

RESOLUTION NO. 22-02

RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION ADOPTING CEQA FINDINGS OF FACT AND APPROVING A MITIGATION MONITORING & REPORTING PROGRAM TO SUPPORT CONDITIONAL APPROVAL OF USE PERMIT (UP21-001) AND AN ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED21-002) FOR THE DEVELOPMENT OF THE TISCORNIA MARSH RESTORATION PROJECT, EAST CANAL STREET (CASE NOS. UP21-001, ED21-002)

WHEREAS, the Tiscornia Marsh covers 23 acres of tidal marsh and Baylands, as well as over 2,000 lineal feet of shoreline levee that are bay ward of Albert J Boro Community Center and Pickleweed Park. The Tiscornia Marsh is owned by Marin Audubon Society; and

WHEREAS, over the past decades, the Tiscornia Marsh property has experienced considerable erosion along its bay ward edge, which is attributed to the wave action from the San Francisco Bay. As a result, approximately three acres of valuable tidal marsh has been lost due to erosion; and

WHEREAS, in June 2016, the Bay Area counties approved Measure AA, a parcel tax measure which places a \$12.00 per year tax on every parcel in the Bay Area. The purpose of the Measure AA tax is to generate funds for marsh restoration projects around the San Francisco and San Pablo Bays. The goal is to improve water quality, restore wildlife habitat, and to protect communities from increased flooding and sea level rise; and

WHEREAS, in 2018, Marin Audubon Society applied for and successfully secured a Measure AA grant to fund the design, permitting, and CEQA/environmental review for a restoration of the Tiscornia Marsh. The Measure AA application was endorsed by the San Rafael City Council on October 1, 2018 (adoption of City Council Resolution 14592). As part of the Measure AA application process, the restoration project was expanded to incorporate/include the City-owned, five-acre, diked marsh located north of the Pickleweed Park playfields; and

WHEREAS, on January 3, 2021, Marin Audubon Society applied for planning applications (Use Permit, UP21-001 and Environmental and Design Review Permit ED21-002) to seek City approval of the Tiscornia Marsh Restoration Project. Per the SRMC Title 14 (Zoning), these applications are required as the project is located within the PD (Planning Development) and WO- (Wetland Overlay) Districts; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA) Guidelines, the Tiscornia Marsh Restoration Project is subject to environmental review. It was determined that the project has the potential to result in potentially significant environmental effects, and the preparation of an Environmental Impact Report was recommended. Following the provisions of the CEQA Guidelines, and Environmental Impact Report was prepared to assess the impacts of the restoration project (Tiscornia Marsh Restoration Project Final Environmental Impact Report [FEIR]). The Planning Commission has: a) reviewed the FEIR finding it to be adequate and complete; and b) certified the FEIR by separate resolution; and

WHEREAS, prior to taking action to approve the planning applications for the project, the CEQA Guidelines require that the findings and recommendations of the FEIR be considered, and that all FEIR mitigation measures be incorporated into this action. To comply with this requirement, by separate resolution, the Planning Commission has adopted CEQA Findings of

Fact and adopting a Mitigation Monitoring and Reporting Program (MMRP) to support action on the planning applications; and

WHEREAS, on January 11, 2022, the Planning Commission held a duly noticed public hearing to review the draft CEQA Findings of Fact and the MMRP and considered all oral and written public testimony and the written report of the ~~Community~~ Development Department.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission of the City of San Rafael hereby: a) adopts the following CEQA Findings of Fact; b) 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 Planning Commission reviewed and certified the FEIR. As part of this action and as outlined in this separate resolution, the Planning Commission reaffirms the findings made in the separate Planning Commission 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 and drawings;
- The DEIR and Appendices (September 2021) and FEIR (December 28, 2021), 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);
- 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 case law 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 environmental impacts that could result from approval of the Project. Because the FEIR concludes that implementation of the Project would result in potentially significant environmental impacts associated with the Project and specifies measures designed to mitigate adverse environmental impacts to less than significant, 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 not applicable or have no impact in the EIR; b) impacts found to be less than significant in the EIR; c) significant impacts that can be avoided or reduced with mitigation; and d) 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 Planning Commission 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 NOT APPLICABLE OR NO IMPACT

During the Project's scoping period and Initial Study development, the City determined that some resource topics would not be affected by the Project resulting in a determination of non-applicability or no impact, including Agriculture and Forestry Resources; Geology & Soils (rupture of known earthquake fault, soils capable of supporting septic tanks, paleontological resources); Hazards & Hazardous Materials (Cortese List hazardous materials sites, airport land use plan); Land Use & Planning; Mineral Resources; Noise & Vibration (airport land use plan); Population & Housing, Public Services (schools), Utilities & Service Systems (wastewater treatment), and Wildfire (cumulative). 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, along with the reasons for those determinations. The Planning Commission adopts those statements and concludes that the referenced environmental effects are insignificant and no further analysis in the FEIR is required.

B. IMPACTS DETERMINED TO BE LESS-THAN-SIGNIFICANT

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, Greenhouse Gas Emissions, Hydrology and Water Quality, Energy, Geology and Soils, Hazards and Hazardous Materials, Noise, Public Services, Recreation, Utilities and Service Systems, and Wildfire were determined to be less-than-significant and, thus, no mitigation measures are necessary or required, as noted below.

Finding: The Planning Commission 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 have a substantial adverse effect on a scenic vista.

Facts in Support of Finding: As discussed on pages 3.2-15 to 3.2-19 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not have a substantial adverse effect on a scenic vista. Project construction will not have a substantial adverse effect on a scenic vista because there is only a limited number of public vantage points with views onto the Project site that present scenic or panoramic views, and a lack of gathering places for contemplative views of the site. Upon Project completion, the existing views of the site will remain largely unchanged, benefiting from the expanded and restored tidal marsh systems and the Project will create new opportunities for visitors to access scenic views within the Project site on more accessible trails and improved vantage points from the soccer field. This impact will therefore be less than significant.

b. The Project will not conflict with regulations governing scenic quality.

Facts in Support of Finding: As discussed on page 3.2-20 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not conflict with regulations governing scenic quality due to maintaining structural setbacks in proximity to San Rafael Creek and San Rafael Bay, and developing the coarse beach and levees to heights much lower than the "low-scale" building development allowed by the site's Canalfront Review Overlay. By protecting sensitive wildlife areas, enhancing habitat, adding seating and signage to the new trails, encouraging natural vegetation, and improving public access, the Project will advance the policies and programs set forth in the General Plan 2040 and the recommendations in the Canalfront Conceptual Design Plan. This impact will therefore be less than significant.

c. The Project will not create a new source of substantial light or glare that would adversely affect day or nighttime views.

Facts in Support of Finding: As discussed on pages 3.2-21 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 construction occurring during daylight hours and no permanent lighting being associated with the Project. Project construction will occur during the daylight hours and will not use portable lighting, and Project operation does not call for the installation of any permanent lighting. The Project will not create a new source of substantial light or glare that will

adversely affect day or nighttime views in the area. This impact will therefore be less than significant.

d. The Project will not result in cumulative aesthetic impacts.

Facts in Support of Finding: As discussed on pages 3.2-21 to 3.2-22 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 timing of the Project construction will not overlap with some cumulative projects. A cumulative project would require closure of the soccer field, which would reduce the already limited potential public vantage points of the Project site. An ongoing creek dredging maintenance project would use equipment similar to the barge and offloading equipment used by the Project. The Project, in combination with other projects in the cumulative scenario, will not cause a significant, adverse cumulative impact on aesthetic resources, and thus this impact will be less than significant.

2) Air Quality

a. The Project will be consistent with the Bay Area Clean Air Plan.

Facts in Support of Finding: As discussed on DEIR pages 3.3-18 to 3.3-19 and supported by evidence contained within the entirety of the record of proceedings, the Project will be consistent with the 2017 Clean Air Plan. The 2017 Clean Air Plan Transportation Control Measure TR22, Construction, Freight, and Farming Equipment, is the only measure that addresses emissions from a construction project. It provides incentives for the early deployment of electric, Tier 3, and Tier 4 off-road engines used in construction. The measure is designated for implementation by the Bay Area Air Quality Management District to provide incentives and would not be applicable to individual project applicants. Consequently, the Project will be consistent with the 2017 Clean Air Plan. This impact will be less than significant.

b. The Project will not result in emissions that lead to odors affecting a substantial number of people.

Facts in Support of Finding: As discussed on DEIR pages 3.3-24 to 3.3-25 and supported by evidence contained within the entirety of the record of proceedings, the Project will not generate substantial odors because diesel combustion emissions from Project construction will be temporary, intermittent, and spatially dispersed. Associated odors will dissipate quickly. During excavation, organic materials will be temporarily exposed to the air. Such exposure is not anticipated to result in substantial emission of odors, because water levels will be drawn down below the organic layer, allowing sediments to partially dry out, rather than stagnating and generating odors. Also, Project construction activities will include covering this layer early in the construction period, allowing associated odors to dissipate quickly. Therefore, Project impacts related to odors will be less than significant.

3) Biological Resources

- a. **The Project will not have substantial adverse effects on jurisdictional wetlands and waters.**

Facts in Support of Finding: As discussed on DEIR pages 3.4-42 to 3.4-45 and supported by evidence contained within the entirety of the record of proceedings, the Project will not have substantial adverse effects on jurisdictional wetlands and waters because construction impacts will be temporary and minor and permanent impacts will be offset by a net gain in wetland and water function and values after Project implementation. Temporary impacts on wetlands and waters as a result of a temporary access road, crane platform, and barge offloading location will affect less than 1 percent of wetland and waters habitat, and these areas can naturally reestablish. Due to sea level rise, the Project site is expected to gain future benefits to existing habitats due to increased ecological connectivity, improved tidal hydrology, and marsh erosion protection over the next 50 years, which will enhance wetlands, waters, and upland areas in and adjacent to the Project site. Although there will be some conversion of wetland and water types and a nominal loss of approximately 0.40 acre of wetlands and waters, the Project will increase the ecological function and long-term benefits of 24 acres of wetlands and waters on site including an increase in over 6 acres of tidal marsh. This impact will be less than significant.

- b. **The Project will not have a substantial adverse effect on any riparian habitat or other sensitive natural community.**

Facts in Support of Finding: As discussed on DEIR pages 3.4-48 to 3.4-49 and supported by evidence contained within the entirety of the record of proceedings, the Project will not have substantial adverse effects on riparian habitat or other sensitive natural community because there is no riparian habitat or eelgrass beds in the Project area, and Pickleweed Mat Alliance habitat will increase under the Project. This impact will be less than significant.

4) Cultural Resources

- a. **The Project will not cause a substantial adverse change in the significance of a historical resource.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-6 to B-7 and supported by evidence contained within the entirety of the record of proceedings, the Project will not cause a substantial adverse change in the significance of a historical resource because no historical resources are present within the Project site. This impact will be less than significant.

5) Energy

- a. **The Project will not waste energy resources.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-10 to B-11 and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy. Construction activities

and corresponding fuel energy consumption will be temporary and localized, as the use of diesel fuel and heavy-duty equipment will not be a long-term condition of the Project. The total fuel use during construction will be equivalent to less than 3.4 percent of the total diesel fuel sold in Marin County in 2019, and approximately 0.0004 percent of the gasoline fuel sold in Marin County. In addition, there are no unusual Project characteristics that will require the use of less energy efficient construction equipment. This impact will be less than significant.

b. The Project will not conflict with a plan for renewable energy or energy efficiency.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-11 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. With respect to transportation energy, the Project will comply with the Low Carbon Fuel Standard, standards established by the U.S. Environmental Protection Agency and California Air Resources Board, and the energy-related measures of the City of San Rafael Final Draft Climate Change Action Plan 2030. The Project will not involve waste disposal as no demolition is proposed. Excavated materials will be reused on-site. The Project therefore will not conflict or obstruct a state or local plan for renewable energy or energy efficiency. This impact will be less than significant.

c. The Project, in combination with reasonably foreseeable future projects, will not result in significant energy impacts.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-12 and supported by evidence contained within the entirety of the record of proceedings, the adverse Project-related impacts on electricity demand will be negligible, and will not significantly impact peak or base power demands during construction, operation, or maintenance. Accordingly, the Project's less-than-significant incremental contribution to cumulative peak and base demands will not be cumulatively considerable. This impact will be less than significant.

6) Geology & Soils

a. The Project will not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-15 and supported by evidence contained within the entirety of the record of proceedings, the Project will not directly or indirectly cause potential substantial adverse effects involving strong seismic ground shaking. The restoration and enhancement of marsh habitats will not require protection from seismic shaking because no structures will be constructed, and the Project will not substantially increase visitation to the site due to shoreline levee/trail improvements, as compared to existing conditions. Therefore, impacts relative to seismic shaking during Project construction and operation will be less than significant.

- b. The Project will not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-15 to B-16 and supported by evidence contained within the entirety of the record of proceedings, the Project will not directly or indirectly cause potential substantial adverse effects involving seismic-related ground failure, including liquefaction. While seismic-induced liquefaction may damage trails and restored habitat areas, the damage will not result in risks to people, and the damaged trails and habitat could be easily repaired. During the operational phase, the Project will not change the risk of liquefaction or ground failure from existing conditions, which include the same structure types. Therefore, impacts relative to seismic-induced ground failure such as liquefaction will be less than significant.

- c. The Project will not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-16 and supported by evidence contained within the entirety of the record of proceedings, the Project will not directly or indirectly cause potential substantial adverse effects involving landslides. The relatively flat topography of the area makes landslides unlikely in the Project site; landslide risk maps show no risk areas in the Project site. The Project's wetland restoration activities will not create slopes susceptible to landsliding. Therefore, impacts relative to seismically induced landslides will be less than significant.

- d. The Project will not result in substantial soil erosion or the loss of topsoil.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-16 to B-17 and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in substantial erosion or the loss of topsoil. The Project will comply with the requirements of the Construction General Permit requiring preparation and implementation of a Stormwater Pollution Prevention Plan, which requires applications of best management practices to control runoff and runoff from construction work sites. Once constructed, the restored wetland habitats will be largely self-maintaining after the initial period of vegetation establishment. With compliance with existing regulations and implementation of the adaptive management activities, impacts associated with erosion will be less than significant.

- e. The Project will not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-17 and supported by evidence contained within the entirety of the record of proceedings, neither construction nor operation of the Project includes the extraction of groundwater or

oil and will not otherwise create soil that is unstable. Therefore, impacts will be less than significant.

- f. The Project will be located on expansive soil, as defined in Table 18 1 B of the Uniform Building Code (1994), but will not create substantial direct or indirect risks to life or property.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-17 and supported by evidence contained within the entirety of the record of proceedings, soils within the Project site primarily include xerorthents, a soil with a low potential to expand. In addition, the site is underlain by Bay Mud, which has expansive properties. The presence of expansive soils will not prevent the restoration of tidal habitat. While expansive soils may cause cracks in trails, the cracks will be a minor nuisance that will be easily repaired with minor maintenance, assuming the cracks were large enough to become an issue. In addition, soils used for levee improvements will be imported from an upland source, which will further minimize the expansive properties of the soils at the Project site. Therefore, impacts relative to expansive soils will be less than significant.

- g. The Project, in combination with reasonably foreseeable future projects, will not result in significant cumulative impacts related to geology and soils.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-18 and supported by evidence contained within the entirety of the record of proceedings, there are no rare or special geological features or soil types on the Project site that will be affected by Project activities and no other known activities or projects with activities that affect the geology and soils of this site. In addition, the Project, as with all foreseeable projects, will be required to comply with the applicable state and local requirements, such as the Construction General Permit. Therefore, the Project's contribution to cumulative geotechnical and soil impacts is less than significant.

7) Greenhouse Gas Emissions

- a. The Project will not generate greenhouse gas emissions that would exceed the Bay Area Air Quality Management District's threshold of significance for greenhouse gas emissions.**

Facts in Support of Finding: As discussed on pages 3.5-11 to 3.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project's construction over the three-year construction period will generate a total of 1,307 metric tons of carbon dioxide equivalent emissions. The Project's total amortized construction and operational greenhouse gas emissions (including if truck transport is required to accommodate additional export and import of foundational soil), based on a 30-year Project life span, will be below the Bay Area Air Quality Management District's operational threshold of significance for nonstationary sources, as adjusted to reflect year 2030 emission reduction targets. Therefore, this impact will be less than significant.

b. The Project will not conflict with applicable plans, policies, and regulations adopted for the purposes of reducing greenhouse gas emissions.

Facts in Support of Finding: As discussed on pages 3.5-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will be consistent with the City of San Rafael's Final Draft Climate Change Action Plan 2030. The Project will comply with construction and demolition debris plan requirements because the Project will not involve waste disposal, as no demolition is proposed, and excavated materials will be reused on-site. The Project will support the Climate Change Action Plan 2030's requirements to prepare for and adapt to rising sea level. One of the primary goals of the Project is to create sustainable benefits that consider future environmental changes such as sea-level rise and sedimentation. The Project will be in conformance with the Bay Area Air Quality Management District's greenhouse gas emissions thresholds, and Project construction will generally be consistent with applicable provisions of the 2017 Scoping Plan Update. Therefore, the Project will comply with the City's applicable plans, policies, and regulations for reducing greenhouse gas emissions, and this impact will be less than significant.

c. Cumulative Greenhouse Gas Impacts

Facts in Support of Finding: As discussed on pages 3.5-13 to 3.5-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the greenhouse gas emissions from an individual project, even a very large development project, would not individually generate sufficient greenhouse gas emissions to measurably influence global climate change, and thus, the assessment of greenhouse gas emissions impacts is inherently cumulative. The evaluation of cumulative greenhouse gas impacts evaluates whether the Project will make a considerable contribution to cumulative climate change effects. As such, the analysis in Findings discussion 7a above (The Project will not generate greenhouse gas emissions that would exceed the Bay Area Air Quality Management District's threshold of significance for greenhouse gas emissions) considers the potential greenhouse gas cumulative impacts of the Project. Implementation of the Project will not result in a cumulatively considerable contribution to annual greenhouse gas emissions. As such, implementation of the Project will not result in a cumulatively considerable impact.

8) Hazards & Hazardous Materials

a. The Project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-22 to B-23 and supported by evidence contained within the entirety of the record of proceedings, hazardous materials (e.g., fuels, oils, and lubricants) will be routinely transported, stored, and used at the Project site during construction. Because the Project will result in soil disturbance greater than 1 acre, management of soil and hazardous materials during construction will be subject to the requirements of the Construction General Permit, which requires preparation and implementation of a Stormwater Pollution Prevention Plan that lists hazardous materials; describes

spill prevention measures, equipment inspections, equipment, and fuel storage; identifies protocols for responding immediately to spills; and describes best management practices for controlling site runoff. The transportation of hazardous materials will be regulated by the United States Department of Transportation, California Department of Transportation, and the California Highway Patrol. In the event of a hazardous materials spill, a coordinated response will occur at the federal, state, and local levels, including the involvement of the Marin County Hazardous Materials Response Team. After construction, maintenance for the tidal marsh, ecotone slope, and coarse beach during the 3- to 5-year establishment period will include the removal of invasive plants using localized herbicides or mechanical means, and temporary irrigation of ecotone slope plantings. The California Department of Pesticide Regulation, California Code of Regulations (Title 3. Food and Agriculture) Division 6, Pesticides and Pest Control Operations (Sections 6000 – 6960) will regulate the use of herbicides at the site. Compliance with the laws and regulations that govern the transportation, use, handling, and disposal of hazardous materials will limit the potential for hazardous conditions due to the use or accidental release of hazardous materials, and, therefore, the impact will be less than significant.

- b. The Project will not emit hazardous emissions or handle 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 in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-23 to B-24 and supported by evidence contained within the entirety of the record of proceedings, construction equipment and vehicles will use low toxicity materials including gasoline, diesel fuel, oil, and lubricants, which are all commonly used in construction. After construction, maintenance for the tidal marsh, ecotone slope, and coarse beach during the 3- to 5-year establishment period will include the removal of invasive plants using localized herbicides or mechanical means, and temporary irrigation of ecotone slope plantings. While two schools are located within 0.25 mile of the Project, the low toxicity of the materials associated with construction and maintenance, and required compliance with the laws and regulations that govern the transportation, use, handling, and disposal of hazardous materials will reduce impacts on area schools to a less-than-significant level.

- c. The Project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-24 to B-25 and supported by evidence contained within the entirety of the record of proceedings, there is no emergency response plan or evacuation plan actions specific to the Project site or immediate vicinity; the nearest designated evacuation route is Point San Pedro Road (on the north side of San Rafael Creek from the Project site), which serves as a primary wildfire evacuation route. Construction activities will occur within the habitat area to be restored and not on public roads. Spinnaker Point Drive, Canal Street, and other nearby City streets may be used for access but will not require closure or restriction of any lanes. Materials and equipment will be transported to and from the site via barge. In addition, in-water work will occur

in an area with existing boating and personal boat docks. As such, water traffic will occur near the Project site. Boat traffic may be temporarily reduced during construction for safety reasons, but boaters will be able to pass around the Project site. After construction, access for Project maintenance and inspections will occur via Spinnaker Point Drive and Canal Street, but will not require the closure or restriction of any lanes. As a result, the Project will not impair implementation of an adopted emergency response plan or emergency evacuation plan. Thus, the impact will be less than significant.

d. The Project will not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-25 and supported by evidence contained within the entirety of the record of proceedings, the Project site is within a Local Responsibility Area and is designated by CAL FIRE as Non-Very High Fire Hazard Severity Zone. The use of mechanized equipment during Project construction or operation/maintenance could cause a wildfire if spark-arresting equipment is not installed on hot surfaces such as mufflers. However, the California Vehicle Code, Section 38366, requires spark-arresting equipment on vehicles that travel off-road. This code applies to the Project, and vehicles that work in off-road areas will be required to have spark-arresting equipment to reduce the risk of wildfires. Therefore, the Project will have a less-than-significant impact related to wildland fire hazards.

e. The Project, in combination with reasonably foreseeable future projects, will not result in significant cumulative impacts related to hazards and hazardous materials.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-25 to B-26 and supported by evidence contained within the entirety of the record of proceedings, the contribution of hazardous materials use and hazardous waste disposal associated with the Project is minimal, and combined hazardous materials effects from past, present, and reasonably foreseeable projects within the City and immediate area will not be significant. Project construction and operation will involve the use of potentially hazardous materials (e.g., localized herbicides, solvents, and diesel and petroleum fuels), that when used correctly and in compliance with existing laws and regulations, will not result in a significant hazard to visitors or workers in the vicinity of the Project site. Impacts associated with the potential to encounter unknown hazardous debris and waste that may exist on site during construction will be reduced to a less-than-significant level through environmental review pursuant to CEQA. Furthermore, the Project and all other projects in the cumulative area are required to comply with the existing regulations related to hazards and hazardous materials. Consistency with federal, state, and local regulations will prevent the Project, as well as other projects, from creating cumulative impacts in terms of hazards and hazardous materials. For the reasons outlined above, implementation of the Project will not result in an incremental contribution to cumulative impacts related to hazards and hazardous materials that are cumulatively considerable; therefore, cumulative hazards and hazardous materials impacts are considered less than significant.

9) Hydrology and Water Quality

- a. **The Project will not violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality.**

Facts in Support of Finding: As discussed on pages 3.6-16 to 3.6-17 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, construction activities have the potential to adversely affect water quality through the release of pollutants associated with construction equipment (e.g., fuel, motor oil) or sediments released due to excavation and fill placement. The Project will comply with the requirements of the Construction General Permit and local stormwater ordinances, including implementation of a Stormwater Pollution Prevention Plan requiring the use of best management practices to control runoff and runoff from construction. With compliance with existing regulations, impacts associated with water quality during construction will be less than significant. Once constructed, the restored wetland habitat will be largely self-maintaining after the vegetation has been re-established. To ensure the Project performs as anticipated, the Project will include performance monitoring and adaptive management activities. With compliance with existing regulations and implementation of performance monitoring and adaptive management activities, construction and operation impacts associated with water quality will be less than significant.

- b. **The Project will not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner that will result in substantial erosion or siltation on or off site; substantially increase the rate or amount of surface runoff in a manner that will result in flooding on or off site; create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows.**

Facts in Support of Finding: As discussed on pages 3.6-18 to 3.6-19 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, construction of the Project will include earthmoving activities such as excavation, trenching, grading, and importation of fill. Compliance with the Construction General Permit, the Stormwater Pollution Prevention Plan, and City of San Rafael Best Management Practices for construction activities will control the volume and velocity of runoff, if any. The Project will include the installation of a sediment curtain outboard of the in-water construction areas to prevent sediment from being discharged to the Bay. In addition, construction will be phased so that the coarse beach is installed first to contain the dredged material and provide sediment control during placement to prevent erosion, siltation, flooding, and pollution. Upon completion, the goal of the Project is to enhance the ecological function of the Tiscornia Marsh and increase flood protection for the Canal neighborhood. The Project will include performance monitoring at 1-, 3-, 5-, and 10-years post-construction for permit compliance and to meet performance objectives. Compliance with the Construction General Permit, existing regulations, and implementation of the performance monitoring activities will reduce construction and operation impacts relative to altering the existing drainage pattern to a less-than-significant level.

c. The Project will not risk the release of pollutants in flood hazard, tsunami, or seiche zones.

Facts in Support of Finding: As discussed on pages 3.6-19 to 3.6-20 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project site is located entirely within the 100-year flood zone, partially within the tsunami hazard zone, and partially within a seiche zone due to its proximity to San Rafael Creek. Required preparation and implementation of the Stormwater Pollution Prevention Plan will include best management practices to contain chemicals (e.g., fuel, motor oil) from being released during construction, including straw wattles, silt fences, and sediment curtains. These measures will be in place during the unlikely event of a flood, tsunami, or seiche. Upon completion, the goal of the Project is to enhance the ecological function of the Tiscornia Marsh and increase flood protection for the Canal neighborhood. The levees will be restored to heights above the base flood elevation, reducing the potential for flooding. The restored wetland habitat, jetty, and coarse beach constructed outboard of the levees will provide additional protection from flooding, tsunamis, and seiches by absorbing much of the energy of such events. The Project will include performance monitoring at 1-, 3-, 5-, and 10-years post-construction for permit compliance and to meet performance objectives. With compliance with existing regulations and implementation of best management practices and performance monitoring activities, construction and operation impacts associated with flooding, tsunamis, and seiches will be less than significant.

d. The Project will not conflict with or obstruct the implementation of a water quality control plan or sustainable groundwater management plan.

Facts in Support of Finding: As discussed on pages 3.6-20 to 3.6-21 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project is not located within a medium or high priority groundwater basin and is therefore not subject to a sustainable groundwater management plan. Required preparation and implementation of the Stormwater Pollution Prevention Plan will include best management practices to contain chemicals (e.g., fuel, motor oil, sediment) from being released during construction, including straw wattles, silt fences, and sediment curtains. These measures will reduce the potential for construction activities to adversely affect water quality, which will make the Project consistent with the Basin Plan. Once constructed, the restored wetland habitat will be largely self-maintaining after the vegetation has been re-established. Project operations will include the removal of invasive plants using localized herbicides or mechanical means, and the temporary irrigation of ecotone slope plantings. In addition, the flood protection levees and trails will require periodic inspection to identify maintenance and adaptive management needs. The Project will include physical and biological monitoring at 1-, 3-, 5-, and 10-years post-construction to meet performance objectives, which will include preventing sediments from being released into the Bay. With compliance with existing regulations, implementation of BMPs, and physical and biological monitoring, impacts relative to the Basin Plan during construction and operation will be less than significant.

- e. **The Project, combined with cumulative development in the Project vicinity, will not result in significant cumulative impacts relative to hydrology or water quality.**

Facts in Support of Finding: As discussed on pages 3.6-21 to 3.6-23 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the state Construction General Permit will require each project that disturbs 1 or more acres to prepare and implement a Stormwater Pollution Prevention Plan during construction. The Stormwater Pollution Prevention Plans will describe best management practices to control runoff and prevent erosion and flooding for each project. Through compliance with this requirement, construction-related runoff and erosion impacts on water quality will be controlled and will not be cumulatively considerable. Once constructed, the restored wetland habitat for the Project will be largely self-maintaining after the vegetation has been re-established. Performance monitoring will ensure that the levees are maintained to prevent erosion and adverse water quality impacts. The Project and all cumulative projects with stormwater runoff that drain into the City's stormwater system are required to comply with the State Water Resources Control Board Stormwater National Pollutant Discharge Elimination System Permit for small municipal separate storm sewer systems (also known as MS4s), including Provision E.12, Post-Construction Stormwater Management Program. This provision mandates municipalities to require specified features and facilities to control pollutant sources; control runoff volumes, rates, and durations; and to treat runoff before discharge from the site. With compliance with MS4 requirements, the operation of the Project and cumulative projects will not have a cumulatively considerable contribution to the cumulative impact on water quality. No significant cumulative impacts are identified.

10) Noise & Vibration

- a. **The Project will not result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of established standards.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-35 to B-37 and supported by evidence contained within the entirety of the record of proceedings, construction activities of all phases of the Project will generate noise levels at the nearest sensitive receptors below the 90 dBA criterion of Section 8.13.050(A) of the San Rafael Municipal Code. Once all construction activities are completed, the Project will not create any new permanent noise sources (e.g., pumps, generators). Periodic maintenance of the levee and restoration areas will be similar to existing conditions. Operation and maintenance of the Project will not generate a substantial increase in noise levels in excess of standards established in the local general plan or noise ordinance. The temporary increase in ambient noise levels during Project construction and operation will result in a less-than-significant impact.

- b. **The Project will not result in the generation of excessive ground-borne vibration or ground-borne noise levels.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-37 to B-38 and

supported by evidence contained within the entirety of the record of proceedings, the construction of the Project will include compaction and pile driving, which can generate significant levels of vibration. For adverse human reaction, the analysis applies the “strongly perceptible” threshold of 0.9 inch/second peak particle velocity for transient sources, and a threshold of 0.3 inch/second peak particle velocity to assess damage risk for buildings. There are no historic structures in the vicinity of the Project site that could be adversely affected by Project construction-related vibration. There are single-family residences located 470 feet north of the proposed temporary crane platform where driving of piles will occur. These single-family residences will be exposed to a vibration level of less than 0.026 inch/second peak particle velocity, well below the applied human annoyance and building damage threshold. Compaction activities for the new levee will occur as close as 150 feet east of existing residences at the terminus of Sorrento Way. These single-family residences will be exposed to a vibration level of less than 0.029 inch/second peak particle velocity, also well below the applied human annoyance and building damage threshold. Consequently, existing sensitive receptors and structures near the Project site will not be affected by substantial ground-borne vibration during Project construction. This impact will therefore be less than significant.

- c. The Project, in combination with reasonably foreseeable future projects, will not result in significant noise or vibration impacts.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-38 to B-39 and supported by evidence contained within the entirety of the record of proceedings, the construction activities of the Project will generate noise levels of up to 74.4 dBA at the nearest receptors, which is below the 90 dBA criterion of Section 8.13.050(A) of the San Rafael Municipal Code. It is unlikely that either of the two relevant cumulative projects, individually, will result in an equivalent intensity of construction activity as that of the Project. However, if it were conservatively assumed that each of these two projects will generate the same noise levels as those of the Project, the resultant noise level will be up to 79.2 dBA, which will still be below the 90 dBA criterion of Section 8.13.050(A) of the San Rafael Municipal Code. Consequently, the cumulative noise impact will be less than significant. Neither of the two relevant cumulative projects will be expected to involve the use of vibration-generating construction equipment. Therefore, because the Project will have a less-than-significant construction impact with respect to vibration, as discussed above, the cumulative vibration impact will also be less than significant.

11) Public Services

- a. The Project will not result in substantial adverse physical impacts associated with the provision of government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable performance objectives for fire protection.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-44 and supported by evidence contained within the entirety of the record of proceedings, Project construction will not significantly increase the demand for fire protection services throughout the Project vicinity due to population growth and will not change any uses on the site. For these reasons, the Project will not be expected to substantially

affect the San Rafael Fire Department's ability to maintain service ratios, response times, or other performance objectives or require new or physically altered facilities. For this reason, and because Project operations will be consistent with existing conditions, the Project's impact with respect to fire services will be less than significant.

- b. The Project will not result in substantial adverse physical impacts associated with the provision of government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable performance objectives for police protection.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-44 and supported by evidence contained within the entirety of the record of proceedings, the Project will not be expected to substantially affect the City of San Rafael Police Department's ability to maintain service ratios, response times, or other performance objectives or require new or physically altered facilities. The Project's impact with respect to the provision of police protection during construction and operations will be less than significant.

- c. The Project will not result in substantial adverse physical impacts associated with the provision of government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable performance objectives for parks.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-45 and supported by evidence contained within the entirety of the record of proceedings, the Project site includes unpaved segments of the Bay Trail at the existing levee crest. The Project will improve and pave these trail segments and will add educational signage. The Project will not result in increased population such that there will be additional demand for park facilities during or after construction, and the completed Project will expand accessibility to the trail segments within the Project site. The Project's impacts related to new or expanded park facilities to maintain acceptable service ratios will be less than significant.

- d. The Project will not result in substantial adverse physical impacts associated with the provision of government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable performance objectives for other public facilities.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-45 and supported by evidence contained within the entirety of the record of proceedings, the Project will not involve the employment of new permanent employees or residents, and Project operations will be consistent with existing conditions; therefore, it is not expected to increase the use of other public facilities (such as libraries or hospitals), and the impact with respect to other public facilities will be less than significant.

- e. The Project, in combination with reasonably foreseeable future projects, will not result in significant cumulative impacts on public services.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-45 and supported by

evidence contained within the entirety of the record of proceedings, the geographic scope of potential cumulative public services impacts encompasses the Project site and its vicinity. Cumulative scenario projects include the Pickleweed Field and Park Project and the Schoen Park Conversion to Parking. However, the Project and cumulative projects will replace existing land uses, or result in a new land use that is compatible with existing land uses, and will not result in an increase in population or visitation that will require the construction of new public service facilities. Therefore, a cumulative public services impact will not occur, and the Project's contribution to cumulative public services impacts will not be cumulatively considerable.

12) Recreation

- a. **The Project will not increase the use of existing recreational facilities such that substantial physical deterioration would occur. The Project includes recreational facilities or requires the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-46 to B-47 and supported by evidence contained within the entirety of the record of proceedings, the Project includes the construction and operation of a recreational resource, the implementation of which could cause adverse physical effects on the environment. The impacts that could result from Project construction and operation are addressed in the corresponding topical sections of the EIR. However, construction and operation of the Project is not expected to have substantial adverse effects related to increased use of nearby parks or facilities such that deterioration or degradation will occur. The Project will include changes to the existing shoreline levee that traverses the Project site, which is currently used as a recreational trail. During Project construction, the levee trail will be closed to access; however, use of the soccer field and Pickleweed Park play areas and community facility will not be affected. Trail users will be able to continue along the Bay Trail by utilizing the pedestrian sidewalk along Spinnaker Point Drive during construction. It is not anticipated that existing recreation users will use other recreation resources at a level that will result in the deterioration of other nearby recreation facilities. Under Project operation, the levee trails will be improved and new signage and seating will be added. Implementation of the Project will not result in the increased use of other recreational facilities that will result in substantial physical deterioration of the facilities. This impact will therefore be less than significant.

- b. **The Project, in combination with reasonably foreseeable future projects, will not result in significant cumulative impacts on recreation resources.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-47 and supported by evidence contained within the entirety of the record of proceedings, the Project will result in the temporary closure of access to the levee trail during construction. It is anticipated that local users will detour to the pedestrian sidewalk along Spinnaker Point Drive to continue on the Bay Trail. Cumulative scenario projects that could result in a restriction of access to recreational opportunities include the Pickleweed Field and Park Project and the Schoen Park Conversion to Parking. The potential for active construction on elements of these projects that will affect access to

recreational facilities during the same period as the Project is expected to be limited. Even if closures to recreational facilities were to co-occur with the Project, several other parks and recreational facilities in the vicinity will remain open and unaffected by construction of the Project or of the cumulative scenario projects. Therefore, the Project's contribution to a cumulative loss of recreational opportunities, or to cumulative increases in the use of parks or recreational facilities, will not be cumulatively considerable and will be less than significant.

13) Transportation

- a. **The Project will not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-49 to B-52 and supported by evidence contained within the entirety of the record of proceedings, direct traffic impacts from construction of the Project will be short term and temporary. The maximum number of truck trips generated by construction activity at the Project site will be 16 daily round trips, or 32 one-way trips (16 inbound, 16 outbound), and the truck trips will be spread over the course of an 8-hour workday. The maximum number of construction workers on site at any given time will be 19, which will generate 38 daily one-way trips, conservatively assuming that all workers will drive alone and not carpool. Construction-generated traffic will be temporary and, therefore, will not result in any long-term degradation in operating conditions on any locally used roadways for the Project. Drivers could experience delays if they were traveling behind a heavy truck; however, as noted above, only 32 trucks per day (16 inbound, 16 outbound) are expected to travel to/from the Project site during the peak of construction activities, and those truck trips will occur over the course of the 8-hour workday. Construction-related traffic from the Project will not be substantial in relation to traffic flow conditions on U.S. 101, I-580, or local access roadways. Project trips will fall within the daily fluctuations of traffic volumes on U.S. 101 and I-580 (not perceptible to the average motorist), and so while the traffic generated by construction activities will be noticeable (i.e., would represent a higher percent increase in traffic volumes) on the local-serving roadways serving the construction site, the effect on traffic flow will be less than significant.

In terms of pedestrian, bicycle, and transit facilities, construction of the Project will neither directly nor indirectly eliminate existing or planned alternative transportation corridors or facilities (i.e., bike paths, lanes, etc.), including changes in policies or programs that support alternative transportation, nor construct facilities in locations where future alternative transportation facilities may be planned. As such, the Project will not conflict with adopted policies, plans, and programs supporting alternative transportation. Construction activities associated with the Project will not generate traffic volume increases that will significantly affect traffic flow on area roadways. The performance of public transit, in-street bicycle, and pedestrian facilities in the area likewise will not be adversely affected.

Operational vehicle trips will be for monitoring and maintenance, and potentially for adaptive management. The number of workers and equipment required to perform operations and maintenance activities will be lower than for Project construction, and will generate no more than 20 one-way daily vehicle trips.

Therefore, construction and operation of the Project will not conflict with any adopted policies, plans, or programs related to public transit or bicycle and pedestrian facilities, nor will it affect the safety of such services/facilities, and impacts will be less than significant.

b. The Project will not conflict or be inconsistent with CEQA Guidelines Section 15064.3, Subdivision (b).

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-53 and supported by evidence contained within the entirety of the record of proceedings, the Project will meet the Small Developments criterion of the City of San Rafael vehicle miles traveled screening criteria and thresholds, which states that projects that generate fewer than 110 trips per day will result in a less-than-significant vehicle miles traveled impact. The Project will generate a maximum of 70 daily vehicle trips (32 one-way truck trips and 38 one-way construction worker trips) during Project construction, and no more than 20 daily vehicle trips during Project operation/maintenance. Since the Project meets the Small Developments criterion, the Project will result in a less-than-significant impact related to CEQA Guidelines Section 15064.3.

c. The Project will not result in inadequate emergency access.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-54 and supported by evidence contained within the entirety of the record of proceedings, the Project is located in an area with multiple access roads allowing adequate egress/ingress to the Project site in the event of an emergency. During construction, heavy construction-related vehicles could interfere with emergency response to the site or emergency evacuation procedures in the event of an emergency (e.g., slowing vehicles traveling behind the truck). However, construction-related traffic from the Project will not be substantial in relation to traffic flow conditions on U.S. 101, I-580, or local access roadways. After construction, the Project will include internal access roadway improvements and will allow for adequate emergency access. Operational traffic will not cause a significant increase in congestion and will not significantly affect roadway operations. Furthermore, the Project will not require the closures of public roads, which could inhibit access by emergency vehicles. This impact will therefore be less than significant.

14) Utilities & Service Systems

a. The Project will not require the relocation or construction of new or expanded water, wastewater treatment, stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-61 to B-62 and supported by evidence contained within the entirety of the record of proceedings, the Project site supports two PG&E towers, a stormwater drain, and a sanitary sewer. The Project does not include any modifications to the PG&E towers or sanitary sewer line. Construction will have the potential to damage power lines and expose construction workers to hazardous conditions, particularly through the use

of vertical construction equipment such as cranes. To avoid this potential damage, construction workers will follow the Power Line Safety standards from the Department of Industrial Relations. With respect to the stormwater drain, there are two options for tying the west end of the new levee into the shoreline that may involve some modification of the stormwater drain. Neither option will require a change in capacity or service of the stormwater line, nor will result in its relocation or construction of new or expanded facilities. No other utilities or telecommunication facilities will be affected in the course of the construction or operation of the Project. This impact will therefore be less than significant.

- b. The Project will have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-62 and supported by evidence contained within the entirety of the record of proceedings, Project construction will require the intermittent use of potable water for drinking and sanitary needs at the site over an approximately 6-month construction window for 3 to 4 years. Project construction will also require water for dust control, which the construction contractor will obtain from available water sources near the Project site and/or will store on the Project site. Irrigation water will be required for new plantings in upland and transition zones for the first 3 years, or until plants have matured. Irrigation water will be purchased by the landscaping contractor or through temporary connections to the adjacent Pickleweed Park landscape irrigation system. Post-construction operations will not require water use beyond the temporary irrigation of plantings via drip irrigation. Given that the Project has relatively minimal demands for water supply during construction and no long-term water use requirements, there will be a less-than-significant impact on water supplies available to serve the Project.

- c. The Project will be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs and will not impair the attainment of solid waste reduction goals.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-63 and supported by evidence contained within the entirety of the record of proceedings, the Project will generate approximately 9,500 cubic yards of excavated material from earthwork. The intent is to store excavated material on site for reuse in the marsh reconstruction phase, but any contaminated soils will be off-hauled and disposed of at an approved hazardous waste landfill in the area. However, even if all excavated material were removed from the site, the amount of off-hauled materials will be negligible and will not contribute substantially to landfill capacity reduction. Recreational uses during Project operation may generate solid waste, but the intensity of recreational usage is expected to be consistent with existing conditions and will not be substantial compared to City-wide solid waste generation. Local landfill usage for the City of San Rafael is limited to the Potrero Hills Landfill and Redwoods Landfill. The Redwoods Landfill is planned for closure in 2024, but the Potrero Hills Landfill has operational capacity through 2048, and the City also works with landfills across the state as needed. The Project will also comply with Zero Waste Marin's waste reduction goals, which support the solid waste reduction

mandates of the state. As a result, the Project will have a less-than-significant impact on the sufficiency of landfill capacity and solid waste reduction goals.

d. The Project will comply with federal, state, and local management and reduction statues and regulations related to solid waste.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-63 and supported by evidence contained within the entirety of the record of proceedings, excavated soil will be used on site to the extent practicable during construction. However, in the event that some soil is contaminated or can otherwise not be used for the Project, the contaminated soil will be disposed of at the nearest landfill capable of accepting the excavated materials. The potential disposal need will be negligible and will not contribute substantially to landfill capacity reduction. Project operation will generate solid waste from recreating visitors and will be similar to current conditions. The Project will also comply with applicable local, state, and federal regulations concerning solid waste management, including the solid waste diversion initiatives administered by Zero Waste Marin. Impacts will be less than significant.

e. The Project, in combination with reasonably foreseeable future projects, will not result in significant cumulative impacts related to disruption of utility service or relocation of utilities.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-64 and supported by evidence contained within the entirety of the record of proceedings, the Project will not require additional facilities to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years. It will not combine with impacts from other cumulative scenario impacts and, therefore, will not result in a cumulatively considerable impact related to water supply and utilities. With respect to solid waste, the Project could require disposal of excavated materials. However, none of the other cumulative projects identified in the EIR are anticipated to require disposal of large volumes of waste in landfills. Therefore, the waste disposal impacts of the Project will not combine with waste disposal impacts from other cumulative scenario projects, and will not result in a cumulatively considerable impact on solid waste. This impact will therefore be less than significant.

15) Wildfire

a. The Project will not substantially impair an adopted emergency response plan or emergency evacuation plan.

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-65 and supported by evidence contained within the entirety of the record of proceedings, the Project will result in an increase of construction-related traffic. However, the increased construction-related traffic will not cause a significant increase in congestion and will not significantly affect roadway operations. Additionally, the Project will not require the closures of public roads or block access along local roadways. For these reasons, the Project will not impair an adopted emergency response plan or emergency evacuation plan. This impact will therefore be less than significant.

- b. Due to slope, prevailing winds, and other factors, the Project will not exacerbate wildfire risks, and thereby expose Project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-66 and supported by evidence contained within the entirety of the record of proceedings, the Project is not located within or near state responsibility areas or lands classified as very high fire hazard severity zones. Construction activities will require the use of heavy equipment, vehicles, and temporary storage areas that could lead to an increased risk of ignition, which could ignite a fire in an area with flammable vegetation or material. However, the risk of igniting a wildfire will be low because the Project site consists of highly eroded marshlands, a shoreline levee, and recreational trails with relatively flat topography. Additionally, contractors will be required to comply with hazardous materials storage and fire protection regulations, which will reduce the potential for wildfire. This impact will therefore be less than significant.

- c. The Project will not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts on the environment.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-66 and supported by evidence contained within the entirety of the record of proceedings, the Project will result in the construction of approximately 600 feet of new levee and restore approximately 1,100 feet of shoreline levee. No new roads or other infrastructure will be installed as part of the Project. The Project will not induce a need for housing or otherwise result in population growth in the area necessitating the installation of fuel breaks, water sources, power lines, or other utilities that may exacerbate fire risk, and the impact will be less than significant.

- d. The Project will not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.**

Facts in Support of Finding: As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-66 to B-67 and supported by evidence contained within the entirety of the record of proceedings, under existing conditions, portions of the Project site (i.e., shoreline segments on the Tiscornia and Pickleweed Park properties) are currently at risk of overtopping during extreme coastal flood events, which would result in flooding of low-lying portions of the adjacent Canal neighborhood. Implementation of the Project will result in beneficial impacts to prevent flooding by increasing the level of flood protection for the Canal neighborhood and other nearby communities of central San Rafael. While the restored wetland habitats will be largely self-maintaining, it is anticipated that operation and maintenance activities (i.e., removal of invasive plants, temporary irrigation of ecotone slope plantings, and physical and biological monitoring) will be needed up to 10 years post-construction. However, these activities will not expose people or structures to significant risks, such as flooding or landslide as a result of runoff, post-fire slope instability, or drainage changes. In addition, the Project site's flat topography and moist soils will not exacerbate fire

risk or create post-fire conditions involving slope instability, landslides, downslope or downstream flooding, or changes in drainage. Therefore, the Project will not expose people or structures to significant post-fire changes, and this impact will be less than significant.

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

The Planning Commission, 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 identified in the Summary Chapter, Table S-1, Summary of Impacts and Mitigation Measures (pages S-3 to S-25) 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 Mitigation Monitoring and Reporting Program (Exhibit A: Mitigation Monitoring and Reporting Program).

1) Air Quality

- a. **Impact 3.3-2: The Project could result in a cumulatively considerable net increase of a criteria air pollutant for which the San Francisco Bay Area Air Basin is in nonattainment under applicable federal and state ambient air quality standards.**

Significant Impact

As discussed on pages 3.3-19 to 3.3-22 and summarized in the Summary Chapter (pages S-3 to S-4) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, Project-related construction activities at the Project site may cause emissions of fugitive dust that could generate particulate matter into the atmosphere representing a nuisance impact. For mitigation of fugitive dust emissions, the Bay Area Air Quality Management District recommends using specific best management practices to control fugitive dust emissions to a less than significant level. (Exhibit A: **Mitigation Measure 3.3-1**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.3-1 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 Planning Commission 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 Planning Commission 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 3.3-3: The Project could expose sensitive receptors to substantial pollutant concentrations.

Significant Impact

As discussed on pages 3.3-22 to 3.3-24 and summarized in the Summary Chapter (page S-4) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction activities at the Project site could expose existing sensitive receptors to substantial pollution concentrations resulting in an incremental cancer risk greater than the Bay Area Air Quality Management District threshold, a potentially significant impact. Use of EPA Tier 4 engines will reduce cancer risks from Project construction to below the applicable threshold to a less than significant level. The Project applicant will implement Bay Area Air Quality Management District Basic Construction Measures to minimize the generation and emission of dust during construction and control fugitive dust emissions to a less than significant level. (Exhibit A: **Mitigation Measure 3.3-1 and Mitigation Measure 3.3-2**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.3-1 and Mitigation Measure 3.3-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the Planning Commission 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 Planning Commission 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 3.3-5: The Project could result in cumulative emissions of air pollutants.

Significant Impact

As discussed on pages 3.3-25 to 3.3-27 and summarized in the Summary Chapter (page S-4) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, Project-related construction activities at the Project site will cause emissions of toxic air contaminants exposing sensitive receptors to an incremental cancer risk. The cumulative Health Risk Assessment for both the unmitigated and the mitigated Project established pollutant concentrations will be below the Bay Area Air Quality Management District cumulative cancer risk threshold. Use of EPA Tier 4 engines will reduce cancer risks from Project construction to well below the applicable threshold. The health risk impact will not be cumulatively considerable, and the cumulative impact will be less than significant with mitigation. (Exhibit A: **Mitigation Measure 3.3-2**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.3-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations

Section 15091(a)(1), the Planning Commission 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 Planning Commission 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) Biological Resources

- a. **Impact 3.4-1: Construction or operation of the Project could have a substantial effect on special-status birds, common nesting migratory birds, or raptors in the study area.**

Significant Impact

As discussed on pages 3.4-28 to 3.4-32 and summarized in the Summary Chapter (pages S-4 to S-7) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, equipment staging and Project construction could render the Project site temporarily unsuitable for breeding rails and other special-status and protected breeding birds due to noise, vibration, and increased activity levels and human presence. These activities could cause the direct destruction of an active nest, or cause birds that have established a nest prior to the start of construction to change their behavior or abandon an active nest, putting eggs and nestlings at risk for mortality, a potentially significant impact. However, this impact will be reduced to a less-than-significant level by requiring worker environmental awareness training, limiting construction vehicle speeds, avoiding plastic erosion control netting, avoiding construction during the breeding season to the extent feasible and during extreme high tides, conducting species/nest surveys, and requiring a biological monitor. (Exhibit A: **Mitigation Measure 3.4-1, Mitigation Measure 3.4-2, and Mitigation Measure 3.4-3**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.4-1, Mitigation Measure 3.4-2, and Mitigation Measure 3.4-3 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the Planning Commission 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 Planning Commission 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 3.4-2: The Project could have substantial adverse effects on salt marsh harvest mouse and salt marsh wandering shrew.**

Significant Impact

As discussed on pages 3.4-32 to 3.4-34 and summarized in the Summary Chapter (pages S-8 to S-9) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction activities could directly and indirectly impact salt marsh harvest mouse and salt marsh wandering shrew, including earthwork associated with the levees and ecotone slope, excavating the new tidal channel, constructing a temporary access road across the marsh, and potentially, equipment staging. Direct impacts that could occur include mortality or mutilation. Indirect impacts could occur if construction activity render otherwise suitable habitat temporarily unsuitable. These impacts are considered a potentially significant impact. However, the impacts will be reduced to a less-than-significant level by requiring worker environmental awareness training, limiting construction vehicle speeds, avoiding plastic erosion control netting, avoiding ground disturbance in suitable habitat to the extent feasible, utilizing wildlife exclusion fencing, using low ground pressure equipment, scheduling construction activity to avoid extreme high tides, and requiring a biological monitor. (Exhibit A: **Mitigation Measure 3.4-1 and Mitigation Measure 3.4-4**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.4-1 and Mitigation Measure 3.4-4 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 Planning Commission 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 Planning Commission 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 3.4-3: Construction or operation of the Project could have a substantial effect on special-status plants.**

Significant Impact

As discussed on pages 3.4-34 to 3.4-36 and summarized in the Summary Chapter (pages S-9 to S-10) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, implementation of the Project could result in direct impacts on existing populations of special-status plant species, if present. Earthwork associated with the Project could result in direct removal or trampling of special-status plants, a potentially significant impact. However, impacts will be reduced to a less-than-significant level by requiring worker environmental awareness training, limiting construction vehicle speeds, avoiding plastic erosion control netting, conducting a special-status plant survey, establishing appropriate buffer areas for each special-status plant population, installing temporary fencing, following plan guidance to minimize impacts on

special-status plants, and monitoring seeded/planted/relocated special-status plants. (Exhibit A: **Mitigation Measure 3.4-1 and Mitigation Measure 3.4-5**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.4-1 and Mitigation Measure 3.4-5 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 Planning Commission 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 Planning Commission 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.

- d. **Impact 3.4-4: The Project could have a substantial adverse effect, either directly or through habitat modification, on marine species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or National Oceanic and Atmospheric Administration.**

Significant Impact

As discussed on pages 3.4-36 to 3.4-42 and summarized in the Summary Chapter (pages S-10 to S-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, implementation of the Project will require earth-moving construction activities, and some activities will occur within, or adjacent to, the aquatic environment having the potential to impact special-status marine species or protected habitat. The construction of Project elements, including a temporary crane platform, will require substantial amounts of work within the intertidal and aquatic environment. Most of this work will occur in the form of fill placement in support of the conversion of habitat from intertidal and mudflat into restored tidal marsh and coarse beach. Installation and removal of the temporary crane platform's 12 to 16 steel piles vibratory hammer driven to a depth of 60 to 70 feet will create underwater noise at a level harmful to protected fish and marine mammal species, a potentially significant impact. However, this impact will be reduced to a less-than-significant level by preparing and implementing a sound attenuation monitoring plan to protect fish and marine mammals and adhering to National Marine Fisheries Service-approved in-water work windows. Maintenance and monitoring work within the tidal, wetted channel could disrupt aquatic species and habitat, a potentially significant impact. Similarly, this impact will be reduced to a less-than-significant level by limiting maintenance work to June 1 through November 30 to minimize the potential presence of special-status aquatic species within the Project site. (Exhibit A: **Mitigation Measure 3.4-6**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.4-6 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 Planning Commission 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 Planning Commission 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.

- e. **Impact 3.4-6: The Project could interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.**

Significant Impact

As discussed on pages 3.4-45 to 3.4-47 and summarized in the Summary Chapter (page S-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, central San Francisco Bay serves as a migration corridor for special-status anadromous fish species as they move between spawning habitat and the Pacific Ocean. The presence of marine mammals in San Francisco Bay is related to the distribution and presence of prey species and foraging habitat, and the presence of marine mammals in the Project area is likely to be confined to a few rafting or foraging individuals. Project-related construction activities could interfere with the movement of special-status marine species, a potentially significant impact. Given the rarity and transient nature of regionally occurring special-status species, no sustained presence of special-status aquatic species is expected occur. With a low-likelihood of occurrence of special-status marine species, a substantial impact on marine movement corridors would be unlikely. Nevertheless, preparing and implementing a sound attenuation monitoring plan to protect fish and marine mammals and adhering to National Marine Fisheries Service-approved in-water work windows will ensure that any construction-related impacts on marine movement corridors will be less than significant. (Exhibit A: **Mitigation Measure 3.4-6**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.4-6 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 Planning Commission 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 Planning Commission 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.

- f. **Impact 3.4-7: Construction and operation of Project could conflict with local policies or ordinances protecting biological resources; and could conflict with the provisions of an adopted Habitat Conservation Plan,**

Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Significant Impact

As discussed on pages 3.4-47 to 3.4-48 and summarized in the Summary Chapter (page S-11) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the City provides for the protection of street trees, and outlines requirements for removal and replacement of certain street trees in the Municipal Code Section 11.12 and 14.25.050. The Project will remove approximately one native and seven non-native trees to accommodate Project construction; and construction activities will occur in the vicinity of trees located adjacent to Spinnaker Point Drive. The native tree to be removed will be replaced as part of the Project. However, if the Project proponent does not implement tree removal and replacement and protection of trees to be retained on site in accordance with Municipal Code Section 11.12 and 14.25.050, an impact will occur. Any tree-related work (removal, planting, or pruning) will adhere to the requirements of Municipal Code Section 11.12 and 14.25.050, including obtaining a written permit before removing, planting or pruning of street trees. As a result, construction-related impacts will be less than significant. (Exhibit A: **Mitigation Measure 3.4-7**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.4-7 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 Planning Commission 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 Planning Commission 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.

g. Impact 3.4-9: Cumulative loss of sensitive biological resources during construction and operations.

Significant Impact

As discussed on pages 3.4-49 to 3.4-52 and summarized in the Summary Chapter (page S-12) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, cumulative impacts related to terrestrial biological resources and fisheries resources are summarized below.

Terrestrial Biological Resources. The Project could adversely affect special-status birds (California Ridgway's rail, California black rail, northern harrier, salt marsh common yellowthroat, San Pablo song sparrow, and other nesting migratory birds and raptors), special-status mammals (salt marsh harvest house and salt marsh wandering shrew), and special-status plant species, which would be potentially significant impacts. However, these Project impacts will be reduced to a less-than-significant level by requiring worker environmental awareness training, limiting construction vehicle speeds, avoiding plastic erosion control netting,

avoiding construction during the breeding season to the extent feasible and during extreme high tides, conducting species/nest surveys, avoiding ground disturbance in suitable habitat to the extent feasible, establishing appropriate buffer areas, utilizing wildlife exclusion fencing, and requiring a biological monitor. The cumulative projects could also have the potential to affect these species, and could result in similar effects as the Project. However, each of these cumulative projects would be required to complete CEQA analysis similar to that completed for the Project, but it is unknown whether the CEQA process would identify and mitigate potential terrestrial biological resources impacts associated with those projects. Impacts on special-status birds, mammals, and plants would be cumulatively considerable pre-mitigation, but less than cumulatively considerable with adherence to the biological resources mitigation measures. (Exhibit A: **Mitigation Measure 3.4-1, Mitigation Measure 3.4-2, Mitigation Measure 3.4-3, Mitigation Measure 3.4-4, and Mitigation Measure 3.4-5**).

Fisheries Resources. The direct impacts of the Project will include impacts on special-status native fish species and their aquatic habitat during Project construction, including underwater noise impacts, a potentially significant impact. However, this Project impact will be reduced to a less-than-significant level by preparing and implementing a sound attenuation monitoring plan to protect fish and marine mammals and adhering to National Marine Fisheries Service-approved in-water work windows. Cumulative projects that involve in-water construction and that, in combination with the Project, have the potential to result in significant cumulative impacts on marine resources are limited to ongoing operations and maintenance actions within San Rafael Creek, which primarily consist of the periodic dredging of the San Rafael Creek channel and adjacent environment of San Rafael Bay. Having last been partially dredged by the U.S. Army Corps of Engineers in 2011, dredging is slated to commence summer 2022 within San Rafael Creek. As the commencement of construction for the Project will not be until 2023, no overlap in timing will occur between these two projects. Thus, any cumulative impacts as a result of Project implementation are expected to be less than significant with mitigation. (Exhibit A: **Mitigation Measure 3.4-6**).

Finding

The Planning Commission finds that implementation of Mitigation Measure 3.4 1, Mitigation Measure 3.4 2, Mitigation Measure 3.4 3, Mitigation Measure 3.4 4, Mitigation Measure 3.4-5, and Mitigation Measure 3.4 6 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 Planning Commission 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 Planning Commission 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) Cultural Resources

- a. **Impact B.3-b: Will the Project cause a substantial adverse change in the significance of an archaeological resource as defined in Section 15064.5?**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-7 to B-8 and summarized in the Summary Chapter (pages S-14 to S-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, in the unlikely event that a previously unrecorded archaeological resource were identified during Project ground-disturbing activities and found to qualify as a historical resource or a unique archaeological resource, any impacts on the resource resulting from the Project could be potentially significant. By ensuring that work is halted in the vicinity until a qualified archaeologist can make an assessment and provide additional recommendations if necessary, including contacting Native American tribes, the potentially significant impact will be reduced to less than significant. (Exhibit A: **Mitigation Measure CUL-1**).

Finding

The Planning Commission finds that implementation of Mitigation Measure CUL-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 Planning Commission 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 B.3-c: Will the Project disturb any human remains, including those interred outside of formal cemeteries?**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-8 and summarized in the Summary Chapter (page S-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there is no indication from the archival research that any part of the Project area has been used for human burial purposes in the recent or distant past. Therefore, it is unlikely that human remains will be encountered during construction of the Project. However, the possibility of inadvertent discovery cannot be entirely discounted, and would result in a potentially significant impact. This impact will be reduced to a less-than-significant level by requiring work to halt in the vicinity of a find and immediately notifying the County coroner, and if the human remains are Native American, the California Native American Heritage Commission and following all recommendations. (Exhibit A: **Mitigation Measure CUL-2**).

Finding

The Planning Commission finds that implementation of Mitigation Measure CUL-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 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 Planning Commission 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 B.3-d: Will the Project, in combination with reasonably foreseeable future projects, result in significant cumulative impacts on archeological resources or human remains?**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-9 and summarized in the Summary Chapter (page S-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there are no known archaeological resources or human remains within the Project site. While there is the potential for the Project to encounter archaeological resources, which could include prehistoric archeological features or deposits, or human remains, the Project will not be expected to result in significant impacts even if such resources are found. There are reasonably foreseeable future projects, specifically the Pickleweed Field and Park Project and the Schoen Park Conversion to Parking, that could impact the same archaeological resources as the Project, if any such resource is identified. However, these projects would involve the implementation of similar types of mitigation measures as the Project, which will reduce potential for impacts on these resources and any other as-yet undiscovered resources to a less-than-significant level. (Exhibit A: **Mitigation Measure CUL-1 and Mitigation Measure CUL-2**).

Finding

The Planning Commission finds that implementation of Mitigation Measure CUL-1 and Mitigation Measure CUL-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 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 Planning Commission 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) Transportation

- a. **Impact B.13-c: Will the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-53 to B-54 and summarized in the Summary Chapter (page S-22) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the land uses adjacent to and included in the Project vicinity include single- and multi-family residential, community uses (i.e., community center, library, park), and an elementary school. Due to the proximity of these uses to the Project site, this area is frequented by residents and visitors on a regular basis. As such, the temporary introduction of construction equipment required to construct the Project on roadways in and around the Project site will not be compatible with existing uses and will pose a potential safety hazard, a potentially significant impact. However, impacts will be reduced to a less-than-significant level by defining truck haul routes that avoid residential streets, utilizing temporary signing and traffic control devices, providing construction personnel to direct traffic at the driveway on Spinnaker Point Drive, notifying San Rafael Schools at least 2 months in advance of all construction activities, and requiring the construction contractor to ensure Project construction does not inhibit access to Bahia Vista Elementary School. (Exhibit A: **Mitigation Measure TRAN-1**).

Finding

The Planning Commission finds that implementation of Mitigation Measure TRAN-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 Planning Commission 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 B.13-e: Will the Project, in combination with reasonably foreseeable future projects, result in significant cumulative impacts on transportation?**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-55 and summarized in the Summary Chapter (page S-22) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, impacts on traffic associated with construction (e.g., an intermittent reduction in street and intersection operating capacity, potential conflicts with pedestrians/ bicyclists, overlap with construction of nearby related projects) are typically considered as potential short-term impacts. As noted under Impact B.13-c, the Project will result in a potentially significant traffic impact during

construction activities. However, construction impacts on transportation facilities will be reduced to a less-than-significant level by defining truck haul routes that avoid residential streets, utilizing temporary signing and traffic control devices, directing traffic at the driveway on Spinnaker Point Drive, notifying schools in advance of construction activities, and ensuring school access is not inhibited. Each of the cumulative projects would be required to comply with jurisdictional requirements regarding haul routes and would implement mitigation measures and/or include project characteristics, such as traffic controls and scheduling to reduce potential traffic impacts during construction. Accordingly, Project-related contributions to cumulative construction traffic conditions during construction will be less than significant with mitigation. (Exhibit A: **Mitigation Measure TRAN-1**).

Finding

The Planning Commission finds that implementation of Mitigation Measure TRAN-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 Planning Commission 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) Tribal Cultural Resources

- a. **Impact B.14-a.i: Will the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k).?**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-57 to B-58 and summarized in the Summary Chapter (page S-23) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there are no known tribal cultural resources at the Project site. In the event that tribal cultural resources are identified during Project construction or operation, any impacts on the resource resulting from the Project could be potentially significant. This impact will be reduced to a less-than-significant level by ensuring that work is halted in the vicinity of a find until a qualified archaeologist and a Native American tribal representative can make an assessment and provide additional recommendations. (Exhibit A: **Mitigation Measure CUL-1**).

Finding

The Planning Commission finds that implementation of Mitigation Measure CUL-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 Planning Commission 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 B.14-a.ii: Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in Subdivision (c) of PRC Section 5024.1? In applying the criteria set forth in Subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on page B-58 and summarized in the Summary Chapter (page S-23) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there are no known tribal cultural resources at the Project site. In the event that tribal cultural resources are identified during Project construction or operation, any impacts on the resource resulting from the Project could be potentially significant. This impact will be reduced to a less-than-significant level by ensuring that work is halted in the vicinity of a find until a qualified archaeologist and a Native American tribal representative can make an assessment and provide additional recommendations. (Exhibit A: Mitigation Measure CUL-1).

Finding

The Planning Commission finds that implementation of Mitigation Measure CUL-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 Planning Commission 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 B.14-b: Will the Project, in combination with reasonably foreseeable future projects, result in significant cumulative impacts on tribal cultural resources?**

Significant Impact

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR on pages B-58 to B-59 and summarized in the Summary Chapter (page S-23) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there are no known tribal cultural resources within the Project site. While there is the potential for the Project to encounter archaeological resources, which could include prehistoric archeological features or deposits considered tribal cultural resources, the Project will not be expected to result in significant impacts even if such resources are found. There are reasonably foreseeable future projects, specifically the Pickleweed Field and Park Project and the Schoen Park Conversion to Parking, that could impact the same archaeological resources as the Project, if any such resource is identified. However, these projects would involve the implementation of similar types of mitigation measures as the Project, which will reduce potential for impacts on these resources and any other as-yet undiscovered resources to a less-than-significant level. (Exhibit A: **Mitigation Measure CUL-1**).

Finding

The Planning Commission finds that implementation of Mitigation Measure CUL-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 Planning Commission 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.

D. IMPACT OVERVIEW

1) Growth-Inducing Impacts

Section 15126.2(e) of the CEQA Guidelines requires that an environmental impact report discuss:

[T]he ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a wastewater treatment plant might, for example, allow for more construction in service areas)... It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

The Project will not directly induce growth because it does not involve the development of new housing or job centers that will attract an additional population. Project construction will not extend roads or include other infrastructure that could indirectly

induce growth. Given the relatively small size of the construction workforce (approximately 19 construction workers), construction of the Project will not be expected to induce demand for housing by attracting workers from outside the area, as workers are expected to be drawn from the local labor pool. Long-term operations and maintenance activities associated with the Project will be similar to existing activities, and will not increase the number of workers employed by the City of San Rafael.

As described in Chapter 2, Project Description, of the DEIR the goal of the Project is to enhance the ecological function of the Tiscornia Marsh property and increase flood protection for the Canal neighborhood, while maintaining the community value of the Albert J. Boro Community Center and Pickleweed Park. The Project will use existing water supplies and will not create or expand a water supply source that could remove water supply limitations as a potential obstacle to growth.

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

2) Significant Unavoidable Impacts

In accordance with CEQA Section 21100(b)(2)(A) and Sections 15126(b) and 15126.2(c) of the CEQA Guidelines, the purpose of this section is to identify environmental impacts of the Project that could not be eliminated or reduced to a less-than-significant level with implementation of the mitigation measures identified in Chapter 3, Environmental Setting, Impacts, and Mitigation Measures, or Appendix B, Topics Not Requiring Detailed Environmental Analysis, of the DEIR. No significant unavoidable impacts have been identified in this EIR.

Based on the preceding and on the entirety of the record of proceedings, the Planning Commission consequently finds that no significant unavoidable impacts will result from implementation of the Project.

3) Significant Irreversible Environmental Changes

CEQA Section 21100(b)(2)(B) and CEQA Guidelines Section 15126.2(d) require that an EIR identify significant irreversible environmental changes caused by implementation of a project. Construction of the Project will indirectly result in the commitment of nonrenewable natural resources used in the construction process. These may include gravel, soils, petroleum products, construction-related chemicals, steel, and other materials. The Project will also result in the commitment of slowly renewable materials, such as wood products. This will not, however, be considered a significant adverse irreversible environmental change, given the availability of these products and the Project's relatively small need for these products compared to their overall regional use.

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

E. REVIEW OF PROJECT ALTERNATIVES

CEQA requires that an EIR describe and evaluate a reasonable range of feasible alternatives to a project, or to the location of a project, that would attain most of the project

objectives and avoid or substantially lessen significant project impacts. Section 15126.6(e) of the CEQA Guidelines requires that an EIR alternatives analysis must include the “No Project Alternative” as a point of comparison. The No Project Alternative includes existing conditions and reasonably foreseeable future conditions that would exist if the project were not approved (CEQA Guidelines Section 15126.6(e)(2)). Based on the “rule of reason” governance in the CEQA Guidelines, an EIR is required to “set forth only those alternatives necessary to permit a reasoned choice” and alternatives need to attain most of the project objectives in order to be considered feasible (CEQA Guidelines Section 15126.6(f)). The following discussion describes the three alternatives evaluated in detail in this EIR.

The Project Alternatives analyzed in the following sections include:

- Alternative 1: No Project Alternative
 - Alternative 2: Reduced Project – Reduce Tiscornia Marsh Restoration
 - Alternative 3: Reduced Project – Eliminate Diked Marsh Restoration
1. **Alternative 1: No Project Alternative:** (as required by CEQA). In the event that the City does not approve the Project, the restoration of Tiscornia Marsh and the City-owned diked marsh would not occur. The eroded area outboard of the existing Tiscornia Marsh would not be reconstructed, and the diked marsh would not be reconnected to tidal activity. The new levee north of the soccer field would not be constructed, and the levees to the west and south of Tiscornia Marsh would not be raised and/or widened. In addition, the coarse beach feature would not be constructed to prevent additional erosion of the marsh. The levee trails would not be resurfaced with asphalt.

Ability to Meet Project Objectives

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

Finding

The Planning Commission (1) rejects this Alternative 1: No Project Alternative on the basis that it fails to meet basic project objectives 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 Alternative 1: No Project Alternative fails to meet any of the Project objectives, specifically:

- This alternative would not restore tidal marsh on the Project site to improve ecological function and habitat quantity, quality, and connectivity (including upland transition zones) for native marsh species and marsh-upland transition species, including special status species.
- This alternative would not protect Project site marsh lands from future marsh edge erosion; increase the level of flood protection for the Canal neighborhood and other nearby communities of central San Rafael.
- This alternative would not create sustainable benefits that consider future environmental changes such as sea level rise and sedimentation.

- This alternative would not maintain and improve public access to passive recreational and outdoor education opportunities (e.g., hiking, jogging, bird watching).
- Tiscornia Marsh would continue to erode, and the low-lying Canal neighborhood adjacent to Tiscornia Marsh would be further at risk to coastal flooding.
- The existing levee trail would be retained, and passive recreation would continue; however, the trail surface would not be replaced and outdoor education opportunities would not be improved.

2. Alternative 2: Reduced Project – Reduce Tiscornia Marsh Restoration:

Alternative 2 would include the same Project elements as the Project; however, the south side of the marsh would be reduced; therefore, reducing the total fill required and the overall amount of construction activities. Specifically, the portion of restored tidal marsh and constructed coarse beach would not be extended to the location of the tidal channel.

Ability to Meet Project Objectives

Alternative 2 would meet the objectives related to enhanced flood protection of the adjacent areas, because new/raised levees would be created and would protect the adjacent areas. The alternative would meet the objective of maintaining and improving public access, as it would include new trail surfacing along the levees, and other passive recreation components (same as under the Project). However, the amount of tidal marsh restoration would be reduced as compared to the Project, and without the extension of the marsh to the south to the tidal channel, a portion of the site would be subject to ongoing marsh erosion and would be vulnerable to the ongoing effects of sea level rise. Further, without the protection of the coarse beach at the southern portion of the Project site, ongoing erosion would extend from the southern portion of the site northward, and it is expected that the overall project efficacy and timeline would be reduced compared to the Project.

Finding

The Planning Commission (1) rejects this alternative on the basis that it fails to meet basic project objectives, 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 primary Project objectives, such as fully restoring tidal marsh on the Project site, and protecting Project site marshlands from future marsh edge erosion.
- The amount of tidal marsh restoration would be reduced as compared to the Project, and without the extension of the marsh to the south to the tidal channel, a portion of the site would be subject to ongoing marsh erosion and would be vulnerable to the ongoing effects of sea level rise.
- Without the protection of the coarse beach at the southern portion of the Project site, ongoing erosion would extend from the southern portion of the

site northward, and it is expected that the overall Project efficacy and timeline would be reduced compared to the Project

- Alternative 2 would meet the objectives related to enhanced flood protection of the adjacent areas, because new/raised levees would be created and would protect the adjacent areas.
- The alternative would meet the objective of maintaining and improving public access, as it would include new trail surfacing along the levees, and other passive recreation components.

3. Alternative 3: Reduced Project – Eliminate Diked Marsh Restoration:

Alternative 3 would include most of the same Project elements on the eastern side of the site as the Project and would include the restoration of Tiscornia Marsh, construction of the coarse beach, raised southern and eastern levee, and constructed southern ecotone. However, the diked marsh would not be converted to tidal marsh; the new levee between the diked marsh and Pickleweed Park would not be constructed, and the new tidal channels at the north end of the site would not be constructed. Alternative 3 would require the least amount of construction, other than the No Project Alternative.

Ability to Meet Project Objectives

Alternative 3 would meet the objective related to maintaining and improving public access, as it would include new trail surfacing along the improved levees, and other passive recreation components (same as under the Proposed Project). However, the amount of tidal marsh restoration would be substantially reduced as compared to the Project, because the diked marsh would not be converted to tidal marsh. Further, without restoration, the diked marsh would continue to be isolated from bay sediments, which would help marshes accrete (or build up) to keep pace with sea level rise. Without the new levee and ecotone, and restoring tidal action to the diked marsh, the western portion of the site would be more vulnerable to extreme tidal flooding and sea level rise compared to the Project.

Finding

The Planning Commission (1) rejects this alternative on the basis that it fails to meet basic project objectives, 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 primary Project objectives, such as fully restoring tidal marsh on the Project site, and protecting Project site marshlands from future marsh edge erosion.
- The amount of tidal marsh restoration would be substantially reduced as compared to the Project, because the diked marsh would not be converted to tidal marsh.
- Without restoration, the diked marsh would continue to be isolated from bay sediments, which would help marshes accrete (or build up) to keep pace with sea level rise.

- Without the new levee and ecotone, and restoring tidal action to the diked marsh, the western portion of the site would be more vulnerable to extreme tidal flooding and sea level rise.
- This alternative would meet the objective related to maintaining and improving public access, as it would include new trail surfacing along the improved levees, and other passive recreation components.

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; pages 5-12 to 5-13) that the Environmentally Superior Alternative is Alternative 3: Reduced Project – Eliminate Diked Marsh Restoration project for the following reasons:

- Alternative 1 would eliminate the short-term construction effects relative to the Project. However, under Alternative 1, the restoration of Tiscornia Marsh and the City-owned diked marsh would not occur and the existing levees would not be raised and improved; thus, the adjacent areas would continue to be vulnerable to flooding. Alternative 1 would not meet any of the Project objectives.
- Alternative 2 would not avoid the significant effects of the Project; however, the impacts would be lessened with the reduced construction footprint. Alternative 2 would only partially meet Project objectives, by eliminating restoration of the southern portion of the marsh. Thus, Alternative 2 provides a reduced habitat benefit. Further, without improvement of the southern part of the Project, ongoing erosion would extend into the northern portion of the Project site, affecting the efficacy of the project, and somewhat reducing the expected lifetime of the improved levees from 2070 (as under the Project).
- Alternative 3 includes the least amount of construction activity, other than the No Project Alternative. While Alternative 3 would not avoid the significant effects of the Project, the impacts would be lessened with the reduced construction footprint. Thus, Alternative 3 is the environmentally preferred alternative. However, Alternative 3 would only partially meet Project objectives, by eliminating restoration of the diked marsh to tidal marsh and eliminating the new northern levee and ecotone.

Rejection of Environmentally Superior Alternative:

Alternative 3 is the environmentally superior alternative. Compared to the Project, Alternative 3 restoration would be significantly reduced, which would not meet the identified tidal marsh restoration, Project site marshlands protection, increased flood protection, and sustainable benefits as sea level rises objectives for the Project. By eliminating restoration of the diked marsh to tidal marsh and eliminating the new northern levee and ecotone, Alternative 3 provides the least habitat benefit and smallest flood protection benefit, other than the No Project Alternative. Further, without improvement of the diked marsh, the northwestern part of the Project area would be more vulnerable to extreme tidal flooding and sea level rise, and the expected lifetime of the improved levees would be less than 2070 (as under the

Project). For these reasons, the Planning Commission rejects Alternative 3, the environmentally superior alternative.

F. ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Public Resources Code section 21081.6, the Planning Commission hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A, to be made a condition of approval of the 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.

G. 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.

The foregoing resolution was at the regular City of San Rafael Planning Commission meeting held on the 11th day of January 2022.

Moved by Commissioner Saude and seconded by Commissioner Haveman.


AYES: Harris, Haveman, Mercado, Previtali, Saude & Chair Samudzi

NOES: None


ABSENT: None

ABSTAIN: None

ATTEST:



Leslie Mendez, Secretary



Shingai Samudzi, Chair

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, EIR SECTION 3.3						
<p>Mitigation Measure 3.3-1: BAAQMD Basic Construction Measures. The Project applicant and/or its construction contractors shall comply with the following applicable BAAQMD Basic Construction Mitigation Measures:</p> <p>BAAQMD Basic Construction Measures</p> <ol style="list-style-type: none"> 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. 2. All haul trucks and railcars transporting soil, sand, or other loose material off-site shall be covered. 3. 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. 4. All vehicle speeds on unpaved roads shall be limited to 15 mph. 5. 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. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. 7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. 	Marin Audubon Society and contractors	City	Prior to start of construction, during 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
8. Post a publicly visible sign with the telephone number and person to contact at the City of San Rafael regarding dust complaints. This person shall respond and take corrective action within 48 hours. BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.						
Mitigation Measure 3.3-2: EPA Tier 4 Engines. The Project applicant and/or its construction contractors shall be required to use off-road diesel construction equipment compliant with EPA Tier 4 nonroad engine standards. Before construction activities begin, the construction contractor and/or the Project applicant shall prepare an equipment list that identifies each piece of off-road equipment to be operated at the Project site by its equipment identification number and demonstrates that each piece of equipment meets EPA Tier 4 nonroad engine standards. The list shall be made available at the construction site and shall be updated when new or replacement construction equipment is brought to the site.	Marin Audubon Society and contractors	City	Prior to start of construction, during construction, and at time of contract specifications			
BIOLOGICAL RESOURCES, EIR SECTION 3.4						
Mitigation Measure 3.4-1: General Construction-related Mitigation Measures	Marin Audubon Society and contractors	City	Prior to start of construction, during construction, and at time of contract specifications			
<ul style="list-style-type: none"> A qualified biologist (4-year college degree in biology or related field and demonstrated experience with the species of concern) shall provide Worker Environmental Awareness Training (WEAT) to field management and construction personnel. Communication efforts and training shall take place during pre-construction meetings so that construction personnel are aware of their responsibilities and the importance of compliance. WEAT shall identify the types of sensitive resources located in the study area and the measures required to avoid impacts on these resources. Materials covered in the training program shall include environmental rules and regulations for the specific Project and requirements for limiting 						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>activities to the construction right-of-way and avoiding demarcated sensitive resource areas.</p> <ul style="list-style-type: none"> If new construction personnel are added to the Project, the contractor shall ensure the new personnel receive WEAT before starting work. A sign-in sheet of those contractor individuals who have received the training shall be maintained by the Project proponent. A representative shall be appointed during the WEAT to be the contact for any employee or contractor who might inadvertently kill or injure a listed species or who finds a dead, injured, or entrapped individual. All vehicle operators shall limit speed to 15 miles per hour (mph) within the Project site. No erosion control materials shall contain any plastic or monofilament netting. <p>To avoid attracting predators, all food-related trash items shall be bagged and removed daily.</p>						
<p>Mitigation Measure 3.4-2: Avoid and Minimize Impacts on California Black Rail and California Ridgway's Rail</p> <ul style="list-style-type: none"> To minimize or avoid the loss of individual California black rail and California Ridgway's rail, construction activities, including vegetation management activities requiring heavy equipment, adjacent to the tidal marsh areas (within 500 feet [150 meters] or a distance determined in coordination with the USFWS or CDFW <u>based on site specific conditions</u>, shall be avoided during the breeding season from February 1 through August 31. If areas within or adjacent to rail habitat cannot be avoided during the breeding season, protocol-level surveys shall be conducted to determine rail nesting locations. The surveys shall focus on potential habitat that could be disturbed by construction activities during the breeding season to ensure that rails are not breeding in these locations. 	Marin Audubon Society and contractors	City				Prior to start of construction, during construction, at time of contract specifications, and at time of encounter of species (as applicable)

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>Survey methods for rails shall follow the <i>Site-Specific Protocol for Monitoring Marsh Birds</i>, which was developed for use by USFWS and partners to improve bay-wide monitoring accuracy by standardizing surveys and increasing the ability to share data (Wood et al. 2017). Surveys are concentrated during the approximate period of peak detectability, January 15 to March 25, and are structured to efficiently sample an area in three rounds of surveys by broadcasting calls of target species during specific periods of each survey round. Call broadcasts increase the probability of detection compared to passive surveys when no call broadcasting is employed. This protocol has since been adopted by the Invasive Spartina Project (ISP) and Point Blue Conservation Science to survey California Ridgway's rails at sites throughout San Francisco Bay Estuary, <u>including at Tiscornia Marsh</u>. <u>The survey results and protocols from the ISP shall be used, or a survey protocol developed in coordination with CDFW and USFWS incorporating both species simultaneously and with the same level of effort as protocols currently in use by ISP shall be used.</u> The survey protocol for California Ridgway's rail is summarized below.</p> <ul style="list-style-type: none"> - Previously used survey locations (points) should be used when available to maintain consistency with past survey results. Adjacent points should be at least 200 meters apart along transects in or adjacent to areas representative of the marsh. Points should be located to minimize disturbances to marsh vegetation. Up to eight points can be located on a transect. - At each transect, three surveys (rounds) are to be conducted, with the first round of surveys initiated between January 15 and February 6, the second round performed February 7 to February 28, and the third round March 1 to March 25. Surveys 						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>should be spaced at least 1 week apart, and the period between March 25 to April 15 can be used to complete surveys delayed by logistical or weather issues. A FESA Section 10(a)(1)(A) permit is required to conduct active surveys.</p> <ul style="list-style-type: none"> - Each point on a transect shall be surveyed for 10 minutes each round. A recording of calls available from the USFWS is broadcast at each point. The recording consists of 5 minutes of silence, followed by a 30-second recording of California Ridgway's rail vocalizations, followed by 30 seconds of silence, followed by a 30-second recording of California black rail, followed by 3.5 minutes of silence. <ul style="list-style-type: none"> • If no breeding California black rail or California Ridgway's rail are detected during surveys, or if their breeding territories can be avoided by 500 feet (150 meters), or a distance determined in coordination with the USFWS or CDFW <u>based on site specific conditions</u>, then Project activities may proceed at that location. • If protocol surveys determine that breeding California black rail and/or California Ridgway's rail are present in the Project area, the following measures would apply to Project activities conducted during their breeding season (February 1- August 31): <ul style="list-style-type: none"> - Construction activities would not occur within 500 feet of a detected Ridgway's rail or black rail call center. - A USFWS- and CDFW-approved biologist shall be on site during construction activities occurring within 50 feet 500 feet (150 meters) of any other suitable rail breeding habitat. - All other biologists that may need to access the tidal marsh outside of the active construction 						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>period or be on site during construction for activities beyond 500 feet from suitable rail breeding habitat and 500 feet from rail call centers, shall be trained in black rail and Ridgway's rail biology, identification, and vocalizations, and shall be familiar with both species of rail and their nests.</p> <p>– <u>The qualified biologist/biological monitor shall have the authority to stop all work if a Ridgway's rail or black rail enters or is discovered within 50 feet of the active work zone. All nearby work shall halt and not continue until the Ridgway's rail or black rail leaves the area on its own accord or until approving agencies have been consulted. The no work zone shall be large enough as determined by the qualified biologist/biological monitor in order to avoid impacts to all special-status species.</u> If a California black rail or California Ridgway's rail vocalizes or flushes-within 10 meters, it is possible that a nest or young are nearby. If an alarmed bird or nest is detected, work shall be stopped, and workers shall leave the immediate area carefully and quickly. An alternate route shall be selected that avoids this area, and the location of the sighting shall be recorded to inform future activities in the area.</p> <p>– All construction crews working in the marsh during rail breeding season shall be trained and supervised by a USFWS- and CDFW-approved rail biologist.</p> <p>– If any activities shall be conducted during the rail breeding season in California black rail or California Ridgway's rail-occupied marshes, biologists shall have maps or global positioning system (GPS) locations of the most current occurrences on the site.</p>						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>Mitigation Measure 3.4-3: Nesting Bird Protection Measures</p> <p>The City and/or its contractor(s) shall implement the following during construction of the Project:</p> <ul style="list-style-type: none"> • Removal of trees and scrub vegetation shall occur outside the bird nesting season (February 1 to August 31), to the extent feasible. • If removal of trees and vegetation cannot be fully accomplished outside of the nesting season, a qualified biologist shall conduct pre-construction nesting surveys within 7 days prior to the start of such activities or after any construction breaks of 10 days or more. Surveys shall be performed for the study area and suitable habitat within 250 feet of the Project site to locate any active raptor (birds of prey) nests or rookeries. • If active nests are located during the pre-construction bird nesting survey, the qualified biologist shall evaluate if the schedule of construction activities could affect the active nests and the following measures shall be implemented based on their determination: <ul style="list-style-type: none"> – If construction is not likely to affect the active nest, it may proceed without restriction; however, a biologist shall regularly monitor the nest to confirm there is no adverse effect and may revise their determination at any time during the nesting season. In this case, the following measure would apply. – If construction may affect the active nest, the biologist shall establish a no-disturbance buffer in coordination with CDFW. Typically, these buffer distances are 100 feet for passerines and 250 feet for raptors. These distances may be adjusted depending on the level of surrounding ambient activity (e.g., if the Project site is adjacent to a road or active trail) and if an obstruction, such as a 	Marin Audubon Society and contractors	City	Prior to start of construction, during construction, at time of contract specifications, and at time of encounter of species/active nests (as applicable)			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>building, is within line-of-sight between the nest and construction. For bird species that are federally and/or state-listed sensitive species (i.e., fully protected, endangered, threatened, species of special concern), a City representative or qualified biologist shall coordinate with the USFWS and/or CDFW regarding modifications to nest buffers, prohibiting construction within the buffer, modifying construction, or removing or relocating active nests that are found on the site.</p> <p>– Any birds that begin nesting within the Project area and survey buffers amid construction activities are assumed to be habituated to construction-related or similar noise and disturbance levels. A qualified biologist shall coordinate with the USFWS and/or CDFW and determine if no work exclusion zones shall be established around active nests in these cases.</p>						
<p>Mitigation Measure 3.4-4: Avoid and Minimize Impacts on Salt Marsh Harvest Mouse and Salt Marsh Wandering Shrew</p> <ul style="list-style-type: none"> Ground disturbance to suitable salt marsh harvest mouse habitat (including, but not limited to pickleweed, and emergent salt marsh vegetation) shall be avoided to the extent feasible. Where salt marsh harvest mouse habitat cannot be avoided (such as for channel excavation, access routes and grading, or anywhere else that vegetation could be trampled or crushed by work activities), vegetation shall be removed to ground level from the ground disturbance work area plus a 5-foot buffer around the area, as well as any access routes within salt marsh harvest mouse habitat, utilizing mechanized hand tools or by another method approved by the USFWS and CDFW. Vegetation height shall be maintained at or below 5 inches above ground. Vegetation removal in salt marsh harvest mouse habitat shall be 	Marin Audubon Society and contractors	City	Prior to start of construction, during construction, at time of contract specifications, and at time of encounter of species (as applicable)			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>conducted under the supervision of the USFWS- and CDFW-approved biologist(s). <u>The number of biologists needed to effectively inspect vegetational removal for the presence of mice and nests depends on the site characteristics and vegetation removal methods and may be determined in coordination with approving agencies.</u></p> <ul style="list-style-type: none"> To protect salt marsh harvest mouse from construction-related traffic, access roads, haul routes, and staging areas within 50 feet of salt marsh harvest mouse habitat shall be bordered by temporary exclusion fencing; or other wildlife exclusion fencing as specified in federal or state permits. The fence should be made of a material that does not allow salt marsh harvest mouse to climb or pass through, of a minimum above-ground height of 30 inches, and the bottom should be buried to a depth of at least 6 inches so that mice cannot crawl under the fence. Any supports for the salt marsh harvest mouse exclusion fencing (e.g., t-posts) shall be placed on the inside of the Project site. The last 5 feet of the fence shall be angled away from the road to direct wildlife away from the road. A USFWS- and CDFW-approved biologist with previous salt marsh harvest mouse experience shall be on site during fence installation and shall check the fence alignment prior to vegetation clearing and fence installation to ensure that no salt marsh harvest mice are present. Salt marsh harvest mouse marsh habitat that must be accessed by mini-excavators or other vehicles to complete Project construction (e.g., excavating smaller channels) shall be protected through use of low ground pressure (LGP) equipment, wooden or PVC marsh mats, or other method approved by the USFWS and CDFW following vegetation removal (see 2nd bullet, above). Construction activities related to restoration and infrastructure shall be scheduled to avoid extreme high tides when there is potential for salt marsh 						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>harvest mouse to move to higher, drier grounds, such as ruderal and grassland habitats. No Project activities shall be conducted within 50 feet of suitable tidal marsh or other salt marsh harvest mouse habitat within 2 hours before and after an extreme high tide event (6.5 feet or higher measured at the Golden Gate Bridge and adjusted to the timing of local high tides) or when the adjacent marsh is flooded unless wildlife exclusion fencing has been installed around the work area.</p> <ul style="list-style-type: none"> • All construction equipment and materials shall be staged on existing roadways and away from suitable salt marsh harvest mouse habitat when not in use. All construction equipment shall be visually inspected prior to work activities each day for signs of salt marsh harvest mouse or any other wildlife. • Vegetation shall be removed from all non-marsh areas of disturbance (driving roads, grading and stockpiling areas) to discourage the presence of salt marsh harvest mouse. • A USFWS- and CDFW-approved biologist with previous salt marsh harvest mouse monitoring and/or surveying experience shall be on site during construction activities occurring in suitable habitat. The USFWS- and CDFW-approved biologist has the authority to stop Project activities if any of the requirements associated with these measures are not being fulfilled. If a harvest mouse is observed in the work area, construction activities shall cease in the immediate vicinity of the potential salt marsh harvest mouse. The individual shall be allowed to leave the area before work is resumed. If the individual does not move on its own volition, the USFWS-approved biologist would contact USFWS (and CDFW if appropriate) for further guidance on how to proceed. • If the USFWS- and CDFW-approved biologist has requested work stoppage because of take of any of 						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
the listed species, or if a dead or injured salt marsh harvest mouse is observed, the USFWS and CDFW shall be notified within 1 day by email or telephone.						
<p>Mitigation Measure 3.4-5: Special-Status Plant Protection</p> <ul style="list-style-type: none"> Prior to the start of construction, a qualified biologist shall conduct a properly timed special-status plant survey for Marin knotweed (<i>Polygonum marinense</i>), Suisun Marsh aster (<i>Symphotrichum lentum</i>), Congested-headed hayfield tarplant (<i>Hemizonia congesta</i> subsp. <i>congesta</i>), and Point Reyes bird's-beak (<i>Chloropyron maritimum</i> ssp. <i>palustre</i>) within the species' suitable habitat within the Project work limits. The survey shall follow the CDFW Protocols for Surveying and Evaluating Impacts on Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). If special-status plant species are identified within the Project work limits, then the biologist shall establish an appropriate buffer area for each plant population to exclude activities that directly remove or alter the habitat of, or result in indirect adverse impacts on, the special-status plant species. A qualified biologist shall oversee installation of a temporary, mesh-type construction fence (Tensor Polygrid or equivalent) at least 4 feet (1.2 meters) tall around any established buffer areas to prevent encroachment by construction vehicles and personnel. The qualified biologist shall determine the exact location of the fencing. The fencing shall be strung tightly on posts set at maximum intervals of 10 feet (3 meters) and shall be checked and maintained weekly until all construction is complete. The buffer zone established by the fencing shall be marked by a sign stating: <ul style="list-style-type: none"> – “This is habitat of [list rare plant(s)], and must not be disturbed. This species is protected by [the ESA of 1973, as amended/CESA/California Native Plant Protection Act].” 	Marin Audubon Society and contractors	City	Prior to start of construction, during construction, at time of contract specifications, and at time of encounter of species (as applicable)			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<ul style="list-style-type: none"> If direct impacts cannot be avoided, the City shall require the project sponsor to prepare a plan for minimizing the impacts by one or more of the following methods: (1) salvage and replant plants at the same location following construction; (2) salvage and relocate the plants to a suitable off-site location with long-term assurance of site protection; (3) collect seeds or other propagules for reintroduction at the site or elsewhere; or (4) payment of fees in lieu of preservation of individual plants, to be used for conservation efforts elsewhere. The City shall review and approve the plan. The success criterion for any seeded, planted, and/or relocated plants shall be full replacement at a 1:1 ratio after 5 years. Monitoring surveys of the seeded, planted, or transplanted individuals shall be conducted for a minimum of 5 years, to ensure that the success criterion can be achieved at year 5. If it appears the success criterion would not be met after 5 years, contingency measures may be applied. Such measures shall include, but not be limited to: additional seeding and planting, altering, or implementing weed management activities, or introducing or altering other management activities. Any special-status plant species observed during surveys shall be reported to the CDFW and submitted to the CNDDDB and reported to USFWS, if federally listed. 						
<p>Mitigation Measure 3.4-6: Fish and Marine Mammal Protection During Pile Driving</p> <p>Prior to the start of any in-water construction that would require pile driving, the Project sponsor shall prepare a NOAA and CDFW-approved sound attenuation monitoring plan to protect fish and marine mammals, and the approved plan shall be implemented during construction. This plan shall provide detail on the sound attenuation system, detail methods used to monitor and</p>	Marin Audubon Society and contractors	City	Prior to start of and during in-water construction, at time of contract specifications, and at time of exceedance of sound criteria or encounter of species (as applicable)			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>verify sound levels during pile driving activities (if required based on projected in-water noise levels), and describe methods to reduce impact pile-driving in the aquatic environment to an intensity level less than 120 dB (RMS) continuous noise level for marine mammals at a distance of 1,640 feet. The plan shall incorporate, but not be limited to, the following elements:</p> <ul style="list-style-type: none"> • All in-water construction shall be conducted within the established environmental work window between June 1 and November 30, designed to avoid potential impacts on fish species. • To the extent feasible, vibratory pile drivers shall be used for the installation of all support piles. Vibratory pile driving shall be conducted following the USACE "Proposed Procedures for Permitting Projects that will Not Adversely Affect Selected Listed Species in California." The USFWS and NMFS completed Section 7 consultation on this document, which establishes general procedures for minimizing impacts on natural resources associated with projects in or adjacent to jurisdictional waters. • If NOAA sound level criteria for marine mammals are exceeded during vibratory hammer pile installation, a NOAA-approved biological monitor shall be available to conduct surveys before and during pile driving to inspect the work zone and adjacent waters for marine mammals. The monitor shall be present as specified by NMFS during impact pile driving and ensure that: <ul style="list-style-type: none"> – The safety zones established in the sound monitoring plan for the protection of marine mammals are maintained. – Work activities are halted when a marine mammal enters a safety zone and resumed only after the animal has left the area or has not been observed for a minimum of 15 minutes. 						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
Mitigation Measure 3.4-7: Tree Ordinance						
<ul style="list-style-type: none"> Any tree-related work (removal, planting, or pruning) shall adhere to the City of San Rafael Municipal Code Section 11.12. Specifically, written permit must be issued to cut, prune, break, injure, or remove any living tree in, upon, or along any public street, sidewalk, or walkway in the city or cut, disturb, or interfere in any way with the roots of any tree in, upon, or along any street, sidewalk, or walkway, or spray with any chemical or insecticide any tree in, upon, or along any public street, sidewalk, or walkway, or place any sign, poster, or other fixture on any tree or tree guard, or injure, misuse, or remove any device placed to protect any tree in, upon, or along any public street, sidewalk, or walkway in the city. <p>Whenever any <i>tree</i> shall be cut down or removed in or from any sidewalk area, its butt and roots shall be dug up and removed, or cut level with the ground, as directed by the public works department.</p> <ul style="list-style-type: none"> In the erection or repair of any building or structure, guards shall be placed around all nearby trees in, upon, or along the public streets, sidewalks, and walkways within the city as shall prevent injury to them. 	Marin Audubon Society and contractors	City of San Rafael Public Works Department	Prior to start of construction, during construction, and at time of contract specifications			
CULTURAL RESOURCES, APPENDIX B. INITIAL STUDY SECTION B.3						
<p>Mitigation Measure CUL-1: Cultural Resources Awareness Training and Inadvertent Discovery of Archaeological Resources or Tribal Cultural Resources</p> <p>Prior to authorization to proceed, a qualified archaeologist, defined as an archaeologist meeting the U.S. Secretary of the Interior's Professional Qualification Standards for Archeology, shall conduct a training program for all construction and field workers involved in site disturbance. On-site personnel shall attend a mandatory pre-Project training that shall outline the</p>	Marin Audubon Society and contractors	City	Prior to authorization to proceed, at time of contract specifications, and at time of resource encounter, as applicable			

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered.</p> <p>If pre-contact or historic-era archaeological resources are encountered during Project implementation, all construction activities within 100 feet shall halt, and a qualified archaeologist shall inspect the find within 24 hours of discovery and notify the City of the initial assessment. Pre-contact archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (“midden”) containing heat-affected rocks, artifacts, or shellfish remains; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include building or structure footings and walls, and deposits of metal, glass, and/or ceramic refuse.</p> <p>If the City determines, based on recommendations from a qualified archaeologist and a Native American representative (if the resource is pre-contact indigenous related), that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines Section 15064.5) or a tribal cultural resource (as defined in Public Resources Code [PRC] Section 21080.3), the resource shall be avoided if feasible. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource, incorporating the resource within open space, capping and covering the resource, or deeding the site into a permanent conservation easement.</p> <p>If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the resource is pre-contact indigenous related), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2, and CEQA</p>						

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC Section 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource (according to PRC Section 21084.3).						
<p>Mitigation Measure CUL-2: Inadvertent Discovery of Human Remains</p> <p>If potential human remains are encountered, all work shall halt within 100 feet of the find and the City shall be contacted by on-site construction crews. The City shall contact the Marin County coroner in accordance with PRC Section 5097.98 and Health and Safety Code Section 7050.5. If the coroner determines that the remains are Native American, the coroner shall contact the NAHC. As provided in PRC Section 5097.98, the NAHC shall identify the person or persons believed to be the Most Likely Descendant (MLD). The MLD shall make recommendations for the means of treating, with appropriate dignity, the human remains and any associated grave goods, as provided in PRC Section 5097.98.</p>	Marin Audubon Society and contractors	City	At time of contract specifications and at time of remains discovery, as applicable			
TRANSPORTATION AND TRAFFIC, APPENDIX B. INITIAL STUDY SECTION B.13						
<p>Mitigation Measure TRAN-1: Construction Traffic Control Plan</p> <p>Prior to the issuance of construction permits, the construction contractor shall prepare and submit a Construction Traffic Control Plan to the City of San Rafael Public Works Department for approval. The Construction Traffic Control Plan must be prepared in accordance with both the California Department of Transportation Manual on Uniform Traffic Control Devices and Work Area Traffic Control Handbook and must address, at a minimum, the following issues:</p>	Marin Audubon Society and contractors	City of San Rafael Public Works Department	Prior to issuance of construction permits, during 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
<ul style="list-style-type: none"> Defining truck haul routes to/from the Project that avoid residential streets, to the extent feasible. Placing temporary signing, lighting, and traffic control devices if required, including, but not limited to, appropriate signage along access routes to indicate the presence of heavy vehicles and construction traffic. Provision of construction personnel at driveway on Spinnaker Point Drive leading to construction staging area to direct traffic, pedestrians, and bicyclists while trucks are turning into and out of the driveway. Notification of all construction activities with San Rafael City Schools at least two months in advance, so that it may make proper accommodations for any possible limitations to access at Bahia Vista Elementary School. San Rafael City Schools shall be notified of the timing, location, and duration of construction activities. The construction contractor shall be required to ensure that construction of the Proposed Project does not inhibit vehicle, bicycle, pedestrian, and/or school bus service through inclusion of such provisions in the construction contract. 						