

RESOLUTION NO.2021-##

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE SAN RAFAEL GENERAL PLAN 2040 AND DOWNTOWN SAN RAFAEL PRECISE PLAN

WHEREAS, the City of San Rafael has completed an update of its General Plan and prepared a Downtown Precise Plan, which collectively constitute a “project” under the California Environmental Quality Act (“CEQA”); and

WHEREAS, CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Cal. Code of Regulations, Title 14, Section 15000 et seq.) require an analysis and determination regarding a project’s potential environmental impacts; and

WHEREAS, the project consists of long-term planning policies and standards that will guide future development in the City and does not approve any specific developments, and is therefore appropriately covered by a program-level Environmental Impact Report (“EIR”) pursuant to CEQA Guidelines Section 15168; and

WHEREAS, the City released a Notice of Preparation (“NOP”) for the Project to the Office of Planning and Research (“OPR”) State Clearinghouse and interested agencies and persons on March 29, 2019 for a 30-day review period, during which interested agencies and the public could submit comments about the Project. The City held a public scoping meeting on April 23, 2019. Comments on the NOP were received and considered during preparation of the Draft EIR; and

WHEREAS, a Notice of Availability (“NOA”) was issued and the Draft EIR was made available for public review on January 7, 2021 for a 60-day public review period through March 9, 2021; and

WHEREAS, the Draft EIR was filed with the California Office of Planning and Research on January 7, 2021 and was made available on the City’s website; and

WHEREAS, the City provided a 61-day review period for the Draft EIR and the San Rafael Planning Commission held a public hearing on the EIR on March 9, 2021; and

WHEREAS, on May 23, 2021, the City published a Response to Comments Document that contains all of the comments received on the Draft EIR during the public comment period, including those received at the public hearing, and prepared written responses to those comments in accordance with CEQA and the CEQA Guidelines. The Draft EIR and Response to Comments Document, together with three errata, constitute the Final EIR; and

WHEREAS, all required public notices and public hearings were duly given and held according to law; and

WHEREAS, after notice having been lawfully given, a duly noticed public hearing was held before the City Planning Commission on June 15, 2021 at which all persons interested had the

opportunity to appear and comment and at which the Planning Commission considered and made recommendations to the City Council regarding the Final EIR and the merits of the Project; and

WHEREAS, after closing the public hearing, the Planning Commission acting on its independent judgment and analysis voted affirmatively to recommend certification of the Final EIR by the City Council pursuant to CEQA; and

WHEREAS, the Planning Commission held a subsequent public hearing on June 29, 2021 to consider a recommendation that the City Council adopt CEQA Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring Program on the Final EIR. The Planning Commission considered public testimony and unanimously approved a resolution supporting said recommendation; and

WHEREAS, the City Council certified the Final EIR on July 19, 2021; and

WHEREAS, pursuant to Public Resources Code Section 21082.1(c)(3), the City Council finds that the Final EIR reflected the City's independent judgment as the lead agency for the Project and was supported by substantial evidence; and

WHEREAS, the Final EIR identified certain potentially significant adverse effects on the environment caused by the Project; and

WHEREAS, the City Council specifically finds that where more than one reason for approving the Project and rejecting alternatives is given in its findings or in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, it would have made its decision on the basis of any one of those reasons; and

WHEREAS, the City Council desires, in accordance with CEQA, to declare that, despite the potential for significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social, and other considerations for approving the project that justify the occurrence of those impacts; and

WHEREAS, the City Council has fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter and has determined that a Statement of Overriding Considerations is warranted;

NOW, THEREFORE, BE IT RESOLVED that the San Rafael City Council makes the following findings with respect to the Project's significant effects on the environment as identified in the Final EIR, as required under Sections 15091, 15092, and 15093 of the CEQA Guidelines, and adopts the Mitigation Monitoring and Reporting Program ("MMRP") as follows:

I. PROJECT DESCRIPTION

As fully described in Chapter 3 of the Final EIR, the Project includes potential new development associated with implementation of General Plan 2040 and the Downtown Precise Plan. This includes previously approved projects, the remaining buildout potential from the prior General Plan 2020, and additional capacity related to policy updates and map changes. The General Plan, which includes a vision, guiding principles, goals, policies, and programs, functions as the City's primary land use regulatory tool. It is San Rafael's constitution for future change and is the basis for all planning-related decisions made by City staff, the Planning Commission, and the City Council.

The proposed Downtown Precise Plan is a critical part of the General Plan, as roughly half of the city's future housing and employment growth is expected to occur in downtown San Rafael, referred to as the Downtown Precise Plan Area. The Downtown Precise Plan implements the community's vision to create opportunities for reinvestment and future development that is feasible, predictable, and consistent with the community's priorities and aspirations. The Downtown Precise Plan refines existing policies and sets design direction for a variety of topics in coordination with other approved plans and policy documents. The Downtown Precise Plan identifies growth and development opportunities; provides the principles, policies, and strategies to guide investment, and proposes a form-based code to replace the current zoning standards. The Downtown Precise Plan will serve as the overarching guiding document that provides strategies and recommendations for growth within the Downtown Precise Plan Area.

The buildout of the potential future development in these identified locations is based on a horizon year of 2040; therefore, the EIR analyzes growth occurring between 2020 and 2040. The 2040 horizon year is generally consistent with other key planning documents, including *Plan Bay Area*, which is the Bay Area's Regional Transportation Plan/Sustainable Community Strategy to Senate Bill 375, the Sustainable Communities and Climate Protection Act.

A. PROJECT OBJECTIVES

The primary purposes of the Project are to plan for the growth and conservation of San Rafael over a 20-year time horizon and to achieve a more equitable, sustainable, and prosperous future for all residents. Objectives include focusing growth in the Downtown Precise Plan Area, capitalizing on transit opportunities in and around Priority Development Areas, and streamlining future development that is consistent with the proposed project. This requires extending the General Plan buildout horizon from 2020 to 2040 and updating goals, policies, and programs so that they meet current State requirements and community priorities.

B. GENERAL PLAN UPDATE

Every city and county in California is required to prepare and to adopt a comprehensive long-term general plan for the physical development of the county or city and, in some cases, land outside the city or county boundaries (Government Code Section 65300). The City of San Rafael has undertaken a community-based planning process to review changes to the General Plan elements. The Project updates the General Plan 2020 goals, policies, and programs to reflect current conditions, issues, resources, and community perspectives. For example, changes are needed to address the evolving state of the city and region and to cover global issues such as climate change and emerging transportation technology.

General Plan Update Components

The General Plan Update revised and added new goals, policies, and programs to address the changing needs of the community and ensure compliance with updates required by State laws. In addition to legal requirements, the goals, policies, and programs in the proposed General Plan 2040 are influenced by community input, best practices, and emerging issues (e.g., sea level rise, autonomous vehicles, green infrastructure, etc.). Such revisions include the consolidation or reorganization of some previous elements, updating of several elements to reflect changing conditions in the community, and the introduction of a new Equity, Diversity, and Inclusion Element. The General Plan Update also includes a change in the measure of residential density from "gross" density to "net" density, consolidation and updating of various land use designations to reflect existing conditions and zoning patterns, and updates to the General Plan Land Use Map to correct errors and reflect existing uses.

General Plan Buildout Projections

The horizon-year projections were based on the reasonably foreseeable development that is expected to occur within the period from 2020 to 2040. The 2040 horizon year is generally consistent with other key planning documents, including *Plan Bay Area 2040*. As shown in Table 1, the General Plan Update accounts for a total of 4,250 households, 4,460 residential units, 8,910 persons, and 4,115 employees in the EIR Study Area.

TABLE 1 PROPOSED 2040 BUILDOUT PROJECTIONS IN THE EIR STUDY AREA

Category	Existing Conditions (2020)	Projected Growth by Area (2020-2040)		Net Change (2020–2040)	Buildout Estimates (2040)
		City	Unincorporated		
Households	28,132	3,860	390	4,250	32,382
Residential Units	29,529	4,050	410	4,460	33,989
Total Population	75,751	8,010	900	8,910	84,661
Employees	44,200	4,050	65	4,115	48,315

Source: City of San Rafael, 2020.

C. DOWNTOWN PRECISE PLAN

The Downtown Precise Plan expresses the community’s vision for future Downtown development. The Downtown Precise Plan refines existing policies and sets design direction for a variety of topics in coordination with other approved plans and policy documents. The Plan identifies growth and development opportunities; provides the principles, policies, and strategies to guide investment, and proposes a form-based code to replace the current zoning standards.

Downtown Precise Plan Components

The Downtown Precise Plan is made up of nine chapters, plus a glossary and an appendix. The first three chapters provide the context for the document and describe existing conditions and guiding principles. Chapter 4 provides a design vision for the entire Downtown Precise Plan Area and includes more specific guidance for four sub-areas within the boundary of the Downtown Precise Plan Area. Chapter 5 addresses historic preservation and Chapter 6 addresses circulation. Chapter 7 is an affordable housing and anti-displacement strategy. Chapter 8 covers implementation, including recommended capital projects and economic development strategies. Chapter 9 is the proposed Downtown Form-Based Code. The appendices include a historic resources inventory, a summary of community outreach efforts, and several reports prepared during the planning process.

Downtown Precise Plan Zoning Amendment

The proposed Downtown Precise Plan includes the Downtown Form-Based Code, which would amend San Rafael Municipal Code (“SRMC”) Title 14, Zoning. The proposed Downtown Form-Based Code would replace existing zoning regulations for all of the properties in the Downtown Precise Plan Area with the exception of parcels in the Latham Street area, which would retain their Multifamily Residential District ([Medium Density] 2,500 square feet per dwelling unit [MR2.5]) zoning designation, and the existing open space and public zoning designations. The Downtown Form-Based Code consists of new zoning regulations that would be organized into a coordinated set of articles and incorporated into the Zoning Ordinance. Once adopted, should there be any

conflict between the existing Zoning Ordinance and the Downtown Precise Plan, the Downtown Precise Plan shall prevail.

Downtown Precise Plan Buildout Projections

The horizon-year projections were based on the probable, or reasonably foreseeable, “planning period development” that is expected to occur within the planning period through the year 2040. As shown in Table 2, growth in the Downtown Precise Plan Area through the year 2040 is anticipated to include 2,100 households, 2,200 residential units, 3,570 residents, and 2,020 employees. Projections anticipated in the Downtown Precise Plan Area are accounted for in the total projections assumed under the General Plan Update, and are not in addition to the buildout projections shown in Table 1.

TABLE 2 PROPOSED 2040 BUILDOUT PROJECTIONS IN THE DOWNTOWN PRECISE PLAN AREA

Category	Existing Conditions (2020)	Net Change (2020–2040)	Buildout Estimates (2040)
Households	1,496	2,100	3,596
Residential Units	1,571	2,200	3,771
Total Population	2,315	3,570	5,885
Employees	11,000	2,020	13,020

Source: City of San Rafael, 2020.

II. ENVIRONMENTAL REVIEW PROCESS

A. ENVIRONMENTAL IMPACT REPORT

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public with an opportunity to comment on the Draft EIR. An NOP of an EIR was issued by the City to the OPR State Clearinghouse and interested agencies and persons on March 29, 2019 for a 30-day review period, during which interested agencies and the public could submit comments about the Project. The City also held a public scoping meeting on April 23, 2019. Comments on the NOP were received by the City and considered during preparation of the Draft EIR.

An NOA was issued on January 7, 2021 and the Draft EIR was made available for public review for a 61-day public review period through March 9, 2021. The Draft EIR was distributed to local, regional, and State agencies and the general public was advised of the availability of the Draft EIR. Due to the COVID-19 Pandemic, physical (paper) copies of the Draft EIR were not made available, but the document was accessible via the City’s website.

The Responses to Comments Document provides responses to the comments received during the comment period on the Draft EIR. The Draft EIR and the Responses to Comments Document comprise the Final EIR. The Planning Commission recommended City Council approval of the Final EIR following a public hearing on June 15, 2021. The City Council considers the Planning Commission’s recommendations on the Final EIR in taking final action on the Project.

B. CERTIFICATION OF THE FINAL EIR

In accordance with CEQA Guidelines Section 15090, on July 19, 2021 the City of San Rafael acting by and through the City Council, certified that the Final EIR was completed in compliance with CEQA. The City Council further certified that it has been presented with the Final EIR and that it reviewed and considered the information contained in the Final EIR prior to approving the Project. The City Council certifies that the Final EIR reflects its independent judgment and analysis.

C. RECORD OF PROCEEDINGS

For purposes of CEQA and these findings, the record of proceedings consists of the following documents and testimony:

- (a) The NOP and all other public notices issued by the City in conjunction with the Project;
- (c) The Draft EIR for the Project, dated January 7, 2021;
- (d) All comments submitted by agencies or members of the public during the public comment period on the Draft EIR;
- (e) The Final EIR for the Project, including comments received on the Draft EIR, responses to those comments, and the technical appendices, dated May 23, 2021;
- (f) The MMRP for the Project;
- (h) All reports, studies, memoranda, maps, staff reports, or other planning documents related to the Project prepared by the City, or consultants to the City, with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the Project;
- (i) All documents submitted to the City (including the Planning Commission and City Council) by other public agencies or members of the public in connection with the Project;
- (j) Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the Project;
- (k) All matters of common knowledge to the Planning Commission and City Council, including, but not limited to:
 - (i) City's General Plan and other applicable policies;
 - (ii) City's Zoning Ordinance and other applicable ordinances;
 - (iii) Information regarding the City's fiscal status;
 - (iv) Applicable City policies and regulations; and
 - (v) Federal, state and local laws and regulations.
- (l) Any other materials required for the record of proceedings by CEQA Section 21167.6(e).

The documents described above comprising the record of proceedings are located on the City's webpage at: <https://www.cityofsanrafael.org/general-plan-ceqa/>. The custodian of these documents is the City's Community Development Director or his/her designee.

III. FINDINGS

The findings, recommendations, and statement of overriding considerations set forth below (“Findings”) are made and adopted by the City Council of the City of San Rafael as the City’s findings under CEQA and the CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of the City Council regarding the Project’s environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations that support approval of the Project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR with regard to Project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the Final EIR. Instead, the findings provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the City’s findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of the environmental findings and conclusions can be found in the Final EIR; the discussion and analysis in the Final EIR regarding mitigation measures and the Project’s impacts is adopted by reference.

The City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the Project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections IV and V, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

IV. FINDINGS FOR SIGNIFICANT AND UNAVOIDABLE IMPACTS

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. In some cases, the City cannot require or control implementation of mitigation measures for certain impacts because they are the responsibility and jurisdiction of other public agencies. As explained below, some impacts will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures, where applicable. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in Section VII, below. As explained in Section VIII below, the findings in Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated by this reference.

A. IMPACT AIR-2.2: OPERATIONAL ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD CUMULATIVELY CONTRIBUTE TO THE NON-ATTAINMENT DESIGNATIONS OF THE SAN FRANCISCO BAY AREA AIR BASIN.

The Final EIR finds that future development from implementation of the General Plan 2040, and Downtown Precise Plan would result in a substantial long-term increase in criteria air pollutants over the 20-year General Plan horizon. Because cumulative development within the city could exceed regional significance thresholds, the Project could contribute to an increase in health effects in the San Francisco Bay Area Air Basin until such time as the attainment standards are met.

Implementation of Mitigation Measure AIR-2.2 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure AIR-2.2; therefore, the impact would be significant and unavoidable.

Mitigation Measure AIR-2.2: *To reduce long-term increases in air pollutants during the operation phase for discretionary development projects that are subject to CEQA which exceed the screening sizes in the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.2 (Land Use Compatibility and Building Standards):*

- ***New General Plan Program:*** *Require projects that exceed the BAAQMD screening sizes to evaluate project-specific operation emissions in conformance with BAAQMD CEQA Guidelines, and if operation-related air pollutants exceed the BAAQMD-adopted thresholds of significance, require the project applicants to mitigate the impact to an acceptable level.*

B. IMPACT AIR-3.2. OPERATIONAL ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD EXPOSE SENSITIVE RECEPTORS TO SUBSTANTIAL TOXIC AIR CONTAMINANT CONCENTRATIONS FROM NONPERMITTED SOURCES.

The Final EIR finds that future development from implementation of the proposed General Plan 2040 and the Downtown Precise Plan could result in new sources of criteria air pollutant emissions and/or toxic air contaminants near existing or planned sensitive receptors. Because cumulative development within the City of San Rafael could exceed regional significance thresholds, the Project could contribute to an increase in health effects in the basin until such time as the attainment standards are met in the San Francisco Bay Area Air Basin. The impact is considered significant and unavoidable.

Implementation of Mitigation Measure AIR-3.2 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure AIR-3.2; therefore, the impact would be significant and unavoidable.

Mitigation Measure AIR-3.2: *To ensure sensitive receptors are not exposed to toxic air contaminant emissions during the operation phase for discretionary development projects that are subject to CEQA which exceed the screening sizes in the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.2: (Land Use Compatibility and Building Standards) to be implemented as part of the project approval process:*

- ***New General Plan Program:*** *Require applicants for industrial or warehousing land uses or commercial land uses that would generate substantial diesel truck travel (i.e., 100 diesel trucks per day or 40 or more trucks with diesel-powered transport refrigeration units per day) to contact BAAQMD to determine the appropriate level of operational health risk assessment (HRA) required. If required, the operational HRA shall be prepared in accordance with the Office of Environmental Health Hazard Assessment and BAAQMD requirements and mitigated to an acceptable level.*

C. IMPACT CULT-1: FUTURE DEVELOPMENT ON SITES THAT CONTAIN A HISTORIC RESOURCE MAY CAUSE THE DEMOLITION, DESTRUCTION, OR ALTERATION OF A HISTORIC RESOURCE SUCH THAT THE SIGNIFICANCE OF THE RESOURCE IS "MATERIALLY IMPAIRED." SUCH ADVERSE CHANGES OR POTENTIAL ADVERSE CHANGES IN THE SIGNIFICANCE OF A CEQA-DEFINED HISTORIC RESOURCE WOULD CONSTITUTE A SIGNIFICANT IMPACT.

The Final EIR finds that future development from implementation of the General Plan 2040 and the Downtown Precise Plan could result in significant impacts to historic resources because project-level details of future development proposals are unknown.

Implementation of Mitigation Measure CULT-1 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure CULT-1; therefore, the impact would be significant and unavoidable.

Mitigation Measure CULT-1: *To ensure sites that contain a historic resource that are subject to demolition, destruction, or alteration, are mitigated to an acceptable level, the City shall amend Program CDP-5.1A (Preservation Ordinance).*

- ***Modified Program CDP-5.1A:*** *Update the Historic Preservation Ordinance. The City of San Rafael shall modify the City's Historic Preservation Ordinance to include updated procedures to mitigate impacts from the demolition, destruction, or alteration of historic resources.*

D. IMPACT CULT-5: IMPLEMENTATION OF THE PROPOSED PROJECT WOULD CAUSE IMPACTS THAT ARE CUMULATIVELY CONSIDERABLE WHEN VIEWED IN CONNECTION WITH THE EFFECTS OF PAST, PRESENT, AND REASONABLY FORESEEABLE PROJECTS.

The Final EIR finds that potential impacts of future development under implementation of the General Plan 2040 and the Downtown Precise Plan on cultural resources and Tribal Cultural Resources (TCRs) tend to be site specific, and cumulative impacts would occur when a series of actions leads to the loss of a substantial type of site, building, or resource. For example, while the loss of a single historic building may not be significant to the character of a neighborhood or streetscape, continued loss of such resources on a project-by-project basis could constitute a significant cumulative effect. Additionally, future development would be primarily located within the developed portions of the EIR study area, and this, in conjunction with buildout of the city and the region, has the potential to cumulatively impact historical resources.

While implementation of Mitigation Measures CULT-2, CULT-3, and CULT-4 would reduce impacts to archaeological resources, human remains, and TCRs to a less-than-significant level, it is unknown if future projects that are proposed on sites or adjacent to sites with historic buildings would be able to achieve the Secretary of Interior's Standards at the program level. Therefore, this impact remains significant and unavoidable.

E. IMPACT GHG-1: IMPLEMENTATION OF THE PROPOSED PROJECT MAY NOT MEET THE LONG-TERM GHG REDUCTION GOAL UNDER EXECUTIVE ORDER S-03-05.

The Final EIR finds that for future development under the General Plan 2040 and the Downtown Precise Plan, implementation of the General Plan 2040 goals, policies, and programs would ensure that the City's Greenhouse Gas ("GHG") emissions are reduced to the greatest degree feasible. Policy C-5.1, Climate Change Action Plan ("CCAP"), requires the City maintain and periodically update the CCAP. Policy C-5.1 is supported by Programs C-5.1A, C-5.1B, C-5.1C, and C-5.1D, which require annual progress reports, quarterly forums, identification of funding sources and a minimum 10-year CCAP update. Implementation of this Policy and its associated Programs would ensure that the City is monitoring the City's progress toward its GHG reduction target and requires amendments if is not. The updates would ensure the CCAP is on the trajectory consistent with the GHG emissions-reduction goal established under Executive Order S-03-05 for year 2050 and the latest applicable statewide legislative GHG emission reduction that may be in effect at the time of the CCAP update (e.g., Senate Bill 32 for year 2030). However, at this time, there is no plan that extends beyond 2030 to achieve the long-term GHG reduction goal established under Executive Order S-03-05. Advancement in technology in the future could provide additional reductions to allow the state and City to meet the 2050 goal; however, no additional statewide measures are currently available, and the impact is significant and unavoidable.

Notwithstanding the conclusion above, the City shall continue to vigorously implement all programs it considers necessary to achieve or exceed State GHG goals, including actions pursuant to its 2030 Climate Change Action Plan to reduce emissions through building electrification, electric vehicle adoption, and mandatory organics recycling, thereby addressing the three largest sectors of San Rafael's GHG footprint in the timeframe needed to meet State goals.

F. IMPACT TRAN-1A: IMPLEMENTATION OF THE PROPOSED PROJECT WOULD RESULT IN A SIGNIFICANT LAND USE VMT IMPACT FOR TOTAL VMT AND WORK VMT DUE TO FORECAST LAND USE GROWTH THROUGH 2040, BASED ON A COMPARISON OF THE VMT RATE INCREMENT FOR TOTAL VMT PER SERVICE POPULATION AND WORK VMT PER EMPLOYEE TO THE CORRESPONDING AVERAGE BASELINE RATES FOR THE FULL NINE-COUNTY BAY AREA.

The Final EIR finds that the City of San Rafael may not achieve the overall Vehicle Miles Traveled ("VMT") reduction level as the effectiveness of VMT reductions strategies is not certain. Implementation of Mitigation Measure TRAN-1a set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure TRAN-1a; therefore, the impact would be significant and unavoidable.

Mitigation Measure TRAN-1a: To reduce vehicle miles traveled the City shall modify Program M-3.3A (TDM Program Guidelines) to support achievement of the VMT reduction Standard:

- **Modified Program 3-3A: Update Trip Reduction Ordinance.** *The City of San Rafael shall modify the Trip Reduction Ordinance (TRO) to reflect General Plan 2040 Policy M-3.1 and focus on VMT reduction measures. The amended TRO shall include the City's VMT reduction thresholds, VMT reduction measures and program guidelines, and a VMT trip reduction monitoring process. The TRO shall be updated a minimum of every five years to reflect changes in baseline VMT values, VMT thresholds, VMT reduction measures, and the monitoring process. The modified TRO shall reflect the process and methodology for conducting the VMT analysis for development projects as described in the City's Transportation Analysis (TA) Guidelines.*

G. IMPACT TRAN-1B: IMPLEMENTATION OF THE PROPOSED PROJECT WOULD RESULT IN A SIGNIFICANT ROAD NETWORK VMT IMPACT DUE TO THE PLANNED CAPACITY OF THE ROADWAY SYSTEM.

The Final EIR finds that for the General Plan 2040 and the Downtown Precise Plan, even with implementation of General Plan policies and application of Mitigation Measure TRAN-1a, because the effectiveness of VMT reduction strategies is not certain, the City of San Rafael may not achieve the overall VMT threshold reduction level. Implementation of Mitigation Measure TRAN-1b set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure TRAN-1b; therefore, the impact would be significant and unavoidable.

Mitigation Measure TRAN-1b: Implement Mitigation Measure TRAN-1a.

H. IMPACT TRAN-6: IMPLEMENTATION OF THE PROPOSED PROJECT COULD CUMULATIVELY CONTRIBUTE TO REGIONAL VMT.

The Final EIR finds that for the General Plan 2040 and the Downtown Precise Plan, even with the General Plan policy measures and application of Mitigation Measure TRAN-1a, the City of San Rafael will not achieve the VMT rate reductions specified in Policy M-3.1 and the effectiveness of VMT reduction strategies is not certain.

Implementation of Mitigation Measure TRAN-6 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure TRAN-6; therefore, the impact would be significant and unavoidable.

Mitigation Measure TRAN-6: Implement Mitigation Measure TRAN-1a.

V. FINDINGS FOR SIGNIFICANT IMPACTS REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed through the corresponding mitigation measures will be reduced to a less than significant level or avoided by adopting and incorporating these mitigation measures into the Project. As explained in Section VII, below, the findings in Section V are based on the Final EIR, the discussion and analysis of which is incorporated in full by this reference.

A. IMPACT AIR-2.1: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD POTENTIALLY VIOLATE AN AIR QUALITY STANDARD OR CUMULATIVELY CONTRIBUTE TO AN EXISTING OR PROJECTED AIR QUALITY VIOLATION.

Construction activities associated with future development from implementation of the proposed General Plan 2040 and the Downtown Precise Plan would occur over the buildout horizon, causing short-term emissions of criteria air pollutants. Due to the scale of development activity associated with buildout of the proposed project, cumulative emissions would likely exceed the BAAQMD regional significance thresholds. In accordance with the BAAQMD methodology, emissions that exceed the regional significance thresholds would cumulatively contribute to the nonattainment designations of the San Francisco Bay Area Air Basin (“SFBAAB”). Therefore, without the preparation of project-specific analysis for development proposals that exceed the BAAQMD screening sizes, construction emission impacts at the program level are considered significant.

Implementation of Mitigation Measure AIR-2.1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure AIR-2.1: *To reduce temporary increases in criteria air pollutant emissions (NOX) during the construction phase for discretionary development projects that are subject to CEQA which exceed the screening sizes in the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.4 (Particulate Matter Pollution Reduction) to be implemented as part of the project approval process:*

- **New Program:** *Require projects that exceed the BAAQMD screening sizes to evaluate project-specific construction emissions in conformance with the BAAQMD methodology and if construction-related criteria air pollutants exceed the BAAQMD thresholds of significance, require the project applicant to mitigate the impacts to an acceptable level.*

B. IMPACT AIR-3.1: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD EXPOSE NEARBY RECEPTORS TO SUBSTANTIAL CONCENTRATIONS OF TOXIC AIR CONTAMINANTS.

The Final EIR finds that if implementation of the proposed General Plan 2040 and the Downtown Precise Plan would cause or contribute significantly to elevated pollutant concentration levels, it could expose sensitive receptors to air pollutants or elevated pollutant concentrations for construction and operation. Mitigation Measure AIR-3.1a would ensure that placement of sensitive receptors near major sources of air pollution would meet the incremental risk thresholds established by BAAQMD.

Implementation of Mitigation Measure AIR-3.1a, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure AIR-3.1a: *Implement Mitigation Measure AIR-2.1.*

Mitigation Measure AIR-3.1b: *To ensure sensitive receptors are not exposed to toxic air contaminant emissions during the construction phase for discretionary development projects that are subject to CEQA that exceed the screening sizes in the Bay Area Air Quality Management*

District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.2: (Land Use Compatibility and Building Standards):

- **New Program:** As recommended by the California Air Resources Board, require projects that would result in construction activities within 1,000 feet of residential and other land uses that are sensitive to toxic air contaminants (e.g., hospitals, nursing homes, day care centers), as measured from the property line of the project, to prepare a construction health risk assessment in accordance with policies and procedures of the Office of Environmental Health Hazard Assessment and the BAAQMD CEQA Guidelines that identifies mitigation measures that are capable of reducing potential cancer and noncancer risks to an acceptable level (i.e., below ten in one million or a hazard index of 1.0).

C. IMPACT BIO-1: IMPACTS TO SPECIAL-STATUS SPECIES OR THE INADVERTENT LOSS OF BIRD NESTS IN ACTIVE USE, WHICH WOULD CONFLICT WITH THE FEDERAL MIGRATORY BIRD TREATY ACT AND CALIFORNIA FISH AND GAME CODE, COULD OCCUR AS A RESULT OF POTENTIAL NEW DEVELOPMENT.

The Final EIR finds that the potential for adverse impacts on special-status species from future development through implementation of the General Plan 2040 and the Downtown Precise Plan is relatively low. However, there remains a potential for loss or disruption due to conversion of areas of natural habitat, removal of trees and other vegetation, increases in light and noise, and other modifications and disturbance. Development in locations abutting or in the vicinity of open space lands or water resources, where special-status species are more likely to occur, could potentially cause a significant impact to, or cause the inadvertent loss of, bird nests in active use.

Implementation of Mitigation Measure BIO-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-1: *To ensure sensitive species of any kind are not adversely impacted by implementation of the proposed project, the City shall adopt revisions to General Plan Program C-1.13B and shall adopt a new program or modify an existing program to clarify the need for special-status species surveys and to ensure avoidance of nests of native birds in active use to support Policy C-1.13 (Special Status Species):*

- **Modified Program C-1.13B:** *Surveys for Special-Status Species. Require that sites with suitable natural or anthropogenic habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of special status species prior to development approval. Such surveys shall be conducted by a qualified biologist according to CDFW-accepted species-specific protocol-level surveys, as applicable, and occur prior to development-related vegetation removal or other habitat modifications.*
- **New or Modified Program:** *Avoidance of Nesting Birds. Nests of native birds in active use shall be avoided in compliance with State and federal regulations. For new development sites where nesting birds may be present, vegetation clearing and construction shall be initiated outside the bird nesting season (February 1 through August 31) or preconstruction surveys shall be conducted by a qualified biologist within a minimum of 500 feet from the project site where access is feasible and no more than seven days prior to any disturbance. If active nests are encountered, appropriate work*

avoidance buffer zones shall be established based on recommendations by the qualified biologist and remain in place until any young birds have successfully left the nest and are no longer dependent on parental care.

D. IMPACT BIO-2 IMPACTS TO RIPARIAN AREAS, DRAINAGES, AND SENSITIVE NATURAL COMMUNITIES COULD OCCUR FROM POTENTIAL FUTURE DEVELOPMENT WHERE NATURAL HABITAT REMAINS.

The Final EIR finds that future development through implementation of the General Plan 2040 and the Downtown Precise Plan could result in both direct and indirect impacts to riparian habitats and other sensitive natural communities. Direct impacts occur as a result of converting natural resources to developed properties, including the addition of impervious surfaces or hydrologic alterations. Habitat loss and degradation of existing habitat are direct impacts. Direct impacts may also be temporary if they disturb a habitat that is subsequently restored after construction. An indirect impact is a physical change in the environment, which is not immediately related to, but caused by, the project. For example, if future development results in a reduction in habitat, the values and functions of the remaining habitat may be reduced. Similarly, increases in sedimentation as a result of grading and the introduction of urban pollutants could have indirect impacts on aquatic habitat.

Implementation of Mitigation Measure BIO-2, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-2: *To ensure sensitive riparian areas, drainages, and sensitive natural communities are not impacted through implementation of the proposed project, the City shall adopt the following General Plan Program or amend other programs to support Policy C-1.12 (Native or Sensitive Habitats) to ensure that sensitive natural communities are identified and addressed as part of future development review:*

- ***New or Modified Program: Surveys for Sensitive Natural Communities.*** *Require that sites with suitable natural habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of sensitive natural communities prior to development approval. Such surveys should be conducted by a qualified biologist and occur prior to development-related vegetation removal or other habitat modifications.*

E. IMPACT BIO-3: POTENTIAL FUTURE DEVELOPMENT COULD RESULT IN DIRECT AND INDIRECT IMPACTS TO WETLAND HABITAT.

The Final EIR finds that future development and land use activities associated with implementation of the proposed General Plan 2040 and the Downtown Precise Plan could result in direct loss or modification to existing wetlands and unvegetated other waters, as well as indirect impacts due to water quality degradation. Affected wetlands could include both the wetland-related sensitive natural community types, as well as areas of open water, degraded and modified streams and channels, unvegetated waters, and isolated seasonal wetlands or freshwater seeps. Indirect impacts to wetlands and jurisdictional other waters include an increase in the potential for sedimentation due to construction grading and ground disturbance, an increase in the potential for erosion due to increased runoff volumes generated by impervious surfaces, and an increase in the potential for water quality degradation due to increased levels in non-point pollutants.

Implementation of Mitigation Measure BIO-3, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-3: *To ensure that sensitive wetland habitats are not impacted directly or indirectly through implementation of the proposed project, the City shall adopt the following General Plan Program or amend other programs to support Policy C-1.1 (Wetlands Protection) to ensure that jurisdictional waters are identified and addressed as part of future development review:*

- ***New or Modified Program: Surveys for Regulated Waters.*** *Require that sites with suitable natural habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of regulated waters prior to development approval. Such surveys should be conducted by a qualified wetland specialist and occur prior to development-related vegetation removal or other habitat modifications.*

F. IMPACT BIO-4: POTENTIAL FUTURE DEVELOPMENT IN THE EIR STUDY AREA COULD RESULT IN IMPACTS ON THE MOVEMENT OF WILDLIFE AND POTENTIAL FOR INCREASED RISK OF BIRD COLLISIONS.

The Final EIR finds that new buildings associated with future development through implementation of the General Plan 2040 and Downtown Precise Plan could contribute to an increased risk of bird collisions and mortalities. For taller buildings and structures that extend above the existing urban fabric and height of vegetative cover, this could be a significant impact unless appropriate bird-safe design measures were incorporated into the building design.

Implementation of Mitigation Measure BIO-4, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-4: *To ensure that potential future development under implementation of the proposed project does not result in impacts on the movement of wildlife, the City shall adopt the following General Plan programs or amend other programs to support Policy C-1.11 (Wildlife Corridors) so that important movement corridors and the potential for increased risk of bird collisions are identified and addressed as part of future development review:*

- ***New or Modified Program: Surveys for Wildlife Movement Corridors.*** *Require that sites with suitable natural habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of important wildlife corridors prior to development approval. Such surveys should be conducted by a qualified biologist and occur prior to development-related vegetation removal or other habitat modifications.*
- ***New or Modified Program: Consider Risk of Bird Collision.*** *Require that taller structures be designed to minimize the potential risk of bird collisions using input from the latest bird-safe design guidelines and best management practice strategies to reduce bird strikes.*
- ***New Program: Bird Safe Design Ordinance.*** *Develop and adopt a Bird Safe Design ordinance to provide specific criteria and refined guidelines as part of design review of new buildings and taller structures.*

G. IMPACT CULT-2: IMPLEMENTATION OF THE PROPOSED PROJECT COULD HAVE THE POTENTIAL TO CAUSE A SIGNIFICANT IMPACT TO AN ARCHAEOLOGICAL RESOURCE PURSUANT TO CEQA GUIDELINES SECTION 15064.5.

The Final EIR finds that future development through implementation of the General Plan 2040 and the Downtown Precise Plan could result in impacts to archaeological deposits that meet the definition of historical resource under CEQA Section 21084.1 or CEQA Guidelines Section 15064.5. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, or as possessing traditional or cultural significance to Native American or other descendant communities, would be materially impaired.

Implementation of Mitigation Measure CULT 2, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure CULT-2: *To ensure sites where archeological resources are unearthed during the construction phase of development projects are mitigated to an acceptable level, the City shall amend Program CDP-5.13A (Archeological Resources Ordinance).*

- **Modify Program CDP-5.13A:** *Update Archeological Resources Ordinance. The City of San Rafael shall modify the City's Archeological Resources Ordinance to include construction best management practices to follow if a potentially significant archaeological resource is encountered during ground disturbing activities.*

H. IMPACT CULT-3: GROUND-DISTURBING ACTIVITIES AS A RESULT OF FUTURE DEVELOPMENT IN THE EIR STUDY AREA COULD ENCOUNTER HUMAN REMAINS, THE DISTURBANCE OF WHICH COULD RESULT IN A SIGNIFICANT IMPACT UNDER CEQA.

The Final EIR finds that human remains associated with precontact archaeological deposits could exist in the EIR Study Area and could be encountered at the time potential future development from implementation of the General Plan 2040 and the Downtown Precise Plan occurs.

Implementation of Mitigation Measure CULT 3, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure CULT-3: *To ensure human remains that are unearthed during the construction phase of development projects are protected, the City shall adopt a new Program to support Policy CDP-5.13 (Protection of Archaeological Resources).*

- **New Program: Human Remains.** *Any human remains encountered during ground-disturbing activities would be required to be treated in accordance with California Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, and the California Code of Regulations Section 15064.5(e) (CEQA), which state the mandated procedures of conduct following the discovery of human remains.*

I. IMPACT CULT-4: GROUND-DISTURBING ACTIVITIES AS A RESULT OF FUTURE DEVELOPMENT UNDER THE PROPOSED PROJECT COULD ENCOUNTER TRIBAL CULTURAL RESOURCES, THE DISTURBANCE OF WHICH COULD RESULT IN A SIGNIFICANT IMPACT UNDER CEQA.

The Final EIR finds that impacts from future development from implementation of the General Plan 2040 and the Downtown Precise Plan, could impact unknown archaeological resources, including Native American artifacts and human remains.

Implementation of Mitigation Measure CULT 4, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure CULT-4: *Implement Mitigation Measures CULT-2 and CULT-3.*

J. IMPACT GEO-6: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD HAVE THE POTENTIAL TO DIRECTLY OR INDIRECTLY AFFECT A UNIQUE PALEONTOLOGICAL RESOURCE.

The Final EIR finds that although no fossils, unique paleontological resources, or unique geologic features have been recorded in the EIR Study Area, the geological formations underlying the EIR Study Area have the potential to contain unique paleontological resources, which could be disturbed from implementation of the General Plan 2040 and the Downtown Precise Plan.

Implementation of Mitigation Measure GEO-6, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure GEO-6: *To ensure sensitive and unique paleontological resources are not directly or indirectly affected in the event that such resources are unearthed during project grading, demolition, or building (such as fossils or fossil-bearing deposits), the City shall adopt the following new General Plan Policy and associated Program:*

- ***New Policy:*** *Paleontological Resource Protection. Prohibit the damage or destruction of paleontological resources, including prehistorically significant fossils, ruins, monuments, or objects of antiquity, that could potentially be caused by future development.*
- ***New Program:*** *Paleontological Resource Mitigation Protocol. The City shall prepare and adopt a list of protocols in accordance with Society of Vertebrate Paleontology standards that protect or mitigate impacts to paleontological resources, including requiring grading and construction projects to cease activity when a paleontological resource is discovered so it can be safely removed.*

K. IMPACT HAZ-4: POTENTIAL FUTURE DEVELOPMENT COULD RESULT IN CONSTRUCTION AND OPERATION ACTIVITIES ON SITES WITH KNOWN HAZARDOUS MATERIALS AND, AS A RESULT, CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT.

The Final EIR finds that within the EIR Study Area, 31 hazardous materials sites designated as active are listed on databases compiled pursuant to Government Code Section 65962.5. Although implementation of the proposed General Plan 2040 and the Downtown Precise Plan anticipates that potential future development and redevelopment could occur on existing vacant or infill sites in urban areas, the location of potential future development is unknown and may occur on sites included on the hazardous materials sites databases.

Implementation of Mitigation Measure HAZ-4, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure HAZ-4: *To ensure that construction on sites with known contamination (including sites in the DTSC EnviroStor database and the State Water Resource Control Board's online GeoTracker database) do not result in or create a significant hazard to the public or the environment, the City shall adopt the following General Plan programs to support Policy S-5.4 (Development on Formerly Contaminated Sites). These programs shall be implemented as part of the project approval process:*

- ***New Program: Environmental Site Management Plan.*** *Require the preparation of an Environmental Site Management Plan (ESMP) in consultation with the San Francisco Bay Regional Water Quality Control Board and/or the Department of Toxic Substance Control, for proposed development on sites with known contamination of hazardous materials pursuant to Government Code Section 65962.5, which include, but are not limited to, the Department of Toxic Substance Control's online EnviroStor database and the State Water Resource Control Board's online GeoTracker database.*
- ***New Program: Soil Vapor Intrusion Assessment.*** *For sites with potential residual contamination in soil or groundwater that are planned for redevelopment with an overlying occupied building, a soil vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements.*

L. IMPACT NOISE-1: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD EXPOSE SENSITIVE RECEPTORS IN CLOSE PROXIMITY TO A CONSTRUCTION SITE TO NOISE THAT EXCEED THE CITY'S NOISE LIMITS ESTABLISHED IN SAN RAFAEL MUNICIPAL CODE CHAPTER 8.13, NOISE.

The Final EIR finds that the City has established construction noise limits for potential future projects consistent with General Plan 2040 and the Downtown Precise Plan. General Plan 2040 Program N-1.9B, Construction Noise, requires the City to use the environmental review process to identify measures to reduce the exposure of neighboring properties to excessive noise levels from construction activity. However, the program does not specifically address the use of routine best management practices that would further ensure that noise impacts from construction are reduced to acceptable levels.

Implementation of Mitigation Measure NOISE-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure NOISE-1: *To ensure receptors that are sensitive to construction noise are not exposed to unacceptable construction noise levels as defined in San Rafael Municipal Code Chapter 8.13, Noise, for discretionary development projects that are subject to CEQA the City shall amend Program N-1.9B (Construction Noise) as follows:*

- ***Modified Program: Construction Best Management Practices.*** *The City shall establish a list of construction best management practices to be implemented during the construction phase and incorporated into San Rafael Municipal Code Chapter 8.13, Noise. The City of San Rafael Building Division shall verify that these notations, as appropriate, are on the demolition, grading, and construction plans prior to issuance of demolition, grading and/or building permits.*

M. IMPACT NOISE-2A: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD GENERATE EXCESSIVE SHORT-TERM VIBRATION LEVELS DURING PROJECT CONSTRUCTION.

The Final EIR finds that construction of future projects from implementation of the General Plan 2040 and the Downtown Precise Plan could generate varying degrees of ground vibration, depending on the construction procedures and equipment. Vibration generated by construction equipment has the potential to be substantial and may exceed the FTA criteria for architectural damage.

Implementation of Mitigation Measure NOISE-2a, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure NOISE-2a: *To ensure receptors that are sensitive to vibration from construction noise are not exposed to unacceptable vibration levels from discretionary development projects that are subject to CEQA the City shall revise General Plan Program N-1.11A (Vibration-Related Conditions of Approval) as follows.*

- **Modified Program N-1.11A: Construction Vibration-Related Conditions of Approval.** *Adopt standard conditions of approval in San Rafael Municipal Code Chapter 8.13, Noise, that require the Federal Transit Administration (FTA) criteria for acceptable levels of groundborne vibration for various types of buildings be applied to reduce the potential for vibration-related construction impacts for development projects near sensitive uses such as older or historically significant buildings and structures, housing, and schools. If vibration levels exceed the FTA limits, the condition of approval shall identify alternative construction methods, such as drilling piles instead of pile driving and static rollers instead of vibratory rollers. Construction vibration impacts shall be considered as part of project level environmental evaluation and approval for individual future projects.*

N. IMPACT NOISE-2B: OPERATIONAL ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD GENERATE EXCESSIVE LONG-TERM VIBRATION LEVELS.

The Final EIR finds that future commercial and industrial operations from implementation of the General Plan 2040 and the Downtown Precise Plan could generate varying degrees of ground vibration, depending on the operational procedures and equipment. The results from vibration can range from no perceptible effects at the lowest levels, to perceptible vibration at moderate levels, to slight structural damage at the highest levels. The City does not have any adopted standards for operational vibration.

Implementation of Mitigation Measure NOISE-2b, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure NOISE-2b: *To ensure receptors that are sensitive to operational vibration from commercial or industrial uses are not exposed to unacceptable vibration levels from discretionary development projects that are subject to CEQA the City shall adopt the following General Plan Program to support Policy N-1.11 (Vibration) to be implemented as part of the project approval process:*

- **New Program:** *Adopt standard conditions of approval in San Rafael Municipal Code Chapter 8.13 that require the use of Federal Transit Administration (FTA) criteria for*

acceptable levels of groundborne vibration from commercial or industrial uses to reduce long-term vibration impacts at existing or potential future sensitive uses such as uses with vibration-sensitive equipment (e.g., microscopes in hospitals and research facilities) or residences. Operational vibration impacts shall be considered as part of project level environmental evaluation and approval for individual future projects.

VI. ALTERNATIVES

The Final EIR analyzed three alternatives to the Project, examining the environmental impacts and feasibility of each alternative, as well as the ability of the alternatives to meet Project objectives. The Project objectives are listed in Chapter 3 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapter 4 (Environmental Evaluation) of the Draft EIR; and the alternatives are described in detail in Chapter 5 (Alternatives to the Proposed Project) of the Draft EIR.

Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. As explained in Section VII, below, the findings in this Section VI are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. THE NO PROJECT ALTERNATIVE: CURRENT GENERAL PLAN

Pursuant to CEQA Guidelines Section 15126.6(e)(1), the No Project Alternative is required as part of the “reasonable range of alternatives” to allow decision makers to compare the impacts of approving the proposed project with the impacts of taking no action or not approving the proposed project. Consistent with CEQA Guidelines Section 15126.6(e)(3)(A), when the project is the revision of a plan, as in this case, the no project alternative will be the continuation of the existing plan. Under Alternative A, potential future development in San Rafael would continue to be subject to existing policies, regulations, development standards, and land use designations of the existing General Plan 2020 and Zoning Code.

As shown in Draft EIR Table 5-3, the No Project Alternative would allow for the following remaining development growth:

- Households: 1,715
- Residential units: 1,815
- Population: 8,910
- Jobs: 5,745

When compared to the Project, implementation of the No Project Alternative would result in less overall development potential, and therefore fewer impacts related to biological resources, cultural resources, geology and soils, hazards and hazardous materials, and noise. However, each of these topic areas were found to be less than significant under the Project with implementation of the Project’s goals, policies and programs and Mitigation Measures BIO-1, BIO-2, BIO-3, BIO-4, CULT-2, CULT-3, CULT-4, GEO-6, HAZ-4, NOISE-1, NOISE-2a, and NOISE-2b. Therefore, adoption of the No Project Alternative does not strictly reduce impacts merely because it allows for less development. As demonstrated in Chapter 4.16, Transportation, the Total VMT Per Service Population and Work VMT Per Employee would be greater under the No Project Alternative than the proposed project (29.5 Total VMT Per Capita compared to 28.1 Total VMT Per Capita and 17.5

Work VMT Per Employee compared to 16.9 Work VMT Per Employee). The No Project Alternative would not include the Downtown Precise Plan, therefore, the urban design, placemaking, historic preservation, transportation, parking, economic development, affordable housing, and anti-displacement strategies included in the Downtown Precise Plan would not be realized in Alternative A. Impacts related to VMT and consequently, air quality and GHG emissions would be greater than the Project.

While the current (2020) General Plan includes goals, policies, and programs that reduce impacts to the environment, the No Project Alternative does not include the improved and enhanced goals, policies, and programs that address the distinct issues and opportunities that the San Rafael community is likely to face during the updated planning horizon of the proposed (2040) General Plan. The proposed policies of the Land Use and Mobility Elements have been carefully prepared to reduce and/or avoid impacts to the environment as a result of future development. These policies aim to reduce VMT, greenhouse gas emissions, air quality pollutants, energy consumption, water demand, and solid waste generation by promoting infill development; increasing opportunities for alternative modes of transportation, pedestrian, and bicycle access and connectivity, and local jobs; protecting open space; conserving natural resources; and requiring adherence to green building practices. New General Plan policies aim to avoid hazardous conditions and facilitate a healthy and safe environment for residents and visitors to San Rafael. In addition, new General Plan policies aim to protect cultural resources and ensure that new development and redevelopment is compatible with neighboring land uses.

As discussed in Section 5.4.3 of the Draft EIR, the No Project Alternative would not satisfy the Project objectives. The No Project Alternative would not include principles focused on adapting to the future, economic vitality, opportunity for all, providing additional housing, mobility and building on the City's foundation. It is also implicitly inconsistent with regional plans and forecasts since it has a horizon year of 2020 and does not cover the 2020-2040 period. For the foregoing reasons, the No Project Alternative is hereby rejected as infeasible.

B. GREATER RESIDENTIAL GROWTH ALTERNATIVE

Section 5.5.1 of the Draft EIR shows the difference between the growth projections of the proposed project compared to the Greater Residential Growth Alternative. As shown in DEIR Table 5-4, the Greater Residential Growth Alternative would result in an increase of 1,580 households, 1,670 residential units, and 3,590 residents above and beyond the increase projected under the proposed project.

Because the Greater Residential Growth Alternative would include more aggressive housing production, a potential loss of light industrial, office, and retail jobs is presumed. This Alternative presumes development of all the 2015–2023 Housing Element sites, all of the potential housing and mixed-use sites identified in the Downtown Precise Plan, and additional residential development at various locations throughout the EIR Study Area. The Greater Residential Growth Alternative presumes the same General Plan land use designations as the proposed project, except that two sites, one undeveloped and one industrial, would be re-designated as residential. Further, the Greater Residential Growth Alternative would result in a high-density land use designation change on one site that is currently designated Hillside Resource Residential.

When compared to the Project, implementation of this alternative would result in less impacts related to air quality, greenhouse gas emissions, noise, and transportations. Impacts to Cultural and Tribal Cultural Resources, Public Services and Recreation and Utilities and Service Systems would be greater under the Greater Residential Growth Alternative, however because the Greater

Residential Growth Alternative assumes that the same General Plan goals, policies and programs and recommended mitigation measures AIR-2.1, AIR-3.1a, AIR-3.1b, NOISE-1, NOISE-2A, NOISE-2B, impacts would be reduced with application of the mitigating features of the project and the mitigation measures enforced through implementation of the MMRP. Mitigation Measures AIR-2.2, AIR-3.2, CULT-1, TRAN-1a, TRAN-1B and TRAN-6 would not reduce impacts to less than significant due to the programmatic nature of the General Plan 2040 and Downtown Precise Plan. The Greater Residential Growth Alternative would result in more housing and population growth in the EIR Study Area when compared to the proposed project. However, such growth would generally occur in the same locations as included in the proposed project, which were chosen based on their appropriateness in fulfilling the City's goals of focusing infill development in existing urban areas near public transportation. Therefore, the Increased Residential Growth Alternative would meet the project objectives. However, this identification does not in and of itself mean this is the most appropriate alternative to fulfill the vision and Project objectives for the General Plan 2040 and the Downtown Precise Plan.

The Project is a reflection of the community's vision as identified through the General Plan 2040 and Downtown Precise Plan, which are based on a robust community engagement process. This alternative, therefore, does not fully achieve the community's vision because it reduces the overall number of jobs, could affect additional historic resources which are highly valued in the community, and could result in increased VMT and demands on utility and service systems resulting from the larger projected population. It is also inconsistent with regional forecasts and presumes more housing growth in San Rafael than is presumed by Plan Bay Area 2040 and other regional forecasts. As such it would be inconsistent with the plans and programs developed by other agencies that use these forecasts for their long-range planning and could potentially conflict with regional sustainability and smart growth objectives. For the foregoing reasons, the Greater Residential Growth Alternative is hereby rejected as infeasible.

C. LOWER RESIDENTIAL GROWTH ALTERNATIVE

Section 5.6.1 of the Draft EIR shows the difference between the growth projections of the proposed project compared to the Lower Residential Growth Alternative. As shown in DEIR Table 5-5, the Lower Residential Growth Alternative would result in 1,390 fewer households, 1,455 fewer residential units, 3,085 fewer residents, and 125 additional jobs. when compared to the proposed project. The Lower Residential Growth Alternative presumes the same General Plan land use designations as the proposed Project and differs only in the presumed rate of growth. Alternative C excludes several 2015–2023 Housing Element sites and Downtown Precise Plan sites included in the proposed Project. This alternative would convert less commercial acreage to housing, which results in a slightly higher total of jobs anticipated by 2040.

Overall, the Lower Residential Growth Alternative would result in greater impacts on Air Quality, Energy, GHG emissions, and Transportation compared to the Project. Impacts to Cultural and Tribal Cultural Resources, Public Services and Recreation, and Utilities and Service Systems would be lower compared to the Project. The alternatives analysis assumes that all applicable mitigation measures recommended for the General Plan 2040 and the Downtown Specific Plan goals, policies, and programs would apply to the Lower Residential Growth Alternative. Therefore, recommended mitigation measures AIR-2.1, AIR-3.1a, AIR-3.1b, impacts would be reduced with application of the mitigating features of the project and the mitigation measures enforced through implementation of the MMRP. Mitigation Measures AIR-2.2, AIR-3.2, CULT-1, TRAN-1a, TRAN-1B and TRAN-6 would not reduce impacts to less than significant levels due to the programmatic nature of the General Plan 2040 and the Downtown Precise Plan.

The Lower Residential Growth Alternative would result in less housing and population growth in the EIR Study Area when compared to the proposed project. As discussed in Chapter 3, Project Description, of the Draft EIR, the proposed project specifically plans for infill development in existing urban areas near public transportation to meet City goals. While the growth in Alternative C would occur in the same locations as the proposed project, Alternative C would result in less overall development, which would mean that the City would not meet its goal of providing adequate development to accommodate its growing population. This alternative would also fall short of the ABAG PBA 2040 population forecasts. For all of these reasons, the Lower Residential Growth Alternative does not meet all the project objectives as outlined in the proposed project. For this reason, the Lower Residential Growth Alternative is rejected as infeasible.

D. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

In addition to the discussion and comparison of impacts of the proposed project and the alternatives, Section 15126.6 of the CEQA Guidelines requires that an “environmentally superior” alternative be identified. In general, the environmentally superior alternative is an alternative to the proposed project that would be expected to generate the least number of significant impacts. This is an informational procedure and meeting the goals or needs of San Rafael is not a pre-requisite for this alternative. In addition, CEQA Guidelines preclude the city from identifying the proposed project as the environmentally superior alternative. CEQA Guidelines further prescribe that if the environmentally superior alternative is the “No Project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

A summary of the impacts shown in Table 5-2 in Section 5.5.2 of the Draft EIR for each alternative is as follows:

- » Alternative A would, in comparison to the project, result in reduced environmental impacts related to aesthetics, and utilities and service systems, but would ultimately result in greater impacts related to air quality, biological resources, cultural resources (historic buildings), energy, GHG emissions, noise (operational), and transportation.
- » Alternative B would, in comparison to the project, result in reduced environmental impacts related to air quality, energy, GHG emissions, noise (operational), and transportation, but would result in greater impacts to cultural resources (historic buildings) and utilities and service systems.
- » Alternative C would, in comparison to the project, result in reduced environmental impacts related to aesthetics, cultural resources (historic buildings), and utilities and service systems, but would have greater impacts to related to air quality, energy, GHG emissions, noise (operational), and transportation.

Therefore, as shown in Table 5-2, Alternative B would be the environmentally superior alternative.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth above, the City has found that the Project will result in project and cumulative significant adverse environmental impacts related to air quality, cultural resources, greenhouse gas emissions, and transportation that cannot be avoided following adoption, incorporation into the Project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project’s significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided

or substantially lessened, the agency must state in writing the reasons to support its actions (see also Public Resources Code Section 21081(b)). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the Project benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the Project outweigh the significant and unavoidable effects. The City finds that each of the Project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

ECONOMIC BENEFITS

1. The Project would promote a vibrant economy by supporting a diversity of business and employment opportunities. The Land Use Map includes multiple commercial and industrial designations corresponding to different employment types, providing opportunities for businesses and jobs in all sectors of the economy.
2. The Project provides for economic growth by planning for 4,115 jobs, allowing the city to remain a competitive and innovative business destination in the regional development environment, which would support increased municipal tax revenues.
3. The Project recognizes economic trends and includes programs to proactively address them. The Project includes specific measures to address retail and office vacancies and maintain the vibrancy of neighborhood commercial centers.
4. The Project protects industrial land from incompatible uses and retains significant acreage for production, distribution, repair, and marine-related activities.
5. The Project provides for greater zoning flexibility and "innovation districts," creating greater opportunities for mixed uses and other creative new development types, in anticipation of and response to structural changes in the retail sector.
6. The Project include provisions for workforce housing and additional affordable housing at all levels to provide more housing choices for those who work in San Rafael.
7. The Project envisions a thriving downtown that is the cultural, entertainment, and economic hub of Marin County, including opportunities for height bonuses and economic incentives for historic preservation and affordable housing. It anticipates and responds to structural changes in the retail sector.
8. The Project includes transportation and infrastructure improvements necessary to keep San Rafael economically competitive and capitalizes on recent investments in regional infrastructure such as Sonoma Marin Area Rail Transit.
9. The Project recognizes the importance of cultural arts to the local economy and includes programs to strengthen arts and entertainment, and the hospitality sector in general.
10. The Project promotes partnerships between the business community, the City, and local non-profits to advance the success of local businesses and meet business needs.
11. The Project includes new strategies for expanding and sustaining existing businesses and attracting new businesses to San Rafael.

12. The Project includes workforce development programs and equity strategies to improve education, job training, skill building, and hiring of local residents at all income levels.
13. The Project supports economically productive use of land, including revitalization of blighted, underutilized and vacant properties.
14. The Project strives to improve the physical qualities of the city's business districts, making San Rafael a more attractive place to live, work, dine, shop, and play.

ENVIRONMENTAL BENEFITS

1. The Project is environmentally superior to the existing General Plan, as discussed in Draft EIR Chapter 5 and summarized above in Section VI(A) of these Findings.
2. The Project includes a Conservation and Climate Change Element that provides a framework for climate change action planning and greenhouse gas reduction.
3. The Project recognizes the need for climate adaptation planning and includes proactive measures addressing sea level rise and wildfire prevention, as well as other climate-related hazards.
4. Notwithstanding EIR findings regarding GHG emissions, the Plan amplifies and strengthens Climate Change Action Plan programs to electrify building systems, develop and implement a zero emission vehicles plan, and implement community composting requirements.
5. Notwithstanding EIR findings regarding VMT increases, the Project includes strategies to reduce VMT per capita below existing levels by locating new development near transit, making transit more viable, encouraging mixed uses, and implementing trip reduction strategies that create alternatives to single occupancy vehicle commuting.
6. The Project concentrates growth in existing urbanized areas and thereby results in fewer impacts from the expansion of infrastructure into undeveloped greenfield areas. It minimizes the expansion of impervious surfaces, provides strategies to restore permeable surfaces where possible, and encourages low impact development and on-site retention of stormwater.
7. The Project's Community Design and Preservation Element includes policies and programs to protect hillsides, enhance the shoreline, maintain greenways, and plant street trees throughout the city.
8. The Project includes new and updated policies and programs to protect wetlands, restore creeks, protect wildlife and special status species, protect trees and reduce invasive plants, mitigate the impacts of mineral resource extraction, and maintain dark skies.
9. Notwithstanding EIR findings regarding air quality emissions, the Project includes new and updated policies and programs to improve air quality, including coordinating land use

and transportation planning to reduce driving and evaluating impacts on sensitive receptors.

10. The Project includes new and updated policies and programs to improve water quality, including protecting groundwater, capturing and filtering stormwater, reducing pollution from urban runoff, and protecting nearshore waters in San Rafael and San Francisco Bays.
11. The Project includes new measures to conserve water and energy, reduce solid waste disposal, promote composting and recycling, and encourage more sustainable living.
12. The Project sustains protection of local open space.

SOCIAL BENEFITS

1. The Project includes a new Equity, Diversity, and Inclusion Element that strives for greater social justice, inclusion of all residents in community life, and plans and programs to assist lower income and non-English speaking households.
2. The Project includes policies and programs to engage all residents, regardless of income, language, or family status, in governance and public processes.
3. The Project uses an “equity lens” for prioritizing future capital improvement projects, with an emphasis on lower income areas and disadvantaged communities.
4. The Project includes policies and programs achieving environmental justice and improved public health outcomes, including increased park land, pedestrian and bicycle improvements, better access to healthy food, community gardening opportunities, and quality health care, with a focus on lower income neighborhoods.
5. The Project provides for substantially more housing than General Plan 2020, particularly higher density housing that has a greater likelihood of being affordable.
6. The General Plan and Downtown Precise Plan both include anti-displacement policies, and the Precise Plan includes an affordable housing production and anti-displacement strategy.
7. The Project provides opportunities for increased building heights for projects that provide community benefits and affordable housing.
8. The Project includes policies and programs recognizing the needs of older adults and persons with disabilities.
9. The Project promotes a stronger sense of community through additional public spaces.
10. The Project includes new programs supporting emergency preparedness and resilience, including programs engaging lower income and non-English speaking residents.
11. The Project supports greater transportation choices, including public transit, and safer conditions for bicycling and walking.

VIII. ADOPTION OF THE MMRP

The City Council hereby adopts the mitigation measures set forth for the Project in the Final EIR and the MMRP attached hereto as Exhibit A and incorporated herein by this reference.

IX. SEVERABILITY

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

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 2nd day of August 2021 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

EXHIBIT A (by hyperlink): [Final Environmental Impact Report](#)