7 seconds per motorist. During the PM peak hour, the intersection's service level would remain at LOS F with project-related traffic, but the project would increase average delays from 86.4 to 94.0 seconds per motorist. This impact would create conflicts with San Rafael General Plan 2020 Policy C-5 (*Traffic Level of Service Standards*).

The FEIR concludes that there is no mitigation that can be imposed or required to reduce these impacts to a less-than-significant level; and

WHEREAS, consistent with the CEQA Guidelines, the FEIR has analyzed four Alternatives. The FEIR identifies Alternative 2: "Reduced Scale project" as the Environmentally Superior Alternative, which would reduce the overall BioMarin project size and would reduce some of the overall impacts to Transportation in the Project Area. However, this Alternative would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/EDEN housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. If the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/EDEN Housing part would also not occur; and

WHEREAS, CEQA Guidelines Section 15093 requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental impacts when determining whether to approve a project. If these benefits outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable" and a statement of overriding considerations may be adopted by the agency. The decision-making agency must state in writing the specific reasons to support its action based on the FEIR and/or other information in the record. The statement of overriding considerations must be supported by substantial evidence in the record; and

WHEREAS, in support of CEQA Guidelines Section 15063 the San Rafael General Plan 2020 includes Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which permits the City to authorize an exception to the City-adopted traffic standards by weighing the community benefits of a project against the potential for the project to deviate from the City-adopted level of service (LOS) traffic standards; and

WHEREAS, on January 28, 2018, the Planning Commission held a duly noticed public hearing on the FEIR and Project merits, accepting all public testimony and the written report of the Community Development Department staff. As part of this hearing process the Planning Commission considered draft CEQA Findings of Fact and a draft Statement of Overriding Considerations contained in this resolution, and a draft Mitigation Monitoring and Reporting Program (MMRP). On a 5-0-2 vote (Commissioners Mercado and Schaefer absent), the Planning Commission adopted Resolution No. 20-02 recommending to the City Council adoption of the Statement of Overriding Considerations and approval of the Mitigation Monitoring and Reporting Plan (MMRP); and

WHEREAS, on January 28, 2020, the Planning Commission in its consideration of the FEIR and MMRP determined that there was additional clarity needed to Mitigation Measure (MM) TRANS-1, and as part of their motion to pass Resolution No. 20-02 revised MM TRANS-1 to confirm that the ongoing monitoring would continue, past the annual reviews and updated the text as follows:

TRANS-1: BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15% reduction is identified for three consecutive years. After three consecutive years demonstrating 15% reduction each year, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the monitoring shall start anew to ensure successful 15% reduction for three consecutive years. This mitigation measure would reduce the impact to less than significant.

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of 1) Resolution No. 20-01 recommended to the City Council certification of the FEIR and 2) Resolution No. 20-02 recommended adoption of CEQA Findings of Fact and Statement of Overriding Considerations and approval Exception of Level of Service standards and a Mitigation Monitoring and Reporting Program; and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23 2020, the City Council held a duly noticed public hearing to review the proposed amendment to the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project and considered all oral and written public testimony and the written report of the Community Development Department;

WHEREAS, on March 23, 2020, the City Council made further minor clarifying edits to MM-TRANS-1

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of San Rafael hereby: a) approves the following CEQA Findings of Fact; b) adopts the following Statement of Overriding Considerations; and c) approves the MMRP presented in Exhibit A, finding that the MMRP has been prepared in accordance with the CEQA Guidelines:

FINDINGS OF FACT

I. California Environmental Quality Act (CEQA)

A. Final EIR

By separate Resolution, the City Council reviewed and certified the FEIR. As part of this action and as outlined in this separate resolution, the City Council reaffirms the findings made in the separate City Council Resolution that: a) supported the certification of the FEIR; b) found that the FEIR has been prepared in accordance with the CEQA Guidelines and the City of San Rafael Environmental Assessment Procedures Manual; and c) found and concluded that the FEIR adequately assesses the environmental effects of the Project and represents the independent judgment of the City.

B. Incorporated Documents/ Record of Proceedings

The following information is incorporated by reference and made part of the record supporting these findings:

- All Project plans and application materials, including supportive technical reports;
- The DEIR and Appendices (August 2019) and FEIR (January 10, 2020), and all documents relied upon, cited therein or incorporated by reference;
- The Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project;
- The City of San Rafael *General Plan 2020* and *General Plan 2020* FEIR;
- Zoning Ordinance of the City of San Rafael (SRMC Title 14);
- Subdivision Ordinance of the City of San Rafael (SRMC Title 15);
- City Council Ordinance No. 1772, City Council Resolution No. 10980 and the City of San Rafael Archaeological Sensitivity map;
- BioMarin's 999 3rd Street Project Development Agreement
- All records of decision, resolutions, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, summaries, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project;
- Any documents expressly cited in these findings, in addition to those cited above; and
- Any other materials required for the record of proceedings by caselaw and/or Public Resources Code section 21167.6, subdivision (e).

Pursuant to CEQA Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City has based its decision are located in and may be obtained from the City's Department of Community Development, Planning Division, at 1400 Fifth Street, Third Floor, San Rafael, CA 94901.

II. Findings of Fact in Support of Project Action

The FEIR, prepared in compliance with CEQA, evaluates the potentially significant and significant adverse environmental impacts that could result from approval of the Project. Because the FEIR concludes that implementation of the Project would result in adverse impacts, the City is required by CEQA to make certain findings with respect to these

impacts. (CEQA Guidelines Section 15091) These findings list and describe the following, as analyzed in the EIR: a) impacts determined to be insignificant or less-than-significant in the Notice of Preparation checklist; b) impacts found to be less than significant after individual analysis in the EIR; c) significant impacts that can be avoided or reduced with mitigation; d) significant impacts that cannot be avoided; and e) project alternatives that were developed and studied as provided in the CEQA Guidelines.

These findings are supported by substantial evidence in the entirety of the record of proceedings before the City, which is incorporated herein by this reference. Further explanation of these environmental findings and conclusions can be found, without limitation, in the DEIR and FEIR, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the FEIR determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the City Council ratifies, adopts and incorporates in these findings the determinations and conclusions of the DEIR and FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

A. IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT AND NOT INDIVIDUALLY ANALYZED

During the Project's Notice of Preparation (NOP) and scoping period, the City determined that a number of the Project's potential environmental effects would be insignificant, less-than-significant or would be adequately addressed through the City's environmental review process, including Agriculture Resources, Biological Resources, Mineral Resources, Population/Housing, Schools and Libraries (Public Services), and Wildfire. For these topics, in accordance with CEQA Guidelines Section 15128, no need for further environmental assessment was required for the preparation of the FEIR.

Finding: The Project's DEIR contains brief statements identifying possible impacts that were determined to be insignificant or less-than-significant, along with the reasons for those determinations. The City Council adopts those statements and concludes that the referenced environmental effects are insignificant or less than significant and no further analysis in the FEIR is required.

B. IMPACTS DETERMINED TO BE LESS-THAN-SIGNIFICANT AFTER INDIVIDUAL ANALYSIS.

The NOP and scoping period identified a number of potential environmental impacts to be analyzed in the DEIR. Through that analysis, impacts relating to Aesthetics, Energy, Greenhouse Gas Emissions, Public Services, Recreation, Tribal Cultural Resources, and Utilities and Service Systems were determined to be less-than-significant and, thus, no mitigation measures are necessary or required, as noted below.

Finding: The City Council adopts these statements and concludes that the referenced environmental impacts would be less than significant for the reasons stated below and contained within the entirety of the record of proceedings.

1) Aesthetics

a. The Project Will Not Result in Visual Character or Quality Impacts

Facts in Support of Finding: As discussed on pages 4.1-11 to 4.2-22 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not substantially change the character of the Project site by constructing the new 72-foot tall buildings on an existing surface parking lot. Further, visual simulations show that the Project will not obstruct views from many viewpoints, will have less-than-significant impacts on views of Mt. Tamalpais from public vantage points, and the use is consistent and compatible with surrounding uses. In addition, the Project is consistent with design guidelines in the General Plan 2020 and non-residential design guidelines. This impact will therefore be less than significant.

b. The Project Will Not Increase Light and Glare

Facts in Support of Finding: As discussed on pages 4.1-22 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not increase light and glare due to existing presence of commercial lighting. Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. In sum, the Project's lighting will not be substantial in comparison to existing conditions and will not affect nighttime views or cause potential "spillage" of lighting that may affect nearby residents. This impact will therefore be less than significant.

c. The Project Will Not Result in Cumulative Aesthetic Impacts

Facts in Support of Finding: As discussed on page 4.1-23 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in cumulative visual impacts. The Project is subject to City of San Rafael Design Guidelines and formal Design Review to ensure high-quality and compatible design. Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. The Project therefore will not make a cumulatively considerable contribution to a significant cumulative impact, and thus this impact will be less than significant.

2) Air Quality

a. Consistency with the Bay Area Clean Air Plan

Facts in Support of Finding: As discussed on DEIR page 4.2-10 to 4.2-14 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, the project would result in an overall increase in local and regional pollutant loads due to direct impacts from construction and operational emissions. However, based on the BAAQMD's CEQA Air Quality Guidelines, the project would not conflict with or obstruct implementation of the applicable air quality plan and the associated air quality impact would be less than significant. The project's estimated emissions for ROG, NOx, and exhaust PM10 and PM2.5 during construction were well below the applicable thresholds and, therefore, would have a less-than-significant impact on regional air quality. The estimated emissions for ROG, NOx, and exhaust PM10 and PM2.5 during operation of the project were below the thresholds and, therefore, would have a less-than-significant impact on regional air quality.

b. Exposure of Sensitive Receptors to Toxic Air Contaminants and PM2.5

Facts in Support of Finding: As discussed on DEIR page 4.2-14 to 4.2-21 and supported by evidence contained within the entirety of the record of proceedings,

under CEQA, project construction would generate DPM and PM2.5 emissions primarily from the exhaust of off-road diesel construction equipment emissions from testing and maintenance of an emergency generator. The emissions of DPM and PM2.5 from diesel exhaust during project construction and operation could pose a health risk to nearby sensitive receptors. Similarly, project operations would generate DPM and PM2.5. In addition, the project has potential to create individual TAC and PM2.5 emissions during construction and operation, the potential cumulative health risks to sensitive receptors from existing and future foreseeable sources of TACs and PM2.5. The excess cancer risk, chronic HI, and annual average PM2.5 concentrations at the on-site MEIR were below the BAAQMD's cumulative thresholds. Therefore, the cumulative impact on nearby sensitive receptors from TAC and PM2.5 emissions during construction and operation of the proposed project would be less than significant.

c. Generation of Odors

Facts in Support of Finding: As discussed on DEIR page 4.2-21 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, Project construction and operation would not be expected to generate significant odors because the project would not include handling or generation of noxious materials. Therefore, project impacts related to odors would be less than significant.

d. Cumulative Operational Air Quality Impacts

Facts in Support of Finding: As discussed on Draft EIR page 4.2-22 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, since construction and operation of the proposed project would not exceed the BAAQMD's thresholds of significance for criteria pollutants (including ozone precursors), the cumulative impact on regional air quality would be less than significant. The project would also not exceed the BAAQMD threshold emissions of DPM and PM2.5 during construction and operation of the project.

3) Cultural Resources

a. Human Remains

Facts in Support of Finding: As discussed on Draft EIR page 4.3-8 and supported by evidence contained within the entirety of the record of proceedings, under CEQA the project would have less-than-significant impacts on human remains, including those interred outside formal cemeteries. As noted under "Pre-Contact Archaeological Resources and Human Remains," Native American human remains could be encountered below the engineered fill at the project site. Should human remains be unearthed during project construction, these would be treated in accordance with existing state laws, including California PRC Section 5097.98 and California Health and Safety Code Section 7050.5. With enforcement and implementation of these state laws, project impacts on human remains would be less than significant, and no mitigation measures are required.

4) Energy

a. The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.

Facts in Support of Finding: As discussed pages 4.4-4 to 4.4-7 of the DEIR and supported by evidence contained within the entirety of the record of proceedings,

the Project will not result in wasteful, inefficient, or unnecessary consumption of energy. While energy consumption would increase (due to the proposed new buildings and associated vehicle traffic), the net increase in overall per capita consumption would not be considered substantial, for two reasons:

1. **Downtown Infill Location.** The project would be located on a downtown infill site already served by roads, transit, and utilities. This type of infill development tends to be more energy efficient than development on less centrally located sites, as it offers opportunities for reusing existing resources and encouraging use of public transit and other alternatives to private vehicles.
2. **Energy Efficiency Measures.** The project includes energy efficiency measures and would likely be subject to additional applicable state and local requirements at the time of detailed project review. In addition, all project buildings would be designed to accommodate solar roof systems at some point in the future. As noted in the above analysis, the energy consumption estimates for the project are considered conservative, because it was assumed that no energy savings would result above current standards; therefore, the project's actual energy consumption might be less than the estimates, since additional energy reduction measures will likely be introduced at the state and local level over time and would be included in the project. The project would be subject to City of San Rafael policies and review procedures that would ensure that the project incorporates the latest energy conservation measures. This impact will therefore be less than significant.

b. The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

Facts in Support of Finding: As discussed page 4.4-7 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. The project applicants are proposing that the project be designed with a variety of energy-saving features, which are described in detail in Chapter 3, Project Description, of this DEIR. Through the local building permit process, the project would be required to abide by all State of California mandates for energy conservation. The project therefore would not conflict or obstruct a state or local plan for renewable energy or energy efficiency.

c. The project would not require or result in the relocation or construction of new or expanded electric power or natural gas facilities, the construction or relocation of which could cause significant environmental effects.

Facts in Support of Finding: As discussed page 4.4-7 to 4.4-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not require or result in the relocation or construction of new or expanded electric power or natural gas facilities, the construction or relocation of which could cause significant environmental effects. The project site is already served by PG&E electricity and natural gas facilities. It is generally expected that the project would connect to existing PG&E utility lines serving the site. New gas underground service would be installed for each building, with points of connection and gas meters located immediately adjacent to each building. A new

electrical power underground service would be provided, with underground feeders extended from existing vaults to the project site and ending at a new pad-mounted transformer outside each building. A utility meter would be provided at each main switchboard. A transformer would be provided to serve BioMarin Building B. An on-site generator would be provided for emergency power use (BioMarin and Whistlestop/Eden Housing, 2019). A new PG&E gas underground connection/service would be provided for the Whistlestop/Eden Housing project, and a new electrical transformer would be installed at the southwest corner of the site, next to the electrical room. A new gas meter would be located at the southwest corner of the site.

- d. The Project would not result in net increased energy demand and, combined with other past, present, and probable future projects, would not result in a significant cumulative impact.**

Facts in Support of Finding: As discussed page 4.4-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the net increased energy demand from the Project would be minimal and would not require expanded or new energy facilities as a direct result of project development. The proposed project would not result in any significant impacts on energy services. The proposed project would realize transportation-related energy savings compared to similar projects in a location at a distance from urban areas. The proposed project and other projects have been and would be required to comply with all standards of Title 24 of the California Code of Regulations. PG&E, which provides energy to the project site and vicinity, produces much of its energy from renewable sources and has plans in place to increase reliance on renewable energy sources. Because many agencies in California have adopted policies seeking increased use of renewable resources (and have established minimum standards for the provision of energy generated by renewable resources), it is expected that PG&E would continue to meet future demands for energy via a gradually increasing reliance on renewable resources, including small-scale sources such as photovoltaic panels and wind turbines, in addition to larger-scale facilities, such as wind farms. MCE also serves the San Rafael area, providing additional alternatives for renewable electricity service. The increase in demand would likely be met through the development of renewable resources that would have fewer environmental effects than the development of new conventional gas- or coal-fired power plants.

5) Geology and Soils

a. Surface Rupture

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not directly or indirectly cause potential substantial adverse effects involving rupture of a known earthquake fault. Available mapping does not identify a fault at or near the project site that would have the potential to result in surface rupture (Miller Pacific Engineering Group, 2018). In a seismically active area such as the San Francisco Bay region, a remote possibility exists for future faulting to occur in areas where no faults previously existed. Because this is unlikely to occur, the geotechnical report for the proposed project concluded that the potential for fault surface rupture at the project site is low (Miller Pacific Engineering Group, 2018). Therefore, the potential for substantial adverse impacts to occur due to surface rupture is less than significant.

b. Landslides

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not directly or indirectly cause potential substantial adverse effects involving landslides. The project site and surrounding areas are relatively flat. The site-specific geotechnical investigation report did not identify any potential slope stability or landslide hazards associated with the proposed project (Miller Pacific Engineering Group, 2018). Therefore, the potential for the proposed project to expose people or structures to substantial adverse effects involving landslides is less than significant.

c. Soil Erosion or Loss of Topsoil

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not result in substantial erosion or the loss of topsoil. Potential soil erosion impacts of the proposed project would be related to stormwater runoff entraining soils exposed during construction, and are analyzed in Section 4.8, Hydrology and Water Quality.

d. Cumulative Geology and Soils Impacts

Facts in Support of Finding: As discussed on pages 4.5-15 to 4.5-16 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Geologic impacts do not extend far beyond a project's boundaries because geologic and soils conditions can vary widely over a short distance and therefore potential impacts are typically confined to discrete spatial locations and do not combine to create a significant cumulative impact. There are no large landslide features or fault zones present in the vicinity of the project site. The development of the proposed project and the nearby cumulative projects would not alter the geologic or seismic hazards at any off-site location. Therefore, the potential cumulative impact related to geologic hazards would be less than significant. The proposed project and cumulative projects within San Rafael, could affect unidentified paleontological resources. However, impacts on these resources accidentally discovered during implementation of these projects would be mitigated to less-than-significant levels through the use of appropriate mitigation measures adopted as conditions of approval. Collectively, the proposed project and other projects would not result in a cumulative increase in impacts on paleontological resources as these resources would be avoided or otherwise removed, analyzed, and reported (i.e., by a qualified paleontologist). Therefore, the potential cumulative impact would be less than significant.

6) Green House Gas Emissions

a. GHG Emissions from Project Operations

Facts in Support of Finding: As discussed on pages 4.6-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, GHG emissions generated by the project would not have a significant impact on the environment. In 2019, the City of San Rafael adopted the CCAP 2030 in order to implement measures to reduce GHG emissions and adapt to climate change. The CCAP 2030 identifies strategies for reducing the City of San Rafael's GHG emissions 25 percent below 2005 levels by 2020, which is more stringent than the statewide 2020 target under AB 32, and 40 percent below

1990 levels by 2030, which is consistent with the statewide 2030 target under SB 32. These GHG reductions would also put the City on a trajectory to reduce GHG emissions 80 percent below 1990 levels by 2050, which is consistent with the statewide 2050 target under Executive Order S-3-05. Emissions reductions related to transportation, energy efficiency, renewable energy, and water conservation are estimated in the CCAP 2030 and show that the City would surpass the City and statewide goals for 2020 and 2030 by reducing emissions 19 percent below 1990 levels by 2020 (equivalent to 31 percent below 2005 levels) and 42 percent below 1990 levels by 2030. These GHG reductions would primarily be achieved through low-carbon transportation, energy efficiency, renewable energy, waste reduction, and water conservation. Therefore, the GHG emissions generated by the project would have a less-than-significant impact on the environment.

b. Consistency with San Rafael's CCAP 2030

Facts in Support of Finding: As discussed on pages 4.6-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would be consistent with the City of San Rafael's CCAP 2030. As discussed above, the project's GHG emissions impact is considered less than significant because the project is consistent with the CCAP 2030.

7) Hazards and Hazardous Materials

a. The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

Facts in Support of Finding: As discussed on pages 4.7-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, during project construction, hazardous materials (e.g., fuel, oils, solvents, paints) would be routinely transported, stored, and used at the project site. Because the proposed project would result in soil disturbance greater than 1 acre, management of soil and hazardous materials during construction activities would be subject to the requirements of the Stormwater Construction General Permit which requires preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) that includes hazardous materials storage requirements. The routine handling and use of hazardous materials by workers would be performed in accordance with OSHA regulations, which include training requirements for workers and a requirement that hazardous materials are accompanied by manufacturer's Safety Data Sheets (SDSs). Cal/OSHA regulations include requirements for protective clothing, training, and limits on exposure to hazardous materials. Compliance with these existing regulations would ensure that workers are protected from exposure to hazardous materials that may be transported, stored, or used on-site. Compliance with the existing regulations for hazardous materials discussed above would ensure that the proposed project would not result in significant impacts related to the routine transport, use, storage, or disposal of hazardous materials.

b. During construction, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Facts in Support of Finding: As discussed on pages 4.7-16 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the proposed project would not result in an accidental release of hazardous materials (e.g., oils, fuels, solvents, and paints) during project construction. The proposed project would be subject to the requirements of the Construction General Permit, which require preparation and implementation of a SWPPP and best management practices (BMPs) to reduce the risk of spills or leaks from reaching the environment, including procedures to address minor spills of hazardous materials. Measures to control spills, leakage, and dumping must be addressed through structural as well as nonstructural BMPs, as required by the Construction General Permit. Construction activities that would disturb potentially contaminated soil and groundwater at the project site would be subject to the requirements of the Covenant and SGMP, including requirements for worker health and safety, dust and odor control, stockpile management, stormwater runoff and erosion control, soil and groundwater disposal protocols, and protocols for the discovery of unanticipated conditions (e.g., subsurface features or contaminated soil not identified during previous investigations). Compliance with the requirements of the Covenant, SGMP, and the Construction General Permit would ensure that the proposed project would result in less-than-significant impacts related to the accidental release of hazardous materials during construction.

- c. **The project would not result in significant impacts related to emitting hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.**

Facts in Support of Finding: As discussed on pages 4.7-17 to 4.7-18 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the proposed project is located approximately 800 feet from Saint Raphael Elementary, a private school located at 1100 Fifth Avenue north of the project site. The project site is approximately one-quarter mile north of the James B. Davidson Middle School public school located at 280 Woodland Avenue. The proposed project would be designed, constructed, and operated in accordance with the requirements of the CBC, CFC, and IFC for the storage and handling of hazardous materials; and operation of the project would be required to comply with existing hazardous materials regulations enforced by Marin County. Compliance with the existing regulations discussed above would ensure that the proposed project would have less-than-significant impacts related to potential hazardous emissions near schools during operation of the project.

- d. **The project would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, although the project site is a known hazardous materials release site, the project site is not included on any of the lists of hazardous materials release sites compiled pursuant to Government Code Section 65962.5, also known as the "Cortese List" (CalEPA, 2019). Therefore, the proposed project would have no impact related to being included on a list of hazardous materials release sites compiled pursuant to Government Code Section 65962.5.

- e. **The project is not located in the vicinity of an airport and therefore would not result in airport-related safety hazards or excessive noise for people residing or working in the project area.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the nearest airport to the project site is San Rafael Airport, approximately 3 miles north of the project site. San Rafael Airport is a private use airport (AirNav, 2019) and does not have a land use plan. The nearest public airport to the project site is the Marin County Airport at Gross Field in Novato, approximately 12 miles to the north. The project site is not located within the land use plan area for the Marin County Airport at Gross Field (Marin County Planning Department, 1991). There are no airports located within 2 miles of the project site. Therefore, the proposed project would have no impacts related to aviation hazards.

- f. **The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, construction of the project could require temporary closure of portions of streets adjacent to the project site. Traffic control requirements imposed by the City for the permitting of temporary closure of street areas would ensure that appropriate emergency access is maintained at all times during construction activities. The proposed project would not permanently alter roadways in the vicinity of the project site. Therefore, the proposed project would have a less-than-significant impact related to impeding or interfering with emergency response or evacuation plans.

- g. **The project would not expose people or structures, either directly or indirectly, to significant risk of loss, injury, or death involving wildland fires.**

Facts in Support of Finding: As discussed on pages 4.7-19 and 4.7-20 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the project site is within a highly urbanized area and is not located near heavily vegetated areas or wildlands that could be susceptible to wild fires. The project site is not located in or near a State Responsibility Area or a Very High Fire Hazard Severity Zone as mapped by the California Department of Forestry and Fire Protection (CAL FIRE, 2008). The project site is not in or near a Wildland-Urban Interface area mapped by the City of San Rafael (Wildland-Urban Interface areas are areas where structures are built near lands prone to wildland fire.) Therefore, the project would have a less-than-significant impact related to wildland fire hazards.

8) Hydrology and Water Quality

- a. **The project would not result in substantial erosion or siltation on- or off-site.**

Facts in Support of Finding: As discussed on pages 4.8-12 and 4.8-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Construction activities would involve excavation and grading, which would temporarily alter drainage patterns and expose soil to potential erosion. Compliance with the Construction General Permit and City of San Rafael BMPs

for construction activities would ensure that erosion of exposed soil and sedimentation of receiving waters or the combined sewer system would not occur during construction of the proposed project. During operation of the project, the site would be covered by buildings, pavement, and landscaped areas, with no ongoing soil exposure or disturbance that could result in erosion and siltation. For these reasons, the potential of project construction and operation to change drainage patterns in a manner that would result in erosion or siltation on- or off-site would be less than significant.

b. The project would not impede or redirect flood flow.

Facts in Support of Finding: As discussed on pages 4.8-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the majority of the proposed project is located within the 100-year flood hazard zone. The project site is not located in a regulatory floodway. Any proposed development or modification of the regulatory floodway is subject to the special study requirements of San Rafael Municipal Code Section 15.50.060. The flooding at the project site and vicinity is mapped as shallow flooding of 1 to 3 feet that usually consists of areas of ponding. The development of the project site would not alter this existing flooding pattern, which is controlled by the properties of San Rafael Creek. In addition, the project would be required to comply with the requirements of Section 18 of the San Rafael Municipal Code and acquire a development permit in accordance with Section 18.40.010. Therefore, after development of the buildings, the flood water surrounding the project site would continue to consist of shallow flooding with areas of ponding, and the potential of the proposed project to redirect or impede flood flows would be less than significant.

c. The project would not result in a substantial release of pollutants during inundation of the project site by flood waters.

Facts in Support of Finding: As discussed on pages 4.8-13 to 4.8-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project site is not located in an area subject to flooding due to tsunami, seiche, or dam inundation. The construction of the proposed project would be required to implement a SWPPP and to comply with City of San Rafael BMPs for construction activities, including measures for managing hazardous materials used on construction sites and for keeping the construction site maintained in a clean and orderly state, and hazardous materials storage requirements. Once constructed, the project buildings would be subject to inundation during the 100-year flood, as well as to inundation due to sea level rise. Urban pollutants associated with the proposed land uses include oils, fuels, and metals associated with motor vehicle traffic; fertilizers and pesticides used to maintain landscaped areas; and trash generated by new site occupants. In addition, some contamination would likely be present in the soil and groundwater on the project site even after remediation is complete. The maintenance of the site cap would prevent contaminants in the soil and groundwater on the site from coming into contact with floodwaters. Therefore, the risk of the release of pollutants from these flood hazards would be less than significant during both project construction and operation.

d. The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Facts in Support of Finding: As discussed on pages 4.8-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, no significant groundwater resources are located at the project site, and there is no groundwater management plan for the area of the project site. The Basin Plan is the master policy document that establishes the water quality objectives and strategies needed to protect designated beneficial water uses in the San Francisco Bay region. The State Water Board and Regional Water Board enforce compliance with the water quality objectives of the Basin Plan through the issuance of NPDES permits. The project would comply with the Construction General Permit and Small MS4 Permit. Compliance with these permits would ensure that the proposed project would not have the potential to conflict with the Basin Plan. Therefore, this impact would be less than significant.

9) Land Use and Planning

a. The project would not divide an established community.

Facts in Support of Finding: As discussed on pages 4.9-10 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, no land uses are currently present on the project site. The project would allow development of office, R&D, multi-family housing, and retail uses that would be generally compatible with surrounding uses in the downtown area. Thus, the project would not divide an established community, and the impact would be less than significant.

10) Noise

a. Airport Noise

Facts in Support of Finding: As discussed on pages 4.10-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not expose people residing or working in the project area to excessive airport noise levels. The nearest private airstrip to the project site is the San Rafael Airport, approximately 3 miles to the north. A heliport is located approximately 2.6 miles southeast of the project site. The project site is located outside of the 60 dBA Ldn contour line of both San Rafael Airport and the heliport (City of San Rafael, 2017). The project site is not located within the vicinity of any other private airstrip (Federal Aviation Administration, 2019). Therefore, the proposed project would not expose people in the project area to excessive noise levels from any private airstrips. The nearest public use airport to the project site is the Marin County Airport (also known as Gness Field) in Novato, approximately 12 miles to the north. The project site is not located in a land use plan for Marin County Airport (Marin County Planning Department, 1991). Therefore, the proposed project would not expose people at the project site to excessive noise levels from any public use airports.

b. Operational Noise Related to Increased Traffic

Facts in Support of Finding: As discussed on pages 4.10-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Project-related traffic would not generate a substantial permanent increase in ambient noise levels in excess of standards established in San Rafael General Plan 2020 or the noise ordinance. The proposed project would increase vehicle trip generation during operation but below the 3 dBA significance threshold for project-generated traffic noise. Consequently, the proposed project would not result in a significant increase in traffic noise along local area roadways.

c. Land Use Compatibility

Facts in Support of Finding: As discussed on pages 4.10-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating a noise effect. According to the traffic noise level contours of the General Plan, existing noise levels range from 65 dBA Ldn to 69 dBA Ldn in the northern portion of the project site and from 68 dBA Ldn to 72 dBA Ldn in the southern portion of the project site. A typical building façade with windows closed would also reduce the interior noise levels for the BioMarin project to 40 to 47 dBA Ldn, which is consistent with the interior noise levels requirements of 50 dBA Ldn in 2016 California Building Standards Code for buildings containing non-residential uses. Therefore, impacts related to land use compatibility would be less than significant.

11) Public Services

a. The project would increase the demand for fire protection services, but not to the extent that new or physically altered fire stations would be needed.

Facts in Support of Finding: As discussed on page 4.11-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project could generate new demand for fire protection services, including increased calls for service. This new demand would not be large enough to require new or physically altered fire protection facilities or equipment, however. The project would not require the hiring of any additional firefighters, and no new or upgraded facilities would be necessary. As such, the impact is considered less-than-significant.

b. The project would increase the demand for police services, but not to the extent that new or physically altered police stations would be needed.

Facts in Support of Finding: As discussed on page 4.11-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project could generate new demand for police services, including increased calls for service and response to traffic-related issues. This new demand would not be large enough to require new or physically altered police facilities or equipment, however. The project would not require the hiring of any additional officers, and no new or upgraded police facilities would be necessary. In addition, at the time of building permit issuance, the project applicants would pay development impact fees of \$0.12 per square foot of commercial space, \$0.06 per square foot of industrial space, and \$128.50 per bedroom for residential uses. The City of San Rafael would use these funds to cover the costs of the project's impact on public facilities and services within the city, including on-going costs of police services. As such, the impact is considered less-than-significant.

c. The Project Will Not Result in Significant Cumulative Public Services Impacts

Facts in Support of Finding: As discussed on page 4.11-5 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project will not service demands from the project would not affect these services enough to create the need for new or expanded facilities. The

project would be subject to Fire Code requirements and other standard requirements for features such as emergency access, signage, lighting, and security. Other projects in the San Rafael city limits would also be subject to these standard requirements, along with development impact fees that are used by the City to cover the cost of project impacts on public facilities and services. As such, the impact is considered less-than-significant.

12) Recreation

- a. The project would not increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated or such that new or altered facilities would be needed.**

Facts in Support of Finding: As discussed on page 4.12-3 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the proposed on-site recreational facilities and services are expected to be adequate to serve the needs of the on-site population. While the project could result in an increase in use of nearby parks and recreational facilities, this increase would not be large enough to result in the need for new or altered parks or cause deterioration of existing parks or recreational facilities. The project would not create any conflicts with San Rafael General Plan 2020 policies for recreational facilities. The impact would be less than significant, and no mitigation is necessary.

- b. The project would include recreational facilities and would not require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.**

Facts in Support of Finding: As discussed on page 4.12-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would include on-site recreational facilities. The environmental impacts of constructing these facilities are evaluated throughout this DEIR as part of the analysis of the project as a whole. The proposed on-site recreational facilities would not have any specific adverse physical effects on the environment. The recreational needs of the project's population would be met on-site, and the project would not create a need for construction or expansion of other recreational facilities. As such, the impact is considered less-than-significant.

- c. The Project Will Not Result in Significant Cumulative Recreation Impacts**

Facts in Support of Finding: As discussed on page 4.12-5 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, The project, in conjunction with other past, present, and probable future projects, could result in a cumulative increase in demand for recreational facilities in the area. The cumulative increase in demand would result from the project along with existing and future development in the area, particularly residential development. As discussed in the above analysis, however, demand from the project would not result in a significant impact on recreational facilities or create the need for new or expanded facilities, because the recreational needs of residents, employees, and other project occupants would be met on-site. In addition, anticipated residential projects in San Rafael and other cities would be subject to each city's respective standard requirements for parkland dedication or in-lieu payment of

fees to fund parks and recreational facilities. For these reasons, the project would not result in or contribute to any significant cumulative recreation impacts.

13) Transportation

- a. The Project would not conflict with a program, plan, ordinance, or policy addressing transit facilities or bicycle facilities.**

Facts in Support of Finding: As discussed on page 4.13-20 to 4.13-21 of the DEIR and supported by evidence contained within the entirety of the record of proceedings the proposed project will increase potential public transit ridership but the level of added transit ridership would not have a significant impact on the SMART, Golden Gate Transit, or Marin Transit routes serving downtown San Rafael. Therefore, project impacts on transit facilities are considered less than significant. The project will include provisions for bicycle parking and storage are included in both the BioMarin and Whistlestop/Eden Housing projects. Therefore, project impacts on bicycle facilities are considered less than significant.

14) Tribal Cultural Resources

- a. The Project would not potentially cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is Geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.**

Facts in Support of Finding: As discussed on page 4.14-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Federated Indians of Graton Rancheria (FIGR) has requested consultation with the City to address potential impacts on tribal cultural resources. Based on a discussion between the City and the FIGR Tribal Historic Preservation Officer, Buffy McQuillen, the tribe neither provided specific information regarding the presence of tribal cultural resources at the project site nor requested specific mitigation measures be implemented. The NWIC records search did not identify Native American archaeological deposits or ancestral remains at or adjacent to the project site. The proposed project would have no impact on known tribal cultural resources that are listed or eligible for listing in the California Register of Historical Resources or a local register of historical resources. The City has not identified substantial evidence to indicate the presence of a tribal cultural resource.

- b. The Project Will Not Result in Significant Cumulative Tribal Resource Impact.**

Facts in Support of Finding: As discussed on page 4.14-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, based on a review of project and CEQA documentation available on the City of San Rafael website, no recent past, current, or probable future projects under review by the City include reported tribal cultural resources as defined under PRC Section 21074. When the City considers future development proposals, these proposals would undergo environmental review pursuant to CEQA and, when necessary, mitigation measures would be adopted as appropriate. Measures to mitigate or avoid impacts on tribal cultural resources would be drafted in consultation with FIGR. In most cases, this consultation would ensure that significant impacts on tribal cultural resources would be avoided or otherwise

mitigated to less-than-significant levels. For these reasons, the proposed project would not result in or contribute to any significant cumulative impacts on tribal cultural resources.

15) Utilities and Services

- a. The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment, or other facilities; the construction or relocation of which could cause significant environmental effects.**

Facts in Support of Finding: As discussed on page 4.15-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not result in the construction of new off-site water facilities or expansion of existing facilities. No extension of MMWD pipelines would be necessary to serve the project. The BioMarin project would require one water meter per structure, and the Whistlestop/Eden Housing project would likely require a single meter for the building at the street with private submeters for each living unit. These water facilities would not have any specific significant environmental impacts requiring mitigation. The project applicants would pay appropriate development impact and utility connection fees toward ongoing improvements and maintenance of the water system. Water system improvements to be funded by the project applicants may include installation of a new fire hydrant at the corner of 3rd Street and Brooks Street. The San Rafael Fire Department is planning to require this new hydrant as part of an MMWD water main replacement along the portion of 3rd Street that adjoins the project site. The environmental impact would be less than significant, and no mitigation is necessary.

- b. Water supplies would be sufficient to serve the project and reasonably foreseeable future development during normal, dry or multiple dry years.**

Facts in Support of Finding: As discussed on page 4.15-10 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would require compliance with MMWD conservation requirements that would help reduce the project's water use, in compliance with San Rafael General Plan 2020 and Climate Change Action Plan policies and programs for water conservation. Water supplies would be sufficient to serve the project and reasonably foreseeable future development during normal, dry or multiple dry years. The project's impact on water supplies would therefore be less than significant, and no mitigation is necessary.

- c. The project would not result in a determination by the wastewater treatment provider that serves the project site that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

Facts in Support of Finding: As discussed on page 4.15-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the CMSA Wastewater Treatment Plant would have adequate capacity to handle this increase (Dow, 2019). The project's impact would therefore be less than significant, and no mitigation is necessary.

- d. The project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise**

impair the attainment of solid waste reduction goals. The project would comply with federal, state, and local management and reduction statutes and regulations related to solid waste.

Facts in Support of Finding: As discussed on page 4.15-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would be subject to the California Green Building Standards Code (CALGreen Code), which has been adopted as Chapter 12.23 of the San Rafael Municipal Code. The CALGreen Code contains requirements for waste reduction and recycling, including requirements that a minimum of 50 percent of construction waste be recycled and/or salvaged for reuse, that a construction waste management plan be prepared, and that readily accessible areas be provided to allow recycling by project occupants. The City of San Rafael would review the project to verify compliance with the CALGreen Code. The impact would therefore be less than significant, and no mitigation measure is necessary.

e. The Project will not have Cumulative Water, Wastewater, and Solid Waste Disposal Impacts.

Facts in Support of Finding: As discussed on page 4.15-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project's water consumption would not result in a significant impact on water supply or create the need for new or expanded water facilities. Individual projects proposed within the MMWD service area will need to calculate precise water demands and facilities needed to provide adequate long-term water supply. For these reasons, the effect of the project on water service, in combination with other past, present, and probable future projects, would be less than significant. The project would not result in or contribute to any significant cumulative water service impacts. For wastewater service, the geographic scope for assessing cumulative impacts is the service area of the San Rafael Sanitation District and the CMSA Wastewater Treatment Plant. The service demand from the project would not result in a significant impact on wastewater treatment plant capacity or create the need for new or expanded wastewater facilities. While sewer lateral connections would not be identified until projects are in the design stage, the existing lift station is expected to have adequate capacity to serve the additional flow. For these reasons, the effect of the project on wastewater service, in combination with other past, present, and foreseeable projects, would be less than significant. The project would not result in or contribute to any significant cumulative wastewater service impacts. For solid waste disposal service, the geographic scope for assessing cumulative impacts consists of the service area of Redwood Landfill through 2024. Comprehensive implementation of state and local waste reduction and diversion requirements and programs has and would continue to reduce the potential for exceeding existing landfill capacity. For these reasons, the project's effect on solid waste disposal service, in combination with other past, present, and probable future projects, would be less than significant. The proposed project would not result in or contribute to any significant cumulative solid waste disposal service impacts.

C. SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED WITH MITIGATION

The City Council, as authorized by Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15092, identifies the following significant impacts that can be eliminated or reduced to a less-than-significant level with the implementation of

mitigation measures recommended in the EIR. As summarized in Chapter 2 (pages 2-5 – 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, these mitigation measures are hereby adopted and incorporated into the description of the Project and their implementation will be monitored through the MMRP.

1) Air Quality

- a. **Impact AIR-1: Fugitive dust emissions during project construction could adversely affect a substantial number of people.**

Significant Impact

As discussed on pages 4.2-21 to 4.2-22 and summarized in Chapter 2 (page 2-5) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, grading and construction activities on the Project site will create a temporary potentially-significant Air Quality impact, which can be mitigated to a less-than-significant level with the preparation, approval and implementation of a basic measures to control dust and exhaust during construction (Attachment A: Mitigation Measure **MM AIR-1**).

Finding

The City Council finds that implementation of MM AIR-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

2) Cultural Resources

- a. **Impact CULT-1: The proposed project could cause a substantial adverse change in the significance of archaeological deposits that qualify as historical resources, as defined in CEQA Guidelines Section 15064.5. Archaeological deposits could be unearthed or otherwise displaced during project ground disturbance below fill at the project site.**

Significant Impact

As summarized in Chapter 2 (pages 2-5 – 2-6) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, although construction of the Project would have no impact on known archaeological resources, there is a possibility that previously unidentified archaeological resources and subsurface deposits are present within the project area, and Project construction could potentially disturb such resources and subsurface deposits within the Project area. This potential Cultural Resources impact can be mitigated to a less-than-significant level if archaeological resources are found during construction, construction is halted and the project sponsor retains a qualified archaeologist to assess the previously unrecorded discovery and provide recommendations. (Attachment A: Mitigation Measure **MM CULT-1**).

Finding

The City Council finds that implementation of MM CULT-1 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- b. Impact CULT-2: The proposed project could cause a substantial adverse change in the significance of an archaeological resource, as defined in CEQA Guidelines Section 15064.5. Archaeological resources could be unearthed or otherwise displaced during project ground disturbance below fill underlying the project site.**

Significant Impact

As summarized in Chapter 2 (page 2-6) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there are no formal cemeteries or known interred human remains within the Project area and no evidence of human remains was identified within the Project area. However, the potential for their presence cannot be entirely ruled out, since construction-related excavation could expose and disturb or damage previously undiscovered human remains. This Cultural Resources impact can be mitigated to a less-than-significant level if previously unknown human remains are found during construction, construction is halted and the project sponsor retains a qualified archaeologist to assess the previously unrecorded discovery and providing immediate notification to the Marin County Coroner and the notification to the NAHC if the remains are Native American. (Attachment A: Mitigation Measure **MM CULT-2**).

Finding

The City Council finds that implementation of MM CULT-2 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

3) Geology and Soils

- a. Impact GEO-1: During its design life, the project would likely be subject to strong ground shaking from a seismic event, seismic-related ground**

failure, and unstable soils, creating the potential for a significant risk to structures and human lives.

Significant Impact

As discussed on page 4.5-13 and summarized in Chapter 2 (page 2-7) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would likely be subject to strong ground shaking from a seismic event, seismic-related ground failure, and unstable soils, creating the potential for a significant risk to structures and human lives. This Geology and Soils impact can be mitigated to a less-than-significant level if the project applicants implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans. (Attachment A: Mitigation Measure **MM GEO-1**).

Finding

The City Council finds that implementation of MM GEO-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- b. Impact GEO-2: Expansive, unstable, and/or corrosive soils at the project site could result in structural damage to project facilities, creating the potential for a significant risk to structures and human lives.**

Significant Impact

As discussed on pages 4.5-14 and summarized in Chapter 2 (page 2-7) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Expansive, unstable, and/or corrosive soils at the project site could result in structural damage to project facilities, creating the potential for a significant risk to structures and human lives. This Geology and Soils impact can be mitigated to a less-than-significant level if the project applicants implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans. (Attachment A: Mitigation Measure **MM GEO-2**).

Finding

The City Council finds that implementation of MM GEO-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- c. **Impact GEO-3: The project could result in damage to, or destruction of, an as-yet unknown unique paleontological resource or site or unique geologic feature.**

Significant Impact

As discussed on pages 4.5-14 to 4.5-15 and summarized in Chapter 2 (pages 2-7 to 2-8) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project could result in damage to, or destruction of, an as-yet unknown unique paleontological resource or site or unique geologic feature. This Geology and Soils impact can be mitigated to a less-than-significant level if, during construction, paleontological resources are encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. (Attachment A: Mitigation Measure **MM GEO-3**).

Finding

The City Council finds that implementation of MM GEO-3 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

4) Hazards and Hazardous Materials

- a. **Impact HAZ-1: Future occupants of the project site could be exposed to hazardous materials in indoor air from vapor intrusion during operation of the project.**

Significant Impact

As discussed on page 4.7-20 and 4.7-21 and summarized in Chapter 2 (page 2-8) of the DEIR and supported by evidence contained within the entirety of the

record of proceedings, the project could expose future occupants of the project site to hazardous materials in indoor air from vapor intrusion during operation of the project. This Hazards and Hazardous Materials impact can be mitigated to a less-than-significant level if, prior to the approval of building permits, the applicants provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the project site has been appropriately remediated and appropriate engineering controls have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment. (Attachment A: Mitigation Measure **MM HAZ-1**).

Finding

The City Council finds that implementation of MM HAZ-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

5) Hydrology and Water Quality

a. Impact HYDRO-1: Development of the proposed project could substantially degrade surface and groundwater quality.

Significant Impact

As discussed on page 4.8-25 and 4.8-17 and summarized in Chapter 2 (page 2-9) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the development of the project could substantially degrade surface and groundwater quality. This Hydrology and Water Quality impact can be mitigated to a less-than-significant level if, prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan

must be approved by DTSC and the City Engineer prior to approval of building permits for the project. (Attachment A: Mitigation Measure **MM HAZ-1**).

Finding

The City Council finds that implementation of MM HAZ-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

6) Noise - Temporary/Construction Related Noise

- a. **Impact NOISE-1: Heavy equipment used in project construction could generate noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance.**

Significant Impact

As discussed on pages 4.10-15 to 4.10-19 and summarized in Chapter 2 (pages 2-10 to 2-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction noise related to grading and construction activities on the site related to the Project will create a temporary, potentially-significant Noise impact by exposing sensitive receptors and adjacent residences to construction noise that exceeds limits allowed by the City's Noise Ordinance. This Noise impact can be mitigated to a less-than-significant level by requiring the applicant (BioMarin and Whistlestop) to use of noise-reducing measures included in the specifications and that shall be described and included in applicable contract specifications: After the Whistlestop/Eden Housing project is completed and housing residents, require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA Lmax is not exceeded at the Whistlestop/Eden Housing project; the BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: (Attachment A; Mitigation Measure **MM NOISE-1a, 1b, 1c, and 1d**).

Finding

The City Council finds that implementation of MM NOISE-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project

approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- b. Impact NOISE-2: The project's mechanical equipment could generate operational noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance.**

Significant Impact

As discussed on pages 4.10-19 to 4.10-20 and summarized in Chapter 2 (pages 2-10 to 2-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the project's mechanical equipment could generate operational noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance. The operation of the new buildings would include the use of new mechanical heating, ventilation, and air conditioning (HVAC) systems. Information regarding the noise-generating characteristics and locations of the equipment was not available at the time this analysis was conducted. Without standard controls in place, noise from mechanical equipment could potentially exceed 60 dBA L_{max}/50 dBA Leq during daytime or 50 dBA L_{max}/40 dBA Leq during nighttime at the nearest residential receptors and could exceed 65 dBA L_{max}/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. The potential impact can be reduced to less than significant levels shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA L_{max}/50 dBA Leq during daytime or 50 dBA L_{max}/40 dBA Leq during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA L_{max}/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. (Attachment A; Mitigation Measure **MM NOISE-2**).

Finding

The City Council finds that implementation of MM NOISE-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- c. Impact NOISE-3: Project construction could expose persons to or generate excessive groundborne vibration levels.**

Significant Impact

As discussed on pages 4.10-20 to 4.10-22 and summarized in Chapter 2 (pages 2-10 to 2-12) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, Construction activities associated with the proposed project would result in varying degrees of groundborne vibration, depending on the equipment, activity, and soil conditions. Once constructed, the operation of the proposed project would not cause any vibration or result in excessive vibration impacts because no vibration-generating activities or land uses would occur on the project site. Implementation of the mitigation measures would further reduce the potential vibration impacts by ensuring that any affected sensitive receptors would have the ability to lodge complaints and that responses to the complaints would be provided. Therefore, with the identified mitigation, this impact will be less than significant. **(Attachment A; Mitigation Measure MM NOISE-1a, 1b, 1c, and 1d).**

Finding

The City Council finds that implementation of MM NOISE-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

7. Transportation

- a. **Impact TRANS-1: The project would generate approximately 2,453 daily vehicle trips, with 236 vehicle trips during the weekday AM peak hour and 236 vehicle trips in the PM peak hour. Most of the vehicle trips would be generated by the BioMarin project (1,863 daily, 203 AM peak hour, and 191 PM peak hour trips). The project would increase single-occupancy vehicular travel and vehicular traffic along key roadways and intersections, as well as US 101. Maintaining the existing BioMarin travel mode shares would conflict with citywide policies and programs established to manage congestion and improve mobility as documented in San Rafael General Plan 2020.**

Significant Impact

As discussed on pages 4.13-22 to 4.13-22 and summarized in Chapter 2 (pages 2-14 to 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, any successive owner or lessor of the site shall monitor, on an annual basis, all traffic BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those in the Transportation Impact Study for BioMarin 999 3rd Street San Rafael Campus Expansion Revised.

BioMarin and generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity. After three consecutive years demonstrating 15% reduction each year, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the monitoring shall start anew to ensure successful 15% reduction for three consecutive years. This mitigation measure would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-1**).

Finding

The City Council finds that implementation of MM TRANS-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- b. **Impact TRANS-5: The project would add construction-related vehicle trips to City of San Rafael and other jurisdictional roadways, creating temporary traffic hazards. These conditions would conflict with San Rafael General Plan 2020 Program C-4a (Street Pattern and Traffic Flow).**

Significant Impact

As discussed on pages 4.13-23 and summarized in Chapter 2 (page 2-13) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, Project construction would generate trips by trucks and other construction-related vehicles. During the construction period, construction would occur between 7:00 AM and 6:00 PM, Mondays through Fridays, and between 9:00 AM and 6:00 PM on Saturdays, and would be based on City of San Rafael restrictions. No construction would be allowed on Sundays or holidays or outside the weekday and Saturday hours described above, unless a request is made and approved by the Chief Building Official. Implementation of mitigation measure for Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets. (Attachment A; Mitigation Measure **MM TRANS-5**).

Finding

The City Council finds that implementation of MM TRANS-5 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- c. **Impact TRANS-6: Construction traffic would be staged and would use the roadway lanes adjacent to the site. This traffic would cause deterioration of pavement on 3rd Street, Brooks Street, 2nd Street and Lindero Street. These conditions would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Road Design).**

Significant Impact

As discussed on pages 4.13-23 to 4.13-24 and summarized in Chapter 2 (page 2-13) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the project's construction traffic would lead to further deterioration of roadways near the project site, including along 3rd Street between Lindero Street and Brooks Street, Brooks Street between 3rd Street and 2nd Street, 2nd Street between Brooks Street and Lindero Street, and Lindero Street between 2nd Street and 3rd Street. Implementation of mitigation measures shall require the project applicants to improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a "pre-construction" study, followed by a "post-construction" survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval. (Attachment A; Mitigation Measure **MM TRANS-6**).

Finding

The City Council finds that implementation of MM TRANS-6 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- d. **Impact TRANS-7: Access to the project would be provided from six unsignalized driveways. Motorist, pedestrian, and bicyclist sight lines to and from these driveways would be constrained if parking is allowed next to the driveways or landscaping blocks views. These conditions would be**

inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Road Design).

Significant Impact

As discussed on pages 4.13-24 and summarized in Chapter 2 (page 2-13) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project applicants shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground. The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project's six driveways. The implementation of these two mitigation measures would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-7a and 7b**).

Finding

The City Council finds that implementation of MM TRANS-7 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- e. **Impact TRANS-8: The project would increase the number of pedestrians using nearby sidewalks and curb ramps, including at the corners of the following intersections peripheral to the project site where curb ramps are not Americans with Disabilities Act (ADA)-compliant: 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. These conditions are inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-24 to 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the curb ramps at the four intersections adjacent to the project site are not in compliance with ADA design guidelines, presenting challenging travel conditions for mobility-impaired persons. The project would increase the number of pedestrians using nearby sidewalks and curb ramps, including the existing non-compliant ramps at the four intersections peripheral to the project site. The project applicants shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. The implementation of this mitigation measure would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-8**).

Finding

The City Council finds that implementation of MM TRANS-8 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- f. **Impact TRANS-9: Currently a marked crosswalk, with curb ramps and pedestrian signals, is not present on the west leg of the 3rd Street and Lindero Street intersection. The project would increase the number of pedestrians crossing 3rd Street at this location. Pedestrians walking to or from the project site may be inclined to cross the unmarked west leg instead of taking the more circuitous marked route (i.e., crosswalks across the intersection's south leg and east leg, as well as across the Walgreens driveway on the north leg). By increasing the number of pedestrians at this location, the project would worsen hazards by creating greater potential for conflicts between pedestrians and vehicles. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-24 to 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the provision of a marked crosswalk on the west leg of the intersection would create a more direct connection to downtown for pedestrians walking to or from the project site. The intersection's level of service would not degrade with the provision of the crosswalk. Peak hour vehicular speeds along 3rd Street would remain the same with or without the western crosswalk. The project applicants shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3rd Street and Lindero Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer. (Attachment A; Mitigation Measure **MM TRANS-9**).

Finding

The City Council finds that implementation of MM TRANS-9 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of

Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- g. Impact TRANS-10: Currently, pedestrian crossings of 3rd Street at Brooks Street are prohibited. The closest signalized crossing is located at A Street, which is about 240 feet to the west. The Whistlestop/Eden Housing project is expected to increase pedestrian crossing demands across 3rd Street at Brooks Street, as this route would offer the most direct path to and from downtown from the project site. Potential conflicts could arise as pedestrians use this unmarked location to cross 3rd Street's three westbound vehicular travel lanes. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the Transportation Impact Study concluded that, considering current illegal pedestrian crossings, project-related demand, and a shift of some of the pedestrians who currently cross at A Street, the warrant for the installation of a Pedestrian Hybrid Beacon across the east leg of 3rd Street and Brooks Street would be met during the weekday PM peak hour. The Pedestrian Hybrid Beacon would operate at LOS A. The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. (Attachment A; Mitigation Measure **MM TRANS-10**).

Finding

The City Council finds that implementation of MM TRANS-10 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- h. Impact TRANS-11: Vehicles turning left from southbound Brooks Street to eastbound 2nd Street currently have limited visibility to eastbound vehicles at this side-street stop sign controlled intersection due to the siting of the**

building at the northwest corner of the intersection. Southbound vehicles must proceed into the crosswalk on the north leg of the intersection, blocking pedestrian crossings, to increase the motorist's view of oncoming eastbound traffic. This condition would be exacerbated by the addition of project-related traffic, resulting in an increased potential for vehicle-vehicle and vehicle-pedestrian conflicts. This condition would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design).

Significant Impact

As discussed on pages 4.13-26 and summarized in Chapter 2 (page 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, by prohibiting egress from southbound Brooks Street onto 2nd Street, the limited visibility condition for vehicles turning left from southbound Brooks Street to eastbound 2nd Street would be eliminated. Some traffic would have to make additional turns, but overall impacts on adjacent intersections would be minor, with no level of service violations and with some improvements due to one-way flows. Travel speeds on 2nd Street would be negligibly affected. Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works. (Attachment A; Mitigation Measure **MM TRANS-11**).

Finding

The City Council finds that implementation of MM TRANS-11 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- i. **Impact TRANS-12: The two proposed exit driveways to Brooks Street, one from the Whistlestop/Eden Housing project and the other from the BioMarin project access road, would provide limited sight lines to Brooks Street. This condition could lead to increased conflicts between egressing vehicles and other travelers on Brooks Street, including vehicles, pedestrians, and bicyclists. This condition would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design).**

Significant Impact

As discussed on pages 4.13-26 and summarized in Chapter 2 (page 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, both egressing driveways would have limited sight lines due to the proposed buildings. The project applicants shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street. (Attachment A; Mitigation Measure **MM TRANS-12**).

Finding

The City Council finds that implementation of MM TRANS-12 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- j. **Impact TRANS-13: Emergency vehicles would have access to the project site via the Lindero Street driveways, the 3rd Street driveway, and the southernmost Brooks Street driveway. The project applicants propose to install sliding gates across the 3rd Street and southernmost Brooks Street driveways. The gates could affect emergency vehicle access if emergency services personnel could not open the gates. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4a (Street Pattern and Traffic Flow).**

Significant Impact

As discussed on pages 4.13-26 and 4.13-27 and summarized in Chapter 2 (pages 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the sliding gates across the 3rd Street and southernmost Brooks Street driveways would need to be accessible by emergency service providers. The sliding gates at the 3rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers. (Attachment A; Mitigation Measure **MM TRANS-13**).

Finding

The City Council finds that implementation of MM TRANS-13 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City Council finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City Council further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

D. SIGNIFICANT IMPACTS THAT CANNOT BE FULLY MITIGATED TO A LEVEL OF LESS THAN SIGNIFICANT

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Sections 15091 and 15092, the FEIR is required to identify the significant impacts that cannot be reduced to a less-than-significant level through the incorporation of mitigation measures. The FEIR concluded that although specific mitigation measures have been identified for the following Project Transportation and Circulation impacts, the impacts would nonetheless be considered significant and unavoidable, since the roadway intersections would continue to operate at Level of Service standards in excess of those established by the General Plan and there are no feasible mitigation measures to reduce these impacts to a less than significant level. Therefore, the City Council adopts a statement of overriding considerations included below:

1) Land Use & Planning

- a. **Impact LAND-1: The project could result in a conflict with San Rafael General Plan 2020 Policy LU-2, which specifies that new development should only occur when adequate traffic conditions and circulation improvements are available. Refer to Impacts TRANS-2, TRAN-3, and TRANS-4 (see Section 4.13, Transportation, of this DEIR). As shown for these three potential impacts, no mitigation measure would be available to reduce these impacts to less-than-significant levels. Thus, this potential impact would remain significant and unavoidable. (PS)**

Significant Impact.

As discussed in Section 4.13, Transportation, the project would add a significant number of daily vehicle trips to this area of San Rafael, and levels of service at nearby intersections would be degraded. At the projected traffic levels, no mitigation measures would be able to reduce impacts to less-than-significant levels. The project would have to be significantly reduced in scale to reduce the number of projected trips, and this reduction would possibly conflict with the City's desire to increase downtown development for the purposes of infill development and economic development. Thus, such a reduction in scale was not considered feasible for the project, and the impact remains significant and unavoidable.

Finding: As discussed on pages 4.9-9 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project is currently within the 2/3 MUE land use designation per the *San Rafael General Plan 2020*. The project could result in a conflict with *San Rafael General Plan 2020* Policy LU-2, which specifies that new development should only occur when adequate traffic conditions and circulation improvements are available. Refer to Impacts TRANS-2, TRAN-3, and TRANS-4 (see Section 4.13, Transportation, of the DEIR). As shown for these three potential impacts, no mitigation measure would be available to reduce these impacts to less-than-significant levels. Thus, this potential impact would remain significant and unavoidable

2) Transportation

- a. **Impact TRANS-2: Project-related traffic, under Cumulative-plus-Project conditions, would contribute to continued LOS F conditions at the US 101**

southbound off-ramp to Mission Avenue, increasing the volume-to-capacity (V/C) ratio of the off-ramp by 0.033 during the AM peak hour. Traffic operations and safety at the highway ramp diverge and along the offramp would worsen. This condition would conflict with standards provided in the Marin County Congestion Management Plan.

Significant Impact.

The number of employees at the BioMarin site would need to be reduced by 80 percent (from 550 employees to 112 employees) compared to the proposed use to alleviate this impact. A more aggressive TDM program (see Mitigation Measure TRANS-1) than is currently undertaken at BioMarin could help reduce traffic volumes and this impact, but not to an acceptable level. Provision of a second off-ramp lane and southbound auxiliary lane on US 101 would be impractical.

Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetheron Street and D Street during the AM peak hour, with an increase in the arterial roadway segment's volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel speeds that conflict with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).

Finding

As discussed in Chapter 4.13 (pages 4.13-22) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

- b. Impact TRANS-3: Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetheron Street and D Street during the AM peak hour, with an increase in the arterial roadway segment's volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel speeds that conflict with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).**

Significant Impact.

The project would increase traffic along 3rd Street between Hetheron Street and D Street, exacerbating vehicular delays and reducing travel speeds along this key arterial roadway segment. The number of employees at the BioMarin site would need to be reduced by 28.5 percent (from 550 employees to 393 employees) compared to the proposed use to alleviate this impact. A more aggressive TDM program (see Mitigation Measure TRANS-1) than is currently undertaken at BioMarin could help reduce traffic volumes and this impact, but not to an acceptable level. Widening 3rd Street to provide an additional travel lane would be impractical due to public right-of-way limitations.

Finding

As discussed in Chapter 4.13 (pages 4.13-22) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

- c. **Impact TRANS-4:** Under Cumulative-Plus-Project conditions, project-related traffic would worsen the service level at the 3rd Street and Tamalpais Avenue West intersection from LOS E to LOS F during the AM peak hour, with average delays increasing from 65.6 seconds to 96.7 seconds per motorist. During the PM peak hour, the intersection's service level would remain at LOS F with project-related traffic, but the project would increase average delays from 86.4 to 94.0 seconds per motorist. This impact would create conflicts with San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).

Significant Impact.

Under Cumulative-Plus-Project conditions, the project would result in added traffic back-ups along westbound 3rd Street at Tamalpais Avenue West. Implementing more aggressive TDM measures (see Mitigation Measure TRANS-1) could assist in reducing the increased traffic demand, but the impact would still be significant. Widening 3rd Street to provide an additional travel lane would be impractical due to public right-of-way limitations. The number of employees at the BioMarin site would need to be reduced by 58.3 percent (from 550 employees to 229 employees) compared to the proposed use to alleviate this impact.

Finding

As discussed in Chapter 4.13 (pages 4.13-22 to 4.13-23) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

E. IMPACT OVERVIEW

1) Significant Irreversible Environmental Changes

Pursuant to CEQA Guidelines Section 21100(b)(2)(B), an EIR shall include a discussion of significant irreversible environmental changes that would result from implementation of a project.

CEQA Guidelines Section 15126.2(c) describes irreversible environmental changes in the following manner: "Uses of nonrenewable resources during the initial and continued phases of the Project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the Project. Irrecoverable commitments of resources should be evaluated to assure that such current consumption is justified."

As discussed in Chapter 6.1 (page 6-1) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction activities

associated with the proposed structures at the site of the BioMarin and Whistlestop/Eden Housing Project would be permanent buildings; therefore, their installation would constitute an irreversible use of these lands, as it is unlikely that the buildings would be removed. The proposed project would irretrievably commit materials to the construction and maintenance of the new buildings. Nonrenewable resources such as sand, gravel, and steel, and renewable resources such as lumber, would be consumed during project construction. In addition, the construction and operation of the proposed project would result in the use of energy, including electricity and fossil fuels. While the consumption of such resources associated with construction would end upon completion of the proposed construction, the consumption of such resources associated with operation would represent a long-term commitment of those resources.

Based on the preceding and on the entirety of the record of proceedings, the City Council consequently finds that no significant irreversible effects will result from implementation of the Project.

2) Growth Inducement

Pursuant to CEQA Guidelines Section 15126.2(d), a project is considered growth-inducing if it would directly or indirectly foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include extensions or expansions of infrastructure systems beyond what is needed to serve project-specific demand, and development of new residential subdivisions or industrial parks in areas that are currently only sparsely developed or are undeveloped. Typically, redevelopment projects on infill sites that are surrounded by existing urban uses are not considered growth-inducing because redevelopment by itself usually does not facilitate development intensification on adjacent sites.

As discussed in Chapter 6.3 (page 6-2) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project would be developed on an existing disturbed but vacant site in downtown San Rafael. Services are readily available in this area. The project site is surrounded by existing commercial and residential development. The proposed project would not require wastewater or water lines that would cross undeveloped lands and create the potential for new development. No major road improvements would be associated with the proposed project except that, over the long term, some local improvements to vehicular, pedestrian, and bicycle circulation may occur. The significant amount of proposed on-site commercial development, with 207,000 square feet of laboratory and office space for BioMarin and 18,000 square feet of health services-related facilities for Whistlestop/Eden Housing, could result in an increased demand for housing within San Rafael. According to the Marin County Community Development Agency, the rental vacancy rate in Marin County is currently below 3 percent, when a “healthy” rate is closer to 6 or 7 percent (City of San Rafael, 2019). Thus, the demand for a limited number of housing units tends to drive up prices for local housing. According to the most recent San Rafael General Plan Housing Element, more than 87 percent of those employed in San Rafael reside in other cities, implying an imbalance of jobs and housing (City of San Rafael, 2019). This imbalance leads to increased commuting demands and associated traffic, air quality, and noise impacts. Recently, the City of San Rafael approved a project at 703-723 3rd Street that will add 120 residential units within three blocks of the project site. This

residential development would help to offset the increased non-residential development of the proposed project. However, there could remain a need for more housing for project employees. In this sense, the project would have growth-inducing impacts related to the need for more local housing.

Based on the preceding and on the entirety of the record of proceedings, the City Council consequently finds that no significant growth-inducing effects will result from implementation of the Project.

F. REVIEW OF PROJECT ALTERNATIVES

The CEQA Guidelines indicate that an EIR must “describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives.” (Guidelines§ 15126.6[a].)

The Project Alternatives selected for this EIR were formulated considering the Objectives of the City of San Rafael and BioMarin/Whistlestop/Eden Housing’s Objectives stated in Chapter 3 (pages 3.9 to 3.10) and outlined in Chapter 5 of the DEIR (pages 5-1 - 5-28). Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is then used to consider reasonable, feasible options for minimizing environmental consequences of a project.

The Project Alternatives analyzed in the following sections include:

- No Project/No Medical Office Uses
- Reduced Scale Alternative
- Code-Compliant BioMarin and Off-Site Whistlestop/Eden Housing Project Alternative
- Code-Compliant BioMarin and Whistlestop/Eden Housing Project Alternative

1. **Alternative 1: No project:** (as required by CEQA). Alternative 1, the No Project Alternative, would leave the project site unchanged. No drainage, access, parking, or other improvements would be made to the vacant site, which was once occupied by PG&E facilities. The No Project Alternative would leave this central San Rafael location unimproved.

The No Project Alternative would not meet any of the objectives of the proposed project.

Finding

The City Council (1) rejects this No Project Alternative on the basis that it fails to meet basic project objectives and is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

The No Project Alternative fails to meet any of the Project objectives, specifically:

- This Alternative would not improve the site, which would remain as undeveloped.

- No new infrastructure or traffic improvements would be included in this Alternative.
- This Alternative would not allow Whistlestop/Eden Housing to develop 67 units of much needed senior affordable housing.
- The No Project Alternative is also infeasible for policy reasons, as it fails to comply with the intent of the City's *General Plan 2020*, which promotes economic vitality (Policy EV-2 Seek, Retain, and Promote Businesses that Enhance San Rafael) and an overarching vision for the Downtown Area (NH-55. Design Excellence).
- From a policy and social perspective, without development of the proposed Project, redevelopment of the Project site would likely be postponed indefinitely, new laboratory and office facilities would not be created on-site, and BioMarin would be required to find an alternate location(s) for the Project. In addition, Whistlestop / Eden Housing would not be able to build the Healthy Aging Campus as a result of this No Project Alternative, and, therefore would continue to experience the same operational loads and space challenges with regard to future modernization.

2. Alternative 2: Reduced Scale Alternative: Alternative 2 would consist of a project that is similar to the proposed project but reduces the amount of overall proposed laboratory and office space of the BioMarin project, thereby reducing the anticipated peak hour traffic trips and other impacts. This alternative would reduce the overall number of employees at BioMarin from 550 to 229 employees, or by 58.3 percent. This reduction in employees could result in the project's significant, unavoidable traffic impacts at the following locations becoming less-than-significant impacts:

- 3rd St/Tamalpais Ave West intersection (cumulative-plus-project condition during AM and PM peak hour).
- 3rd St between Hetherton St and D St (westbound during AM peak hour).

This alternative assumes the total square footage for the two BioMarin buildings under Alternative 2 would be 120,240 square feet, compared to the 207,000 sq. ft. under the proposed project. The office portion would be reduced by a slightly larger amount than the laboratory and retail space. The alternative would include two stories for Building A (reduced to 52,340 sq. ft.) as compared to the proposed project's four stories for Building A. Building B (67,900 sq. ft.) would be three stories with the top floor set back and with reduced square footage (as compared to the project's four stories for Building B). Otherwise, the site plan for the overall project would be similar to that of the proposed project.

Impacts

Alternative 2 would meet all of the project objectives except the primary objective. Compared to the proposed project, the size of Alternative 2 would be significantly reduced, which would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/Eden housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. However, if the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/Eden Housing component of the project would also not occur.

Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 60% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- General site improvements included as part of the Project would be included in this Alternative.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space shortfall with regard to company needs.
- BioMarin would not feasibly be able to build this Alternative, and would therefore not donate the site the Whistlestop/Eden Housing. No Healthy Aging Campus would be developed as a result of this Alternative.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County and no Healthy Aging Campus would be developed. Both BioMarin and Whistlestop / Eden Housing would not be able to develop the Project in downtown San Rafael.

3. **Alternative 3: Code-Compliant BioMarin and Off-Site Whistlestop/Eden Housing project:** This alternative would assume a reduced height BioMarin project that would not require General Plan amendments for FAR, height bonuses, or parking modifications;

BioMarin Project under Alternative 3

Alternative 3 would reduce the building height of the BioMarin project to 54 ft. to comply with existing General Plan provisions and zoning for the site, with no bonus exemptions and no rezoning to Planned Development for the BioMarin portion of the site. The FAR would be increased from the proposed 0.90 to 1.50, as allowed by existing General Plan provisions and zoning, allowing a total of 199,649 sq. ft. for BioMarin on the site. The FAR limit would not consider combining the site with other nearby BioMarin facilities (as addressed in Table 3-3 of Chapter 3 of the DEIR). This Alternative assumes a total of 220 parking spaces would be required to be provided on the site. This would be in addition to public parking that is assumed to allow the height bonus.

Whistlestop/EDEN Housing Project under Alternative 3

This alternative assumes that the Whistlestop/Eden Housing project would be located off the project site at 930 Tamalpais Avenue, where Whistlestop is currently located. It is assumed that 41 units of affordable senior housing (one of these would

be a manager's unit) would be provided in a five-story building similar to the design proposed in 2016. This project assumes residential units on the third through fifth floors and the Whistlestop Active Aging Center, with classrooms, offices, and meeting rooms on the second and third floors. The ground level would contain parking and utility uses, along with the Jackson Café. Access to transit would be available via (1) van service (Marin's Whistlestop Wheels Para Transit) with access at the ground-level garage, (2) buses at the adjacent San Rafael Transit Center, and (3) regional rail at the SMART station located at the east edge of the site. A total of 20 parking spaces would be provided in a street level garage for use by Whistlestop employees and guests.

Impacts

Alternative 3 would meet all of the project objectives except four objectives (1, 2, 3, and 12). Alternative 3 would have reduced square footage for the BioMarin buildings and would not meet BioMarin's needs for R&D and laboratory infrastructure. The relocation of the Whistlestop/EDEN Housing project to its Tamalpais Avenue site would conflict with the second objective above. This alternative would also have fewer senior housing units and thus would conflict with the goal of providing 67 affordable rental housing units for seniors.

Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 10% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- Whistlestop/Eden Housing would not be able to develop the Healthy Aging Campus and would not develop 67 units of senior affordable housing.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space challenges with regard to future expansion and space needs at the main SRCC campus.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / EDEN Housing would be required to develop a problematic project at the original location with fewer units.

4. **Alternative 4: Code-Compliant BioMarin and Whistlestop/Eden Housing project:** Under Alternative 4, the FAR would be increased from the proposed 0.90 to 1.50, allowing a total of 199,649 square feet for both BioMarin (181,649 sq. ft.) and the non-residential portion of Whistlestop/Eden Housing (18,000 sq. ft.). The

Whistlestop/Eden Housing project would occupy 0.34 acre of the project site under this alternative and is assumed to be approximately the same as the proposed project in scale and height, given that the height bonuses allowed by the provision of affordable housing. It is assumed that the BioMarin portion of the site would consist of two buildings similar in scale to proposed Building B, or about 235 ft. long by 108 ft. wide (or 23,380 sq. ft.). With 181,649 sq. ft. for BioMarin, both Buildings A and B would be four stories in height. This alternative may have reduced square footage for laboratory space.

Unlike Alternative 3, Alternative 4 is not assumed to have public parking on the site. The project site is located within the Downtown Parking District which waives parking requirements for the first 1.0 of FAR. With this alternative having an FAR of 1.50, parking required for BioMarin would be approximately 210 parking spaces. It is assumed that an eight-story parking structure of about 150 ft. by 170 ft. could be constructed on the corner of 2nd St. and Lindero St.. The parking structure height results from the fact that only 35 cars can be provided on each floor, given circulation requirements. Assuming 10 feet per floor, this parking structure would be about 60 ft. in height, or about the same size as the proposed BioMarin building height for the proposed project.

Alternative 4 would meet all of the project objectives as listed at the beginning of this chapter except the provision of the same square footage for laboratory space and the following objective *“Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.”*

Impacts

Alternative 4 would meet most of the project objectives as listed at the beginning of this chapter except two main objectives (1 and 12). Alternative 4 would have reduced square footage for the BioMarin buildings and would not meet BioMarin’s needs for R&D and laboratory infrastructure and would require a large parking structure constructed on site. Significant and Unavoidable Impacts to Land Use and Planning and Transportation would continue to exist under this Alternative

Finding

The City Council (1) rejects this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 30% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the

same space challenges with regard to future expansion and space needs at the main SRCC campus.

- Significant and Unavoidable Impacts to Land Use and Planning and Transportation would occur under this Alternative

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / EDEN Housing would be required to develop a problematic project at the original location with fewer units.

Environmental Superior Alternative

Consistent with CEQA Guidelines Section 15126.6(e), an environmentally superior alternative must be identified among the alternatives that were studied. The DEIR concludes (Chapter 5; page 5-26) that the Environmentally Superior Alternative is the Alternative 2: Reduced Scale project for the following reasons:

- The smaller scale BioMarin Buildings A and B would reduce some of the local traffic congestion.
- The reduction in building height for Buildings A and B would also result in slightly reduced visual impacts for the project when viewed along 2nd Street and 3rd Street.
- Alternative 2 would retain the Whistlestop/Eden Housing project on the project site, which is a preferred site compared to its existing location at 930 Tamalpais Avenue.
- Alternative 2 would meet all of the project objectives as listed at the beginning of this chapter except the following primary objective:
 - Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.

Rejection of Environmentally Superior Alternative:

Compared to the proposed project, the size of Alternative 2 would be significantly reduced, which would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/Eden Housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. This alternative would not meet one of the primary objectives of BioMarin. However, if the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/Eden Housing project would also not occur.

G. STATEMENT OF OVERRIDING CONSIDERATIONS

Although the Environmental Superior Alternative would reduce a majority of the significant and unavoidable impacts to less than significant levels, it would not achieve the primary objective for BioMarin:

Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.

As such, BioMarin would not build the project which would in turn prevent the Whistlestop/EDEN Housing project from occurring. Therefore, the project as proposed, will require the City of San Rafael City Council adopts the following Statement of Overriding Considerations based on information in the FEIR and all other information in the record, including the proposal of public benefits outlined in the January 10, 2020 Development Agreement Term Sheet from BioMarin to the City of San Rafael (on file with the Department of Community Development). The City Council recognizes that significant and unavoidable impacts would result from implementation of the Project.

Pursuant to Section F of this Resolution, the City Council determines that the Proposed Project provides benefits that outweigh the any of the environmental superior alternative. The City Council hereby declares that, pursuant to State CEQA Guidelines Section 15093, it has balanced the benefits of the Project against any unavoidable environmental impacts in determining whether to approve the Project. Pursuant to the State CEQA Guidelines, if the benefits of the Project outweigh the unavoidable adverse environmental impacts, those impacts may be considered "acceptable."

The City Council hereby declares that the EIR has identified and discussed significant effects which may occur as a result of the Project. With the implementation of the Mitigation Measures discussed in the EIR and adopted by this Resolution, these effects can be mitigated to a level of less than significant except for the two unavoidable significant impact discussed in Section F of this Resolution.

The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project. The City Council hereby declares that to the extent any Mitigation Measures recommended in the EIR would not be incorporated, such Mitigation Measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social and other benefits that this City Council finds outweigh the unmitigated impacts.

The City Council further finds that all alternatives set forth in the EIR are rejected as being either inconsistent with project objectives, infeasible because they would prohibit the realization of specific policy, social and other benefits that this City Council finds outweigh any environmental benefits of the alternatives, or are otherwise not environmentally superior.

The reasons discussed below summarize the benefits, goals and objectives of the Project, and provide, in addition to the findings, the detailed rationale for adoption of the Project. Collectively, these overriding considerations are sufficient to outweigh the adverse environmental impacts of the Project.

The City Council hereby declares that, having reduced the adverse significant environmental effect of the Project to the extent feasible by recommending adoption of the Mitigation Measures contained in this Resolution, having considered the entire administrative record on the Project, and having weighed the benefits of the Project against its unavoidable adverse impact after mitigation, the City Council finds that each of the following social, economic and environmental benefits of the Project separately and individually outweigh the single potential unavoidable adverse impact and render that potential adverse environmental impact acceptable based upon the following overriding considerations:

The City Council adopts the following Statement of Overriding Considerations based on information in the FEIR, other information in the record including the proposal of public benefit outlined in the January 10 Development Agreement terms sheet from BioMarin (on file with the Department of Community Development). The City Council recognizes that significant and unavoidable impacts would result from implementation of the project. The City has imposed all feasible mitigation to reduce the project's significant impacts to a less-than-significant level. The City Council further finds that except for the project, all other alternatives set forth in the Draft EIR are infeasible because they would prohibit the realization of the project objectives of providing needed retail services. Having adopted all feasible mitigation measures and recognized the significant, unavoidable environmental effects, the City Council hereby finds that the benefits outweigh and override the significant unavoidable effects for the reasons stated below.

The reasons discussed below summarize the benefits, goals and objectives of the proposed project, and provide, in addition to the findings, the detailed rationale for the project. Collectively, these overriding considerations would be sufficient to outweigh the adverse environmental impacts of the project.

1. Furtherance of City Goals and Policies

The proposed project will implement, and is consistent with, City goals, objectives, policies and programs for the Project Site described in the following City General Plan Elements: Land Use, Neighborhood, Sustainability, Circulation, Economic Vitality, and Safety, as thoroughly analyzed in the Project DEIR. The project will also support San Rafael's Objectives and Design Guidelines for the Downtown by proposing a design that provides an entry and focal point for the 2nd/3rd Street corridor, advances the "Alive after Five" policy, and allows expansion of a major downtown employer. Lastly the BioMarin development will allow the relocation and development of a new Whistlestop Healthy Aging Center and 67 affordable units for seniors in the downtown

2. Development of an Existing Infill Site

The project will facilitate the development of an infill site in an existing urbanized area in San Rafael and will result in regional environmental benefits because it will not require the extension of utilities or roads into undeveloped areas, is convenient to major arterials, services and transit, including the SMART station, and will not

directly or indirectly lead to the development of greenfield sites in the San Francisco Bay Area.

3. Voluntary donation of development area

BioMarin is donating the Northwestern Portion of their site to Whistlestop/EDEN housing for development of a healthy aging campus and affordable senior housing. This donation, along with a land swap to BioMarin of another property owned by Whistlestop in San Rafael yields a net donation by BioMarin of approximately \$1.2 million as of June 2018, in its then current as-is condition. This obligation shall be required prior to the issuance of any certificate of occupancy for development on the R&D Development Property.

4. Voluntary monetary contribution for Shuttle Service

BioMarin will contribute, \$400,000 (\$100,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City.

5. Voluntary monetary contribution for Signal Synchronization

BioMarin will contribute \$500,000 (\$125,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/ circulation/parking improvement measures as determined by the City.

6. Development opportunity for Whistlestop/EDEN Housing

The remediation performed by PG&E of this site was not performed on the entire site. In addition, the level of cleanup was not such that would meet the State DTSC standards for residential use of the property. For the benefit of development of a healthy aging campus and affordable senior housing, BioMarin is currently conducting the second phase of the soil remediation for the 999 3rd Street Property by performing an investigation and cleanup under the DTSC's Voluntary Cleanup Program. Following this cleanup, the site would be able to accommodate residential use. BioMarin shall complete such second phase of remediation prior to commencement of construction and development activities for the 999 3rd Street Project and the development of the Whistlestop component of the project.

7. Leaseback donation for Whistlestop/Eden Housing

BioMarin to conduct a land exchange as part of the donation of the parcel to Whistlestop/Eden Housing. BioMarin shall donate to Whistlestop a leaseback of 930 Tamalpais Avenue for three (3) years, valued at approximately \$256,000 as of May 2019.

8. Provide Public Meeting Space and urban open space

BioMarin provides a portion of the 999 3rd Street Project consisting of approximately 3,500 square feet of retail space and approximately 6,000 square feet of landscaped plaza and located at the corner of 3rd Street and Lindaro Street, shall be open to the public during daytime hours (from 9 a.m. to 5:00 p.m.).

9. Contributions to Pedestrian/Bicycle safety

BioMarin shall develop a class II bike lane on Lindaro Street from 3rd Street to Anderson Dr prior to completion of Phase I. BioMarin shall also contribute to City's enhancement of pedestrian safety by improving the sidewalks and crosswalk design at the corner of Lindaro Street and 2nd Street prior to completion of Phase I.

10. Public Parking

Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is responsible for all liability related to the public's use of parcel, including, without limitation, all security, sanitation and janitorial.

H. ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Public Resources Code section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A, to be made a condition of approval of the Revised Project. In the event of any inconsistencies between the Mitigation Measures as set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

I. STAFF DIRECTION

A Notice of Determination shall be filed with the County of Marin and the State Clearinghouse within five (5) working days of final Project approval.

BE IT FURTHER RESOLVED, the City Council approves an Exception to the City-adopted level of service traffic standards set forth in San Rafael General Plan 2020 Circulation Element Policy C-5 (*Traffic Level of Service Standards*) per Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*). The Exception is warranted and substantiated based on the finding that the project provides significant economic, social, and/or other benefits to the community that substantially outweigh the project's impacts on circulation network. The specific benefits found to outweigh the impacts are identified in the Statement of Overriding considerations section above. Furthermore, the City Council finds that all feasible mitigation measures have been required of the project.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 23rd of March 2020, by the following vote, to wit:

AYES:	COUNCILMEMBERS	Bushey, Colin, Gamblin, McCullough & Mayor Phillips
NOES:	COUNCILMEMBERS	None
ABSENT:	COUNCILMEMBERS	None



LINDSAY LARA, City Clerk

Exhibit A – Mitigation Monitoring and Reporting Program (MMRP)

EXHIBIT A: MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
AIR QUALITY						
<p><u>AIR-1</u>: During project construction, the contractor shall implement a dust control program that includes the following measures recommended by the BAAQMD:</p> <ul style="list-style-type: none"> ▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. ▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ▪ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ▪ All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. ▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. ▪ A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations. <p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event less than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation</p>	Both applicants' contractors	City	Prior to start of construction and at time of contract specifications			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>Implementation of Mitigation Measure AIR-1 would reduce potentially significant impacts of fugitive dust emissions during project construction to a less-than-significant level.</p>						
CULTURAL RESOURCES						
<p>CULT-1: Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project area for archaeological deposits and shall verify that the following directive has been included in the appropriate contract documents:</p> <p>“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-</p>	Both applicants’ contractors	City	At time of contract specifications and at time of deposit encounter, as applicable			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”						
<u>CULT-2</u> : Mitigation Measure CULT-1 shall be implemented.	See CULT-1	See CULT-1	See CULT-1			
GEOLOGY AND SOILS						
<u>GEO-1</u> : The project applicants shall implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans.	Both applicants	City	Prior to issuance of grading and building permits			
<u>GEO-2</u> : The project applicants shall implement Mitigation Measure GEO-1.	See GEO-1	See GEO-1	See GEO-1			
<u>GEO-3</u> : Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in	Both applicants’ contractors	City	At time of encounter of paleontological resources, as needed			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.</p> <p>If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.</p> <p>The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:</p> <p>“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under</p>						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
California Public Resources Code, Section 5097.5.”						

HAZARDS AND HAZARDOUS MATERIALS

<p><u>HAZ-1</u>: Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the project site has been appropriately remediated and appropriate engineering controls have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment.</p>	Both applicants	City	Prior to approval of building permits			
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Implementation of Mitigation Measure HAZ-1, compliance with the requirements of the Covenant and O&M Plan as required by DTSC, and compliance with existing regulations related to hazardous materials that would be handled during operation of the project would ensure that the proposed project would result in less-than-significant impacts related to accidental releases of hazardous materials during operation.

HYDROLOGY AND WATER QUALITY

<p><u>HYDRO-1</u>: Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the</p>	Both applicants	City	Prior to approval of building permits			
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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits.						
HYDRO-2: The project applicants shall incorporate the recommendations of the preliminary hydrology study into the project design, and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to individual points of drainage around the project site would be limited to at or below existing levels under the final project design, or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans.	Both applicants	City	Prior to issuance of grading and building permits			
LAND USE AND PLANNING						
LAND-1: No feasible mitigation measures are available, and therefore this impact would be significant and unavoidable on both a project and cumulative basis.	Not applicable	Not applicable	Not applicable			
NOISE						
NOISE-1a: After the Whistlestop/Eden Housing project is completed and housing residents, the BioMarin project applicant shall require that the construction contractor for BioMarin Building A and BioMarin Building B to implement a noise monitoring program during construction. The details of the construction noise monitoring program (described further below) shall be included in applicable contract specifications and be submitted to the City of San Rafael Building Division for approval before construction. A noise monitoring program shall include collecting noise level measurements at the Whistlestop/Eden Housing project during all phases of construction of the BioMarin project. A qualified acoustical consultant shall collect the noise level measurements, and shall	Both applicants	City	During construction			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>select the timing and location of the measurements to be as close to future residents of the Whistlestop/Eden Housing project as possible. Consistent with the San Rafael Municipal Code, noise levels shall be measured on an A-weighted scale with a sound level meter (Type 1 or 2). For constant noise sources, the meter shall be set for slow or fast response speed and L_{eq} shall be used. For intermittent sound, the meter shall be set for fast response speed and L_{max} shall be used.</p> <p>The monitoring results and the associated data interpretation that focuses on whether the construction activity is in compliance with applicable thresholds shall be reported to the City of San Rafael Building Division. If construction noise exceeds 90 dBA L_{max} at the Whistlestop/Eden Housing project, additional noise attenuation measures shall be implemented to reduce construction noise and to ensure the operation of all construction equipment (listed in DEIR Table 4.10-10) to be below 90 dBA L_{max} at the Whistlestop/Eden Housing project. The noise attenuation measures may include, but are not limited to, the erection of a Sound Transmission Class (STC) rated wall or a plywood wall around the construction site. The BioMarin project applicant shall implement the approved monitoring program during construction.</p>						
<p>NOISE-1b: The BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications:</p> <ol style="list-style-type: none"> 1. Equip internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and are appropriate for the equipment. 2. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from noise-sensitive land uses. Muffle the stationary equipment, and enclose within temporary sheds or surround by insulation barriers, if feasible. 3. To the extent feasible, establish construction staging areas at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors 	Both applicants and contractors	City	During construction			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
during all project construction.						
4. Use "quiet" air compressors and other stationary noise sources where technology exists.						
5. Construct or use temporary noise barriers, as needed, to shield on-site construction and demolition noise from noise-sensitive areas to the extent feasible. To be most effective, the barrier should be placed as close as possible to the noise source or the sensitive receptor. Examples of barriers include portable acoustically lined enclosure/housing for specific equipment (e.g., jackhammer and pneumatic-air tools, which generate the loudest noise), temporary noise barriers (e.g., solid plywood fences or portable panel systems, minimum 8 feet in height), and/or acoustical blankets, as feasible.						
6. Control noise levels from workers' amplified music so that sounds are not audible to sensitive receptors in the vicinity.						
7. Prohibit all unnecessary idling of internal combustion engines.						
NOISE-1c: The BioMarin and Whistlestop/Eden Housing construction contractors shall develop a set of procedures that are described and included in applicable contract specifications for tracking and responding to complaints received pertaining to construction vibration and noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:	Both applicants' contractors	City	Prior to and during construction			
1. Designation of an on-site construction complaint and enforcement manager for the project.						
2. Protocols specific to on-site and off-site receptors for receiving, responding to, and tracking received complaints. The construction complaint and enforcement manager shall promptly respond to any complaints and work cooperatively with affected receptors to ensure that the source of the noise- or vibration-generating activity is discontinued or determine an acceptable schedule to resume the activity when the receptor is not present in the residence.						
3. Maintenance of a complaint log that records what complaints were received and how these complaints were addressed.						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>NOISE-1d: Nearby residents shall be informed by posting informational notices on the fence line of the construction site. The notice shall state the date of planned construction activity and include the contact information of the construction complaint and disturbance coordinator identified in Mitigation Measure NOISE-1b.</p> <p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event fewer than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>The combination of the four mitigation measures above would reduce the impact to a less-than-significant level.</p>	Both applicants and contractors	City	At time of developing contract specifications and during construction			
<p>NOISE-2: The project applicants shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA L_{max}/50 dBA L_{eq} during daytime or 50 dBA L_{max}/40 dBA L_{eq} during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA L_{max}/55 dBA L_{eq} during both daytime and nighttime at the nearest commercial land uses. Controls that would typically be incorporated to attain this outcome include locating equipment in less noise-sensitive areas, when feasible; selecting quiet equipment; and providing sound attenuators on fans, sound attenuator packages for cooling towers and emergency generators, acoustical screen walls, and equipment enclosures.</p>	Both applicants	City	Prior to issuance of occupancy permits			
<p>NOISE-3: Mitigation Measures NOISE-1a through NOISE-1d shall be implemented.</p>	Both applicants	City	Prior to issuance of occupancy permits			
TRANSPORTATION						
<p>TRANS-1: BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing</p>	BioMarin	City	Annually during operation			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those in the Transportation Impacts Study for BioMarin 999 3 rd St San Rafael Campus Expansion Revised. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity. After three consecutive years demonstrating successful 15% reduction, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the annual monitoring shall start anew to ensure successful 15% reduction for three consecutive years. This mitigation measure would reduce the impact to less than significant.						
<u>TRANS-2</u> : No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-3</u> : No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-4</u> : No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-5</u> : Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets.	Both applicants	City	Prior to and during construction			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<u>TRANS-6</u> : The project applicants shall improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a “pre-construction” study, followed by a “post-construction” survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval.	Both applicants	City Engineer	Prior to and after construction			
<u>TRANS-7a</u> : The project applicants shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground.	Both applicants	City	During operation			
<u>TRANS-7b</u> : The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project’s six driveways. The combination of these two mitigation measures would reduce the impact to less than significant.	Both applicants	City	During operation			
<u>TRANS-8</u> : The project applicants shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3 rd Street and Lindaro Street, 3 rd Street and Brooks Street, 2 nd Street and Brooks Street, and 2 nd Street and Lindaro Street.	Both applicants	City	Prior to issuance of occupancy permits			
<u>TRANS-9</u> : The project applicants shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3 rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer.	Both applicants	City Engineer and City	Prior to issuance of occupancy permits			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<u>TRANS-10</u> : The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3 rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			
<u>TRANS-11</u> : Vehicle travel on Brooks Street at 2 nd Street shall be limited to one-way northbound/ outbound - <u>inbound</u> only. Brooks Street at 3 rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3 rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			
<u>TRANS-12</u> : The project applicants shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street.	Both applicants	City	Prior to issuance of occupancy permits			
<u>TRANS-13</u> : The sliding gates at the 3 rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers.	BioMarin only	City Fire and Police Departments	Prior to issuance of occupancy permits			