

DRAFT JB 11-6-13

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE
CERTIFYING REVIEW AND CONSIDERATION OF THE SUBSEQUENT
ENVIRONMENTAL IMPACT REPORT, MAKING FINDINGS REQUIRED BY
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING THE
MITIGATION AND MONITORING REPORTING PROGRAM, AND
STATING OVERRIDING CONSIDERATIONS IN THE APPROVAL OF THE
MOFFETT PLACE PROJECT**

WHEREAS, the California Environmental Quality Act (Public Resources Code Sections 21000 *et seq.*, ("CEQA") and the Guidelines for Implementation of the California Environmental Quality Act (14 California Code of Regulations, Sections 15000 *et seq.*) (the "CEQA Guidelines") requires local agencies to consider environmental consequences of projects for which they have discretionary authority; and

WHEREAS, a Draft Subsequent Environmental Impact Report ("DSEIR") and Final Subsequent Environmental Impact Report ("FSEIR", collectively, the "SEIR") has been prepared for and by the City of Sunnyvale for the Moffett Place Project ("the Project") pursuant to CEQA and the CEQA Guidelines; and

WHEREAS, the SEIR addresses the environmental impacts of the Project, which is further described in Sections II and III of Exhibit A attached hereto; and

WHEREAS, in conformance with CEQA, the City has issued notices, held public hearings, and taken other actions as described in Section IV of Exhibit A attached hereto; and

WHEREAS, the SEIR is incorporated by this reference in this Resolution, and consists of those documents referenced in Section IV of Exhibit A attached hereto; and

WHEREAS, by motion adopted on November 11, 2103, the Sunnyvale Planning Commission recommended to the City Council the certification of the SEIR; and

WHEREAS, a public hearing was held by the City Council on _____ regarding the Project and the SEIR, following notice duly and regularly given as required by law, and all interested persons expressing a desire to comment thereon or object thereto were heard, and the SEIR was considered; and

WHEREAS, by this resolution, the City Council, as the lead agency under CEQA for preparing the SEIR and the entity responsible for approving the Project, desires to comply with the requirements of CEQA and the CEQA Guidelines for consideration, certification, and use of the SEIR in connection with the approval of the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sunnyvale as follows:

1. The City Council hereby finds and certifies that the SEIR has been completed in compliance with CEQA and the CEQA Guidelines; that the SEIR adequately addresses the environmental issues of the Project; that the SEIR was presented to the City Council; that the City Council has reviewed and considered the information contained in the SEIR prior to approving the Project; and that the SEIR reflects the independent judgment and analysis of the City Council.

2. The City Council hereby identifies the significant effects, adopts the mitigation measures, adopts the monitoring Mitigation Monitoring and Reporting Plan to be implemented for each mitigation measure, makes the findings, and adopts a statement of overriding considerations set forth in detail in the attached Exhibit A, which is incorporated in this Resolution by this reference. The statements, findings and determinations set forth in Exhibit A are based on the above certified SEIR and other information available to the City Council , and are made in compliance with Sections 15091, 15092, 15093, and 15096 of the CEQA Guidelines and Sections 21081 and 21081.6 of CEQA.

Adopted as a Resolution of the City of Sunnyvale at a regular meeting of the City Council held on December __, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
SEAL

Mayor

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CITY OF SUNNYVALE

MOFFETT PLACE PROJECT

SIGNIFICANT ENVIRONMENTAL EFFECTS, FINDINGS OF FACT, MITIGATION MEASURES, MONITORING PROGRAM, AND STATEMENT OF OVERRIDING CONSIDERATIONS

I. PURPOSE OF THE FINDINGS

The purpose of these findings is to satisfy the requirement of Public Resources Code Section 21000, *et seq.*, and Sections 15091, 15092, 15093 and 15097 of the CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, *et seq.*, associated with approval of the Moffett Place project and associated approvals (Moffett Park Specific Plan Amendment, Rezone from MP-1 to MP-TOD, Development Agreement, and Major Moffett Park Design Review, the "Project"). These findings provide the written analysis and conclusions of the City Council regarding the Moffett Place Project. They are divided into general sections, each of which is further divided into subsections. Each addresses a particular impact topic and/or requirement of law. At time, these findings refer to materials in the administrative record, which is available for review in the City's Planning Division.

II. PROJECT OBJECTIVES

As noted in Section 3.3 of the Draft Subsequent Environmental Impact Report for the Project, the purpose of the Project is to develop a quality office campus in a manner that is sensitive to its context. Specific project objectives are to:

- Develop a project that is consistent and compatible with the existing land uses in the surrounding area.
- Develop an office campus of sufficient size and quality that enable it to attract and accommodate large corporate tenants.
- Develop an office campus of sufficient density to take advantage of the site's proximity to the existing transit facilities.
- Design office buildings that satisfy modern tenant demands for site configurations, amenities, and efficient/effective employee collaboration space.
- Develop Class A office space with ample amenities to attract high quality tenants
- Provide adequate parking spaces to accommodate the operations of the new occupants as well as adequate spaces for business invitees.
- Construct an environmentally sensitive office campus with LEED Gold accreditation.
- Develop office buildings that maximize on-site open space through project massing and sensitive design.
- Develop a project that would create construction jobs and employment opportunities in the City of Sunnyvale

- Develop a project of sufficient density to support the proposed project amenities, and to be financeable and financially feasible.

III. PROJECT DESCRIPTION

The Project under consideration by the City Council is the Moffett Place Project. The Project generally proposes development of an approximately 53.12 acre Class A office complex in the Moffett Park Specific Plan area in the City of Sunnyvale, and is described in Section 3.4 of the DSEIR, and. The project further consists of the following materials presented to the City Council on December 3, 2013:

- A. Moffett Park Specific Plan Amendment;
- B. Moffett Place Rezone;
- C. Development Agreement;
- D. Site and Architectural Plans;
- E. Materials submitted by the Applicant in support of the Project; and
- F. Conditions of Approval adopted by the City Council on December 3, 2013.

IV. THE CEQA PROCESS

A draft and a final Subsequent Environmental Impact Report (collectively, the "SEIR") has been prepared for and by the City in accordance with the California Environmental Quality Act ("CEQA", Public Resources Code Sec 21000 *et seq.*), and the State CEQA Guidelines (14 Cal. Code of Regulations, Sections 15000 *et seq.*) in connection with the Project. By way of background, a Program EIR, the Moffett Park Specific Plan (MPSP) Environmental Impact Report (MPSP EIR; SCH #2001052121) was certified by the Sunnyvale City Council on November 11, 2003. The MPSP establishes a comprehensive development policy and provides regulatory guidance for the build out of the Moffett Park Specific Plan area. In October 2012, Mathilda Place, LLC, submitted an application to the City for the current proposed Project, which, if approved and implemented, would develop the site at a higher intensity than what is currently permitted under the MPSP, resulting in the need for an amendment to the MPSP and the City of Sunnyvale Zoning Ordinance. Because the proposed development could have project-specific potential impacts that were not analyzed in the MPSP Program EIR, the City chose to prepare a project-level Subsequent EIR pursuant to Section 15162 of the CEQA Guidelines. The SEIR, where applicable, tiers off of and incorporates by reference the program-level MPSP EIR. Where applicable and where potential impacts associated with the proposed Project were adequately analyzed in the program-level MPSP EIR, the SEIR relies on the analysis and findings presented in that document. The SEIR for the Project consists of the following:

- A. Draft Subsequent Environmental Impact Report ("DSEIR"), issued August 2013;
- B. All appendices to the DSEIR;
- C. Final Subsequent Environmental Impact Report ("FSEIR"), dated October 2013, containing all written comments and responses on the DSEIR, refinements and clarifications to the DSEIR, the mitigation monitoring and reporting program;

- D. Appendix "A" to the FSEIR, "Applicable Mitigation Measures from the Mitigation and Monitoring and Reporting Program of the Moffett Park Specific Plan EIR; December 2002, SCH#2001052121"; and
- E. All of the comments and staff responses entered into the record orally and in writing, as well as accompanying technical memoranda or evidence entered into the record.
- F. The *Moffett Park Specific Plan EIR*, December 2002; SCH #:2001052121, certified by the Sunnyvale City Council on November 11, 2003, by Resolution No.158-03, incorporated herein by reference.

In conformance with CEQA, the City has taken the following actions in relation to the SEIR:

- A. On February 12, 2013, a Notice of Preparation (NOP) was distributed appropriate agencies and parties for the purpose of obtaining written comments from the agencies and parties regarding the scope and content of environmental information and analysis which they wanted addressed in the SEIR.
- B. On February 28, 2013, the City held a scoping meeting with interested parties for the purpose of receiving comments on the scope of the SEIR.
- C. A Draft Supplemental Environmental Impact Report (DSEIR) was prepared for the Project and was circulated for public review and comment from August 30, 2013 through October 15, 2013. The DSEIR was submitted to the State Clearinghouse for review on August 30, 2013 (State Clearinghouse No. 2013022025). On August 30, 2013, notice of the availability of the DSEIR was provided to appropriate agencies and the general public via a Notice of Completion sent to the State Clearinghouse and via mailed notice to all interested parties, and persons living _____ feet of the Project site.
- D. On November 1, 2013, all comments received on the SEIR during the public comment period were responded to and included in a Final SEIR, made available for public review on November 1, 2013.
- E. On November 11, 2013, the Planning Commission conducted a duly and properly noticed public hearing on the Project and the SEIR, and recommended that the City Council certify the SEIR and approve the Project.
- F. The Project and the SEIR came before the City Council on _____ at a duly and properly noticed public hearing. On _____, the City Council adopted the following findings, Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations.

V. FINDINGS ARE DETERMINATIVE

The City Council certifies that the SEIR has been completed in compliance with CEQA and that it was presented to, and reviewed and considered by, the City Council prior to acting on the Project. In so certifying, the City Council recognizes that there may be differences in and among the different sources of information and opinions offered in the documents and testimony that make up the SEIR and the administrative record; that experts disagree; and that the City Council must base its decision and these findings on the substantial evidence in the record that it finds most compelling. Therefore, by these findings, the City Council ratifies, clarifies, and/or makes insignificant modifications to the SEIR and resolves that these findings shall control and are determinative of the significant impacts of the Project.

The mitigation measures proposed in the SEIR are adopted in this Exhibit A, substantially in the form proposed in the SEIR, with such clarifications and non-substantive modifications as the City Council has deemed appropriate to implement the mitigation measures. Further, the mitigation measures adopted in this Exhibit A are expressly incorporated into the Project pursuant to the adopted conditions of approval.

The findings and determinations in this Exhibit A are to be considered as an integrated whole and, whether or not any subdivision of this Exhibit A fails to cross-reference or incorporate by reference any other subdivision of this Exhibit A, that any finding or determination required or permitted to be made shall be deemed made if it appears in any portion of this document. All of the text included in this document constitutes findings and determinations, whether or not any particular caption sentence or clause includes a statement to that effect.

Each finding herein is based on the entire record. The omission of any relevant fact from the summary discussions below is not an indication that a particular finding is not based in part on the omitted fact.

Many of the mitigation measures imposed or adopted pursuant to this Exhibit A to mitigate the environmental impacts identified in the administrative record may have the effect of mitigating multiple impacts (e.g., conditions imposed primarily to mitigate traffic impacts may also secondarily mitigate air quality impacts, etc.). The City Council has not attempted to exhaustively cross-reference all potential impacts mitigated by the imposition of a particular mitigation measure; however, such failure to cross-reference shall not be construed as a limitation on the potential scope or effect of any such mitigation measure.

Reference numbers to impacts, mitigation measures, and page numbers in the following sections are to the page numbers used in the SEIR, as specified.

VI. IMPACTS, MITIGATION MEASURES AND FINDINGS

In conformance with Section 15091 of the State CEQA Guidelines, this section of the findings lists each significant environmental effect of the project listed in the SEIR; describes those mitigation measures recommended in the SEIR; and, as required by Section 15091(a), finds that either: the adopted mitigation measures have substantially lessened the significant effect; the adopted mitigation measures, though implemented, do not substantially lessen the

significant effect; the mitigation measures cannot be adopted and implemented because they are the responsibility of another public agency; or that specific considerations make infeasible the mitigation measures identified in the SEIR.

All feasible mitigation measures listed below have been incorporated into the Mitigation Monitoring and Reporting Program ("MMRP"), further described in Section X, below. Compliance with the MMRP is a condition of approval of the Project, and the construction of the Project will incorporate all conditions contained in the MMRP.

A. Land Use

1. **Impact 4.1-2:** The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.

(a) **Significant Environmental Effect:** Conflict with applicable land use plans. This impact is further described on pages 4.1-through 4.1-25 of the DSEIR.

(b) **Mitigation Measure 4.1-2a:** Avigation Easement Dedication: As a condition of development approval, the Project applicant shall dedicate an avigation easement to the County of Santa Clara. The avigation easement shall be similar to that shown as Exhibit 1 in Appendix A of the Moffett Federal Airfield CLUP.

(c) **Mitigation Measure 4.1-2b:** Federal Aviation Administration (FAA) Notification as a condition of development approval, the Project Applicant shall notify the Federal Aviation Administration (FAA) as required by FAR Part 77, Subpart B on FAA Form 7460-1, Notice of Proposed Construction or Alteration.

(d) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(e) **Facts Supporting Finding.** Mitigation Measures 4.1-2a and 4.1-2b are included in the MMRP. Compliance with these measures would provide notice to the FAA of the development and assures compliance with standards so that the height of the proposed campus is not anticipated to pose hazard to flight. Consequently, implementation of these mitigation measures will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

B. Aesthetics

1. **Impact 4.2-3:** The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

(a) Significant Environmental Effect: Light and glare. This impact is further described on pages 4.2- 14 through 4.2-18 of the DSEIR.

(b) Mitigation Measure 4.2-3a: Glare reduction: All exterior windows and Glass used on building surfaces shall be non-reflective or treated with a non-reflective coating.

(c) Mitigation Measure 4.2-3b: Exterior Lighting: Locations Requirements: All exterior lighting proposed as part of the proposed Project's required exterior lighting plan shall be constructed and located in such a manner that it cannot be mistaken for airport approach or runway lights by pilots.

(d) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(e) Facts Supporting Finding. Mitigations Measures 4.2-3a and 4.2-3b are included in the MMRP. The proposed Project will adhere to lighting guidelines for the MPSP. Compliance with the measures will ensure that any potential impacts associated with light and glare will be reduced to levels considered less than significant. Consequently, implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

C. Biological Resources

1. Impact 4.3-2: Project development and operation could have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS.

(a) Significant Environmental effect. This impact is further described on pages 4.3-12 through 4.3-13 of the DSEIR.

(b) Mitigation Measure. 4.3-2: Channel Protection: The following measures extracted from the City's adopted "Guidelines and Standards for Land Use Near Streams" would ensure that site construction and operation would not result in indirect adverse effects on the riparian and aquatic habitats or the Sunnyvale West Channel:

Measures to be Implemented During Project Construction

- a. Dust control must be practiced during demolition and grading.
- b. The City of Sunnyvale routinely requires implementation of protective measures for all projects adjacent to stream courses. For all work adjacent to stream channels, best management practices (BMPs) shall be implemented to prevent bank erosion, sedimentation, release of contaminants, accidental incursion by construction equipment below the tops of bank. Such measures may include installation of silt fencing, hay bales, straw wattles or other

protective devices to prevent the downslope migration of silt or sediment from the construction site.

Measures to be Implemented During Project Operation

c. Post-construction BMPs incorporated into the project's drainage plan shall comply with Provision C.3.c of the Municipal Regional Stormwater Permit (see Impact 4.5-5 in Section 4.3, Hydrology and Water Quality, for more discussion) to ensure that no significant adverse effects on water quality of the Sunnyvale West Channel or the adjacent riparian habitat would result.

d. All storm water treatment facilities must be in accordance with local and regional water quality standards to ensure there is no release of contaminants into the aquatic environment.

(c) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Finding. Mitigations Measures 4.3-2 is included in the MMRP. By including the mitigation measure, the potential for indirect effects on the adjacent riparian habitat would be avoided. No riparian habitats or other sensitive natural communities are present onsite and none would be directly impacted by proposed Project implementation. However, riparian habitats may be associated with the Sunnyvale West Channel which is immediately adjacent to the western boundary of the Project site. Although existing development on the site does not extend into the riparian zone and the proposed Project would not extend into that zone, the proximity of the proposed Project to the channel could still result in indirect impacts on the riparian habitat. Implementation of this mitigation measure will reduce this potentially significant impact to a less-than-significant level as defined by CEQA.

2. Impact 4.3-4: Project development would not 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.

(a) Significant Environmental Effect: Impact on wildlife. This impact is further described on pages 4.3-13 through 4.3-16 of the DSEIR.

(b) Mitigation Measure 4.3-4a: Bird-Safe Building Design: Prior to the issuance of any building permits, the Project applicant shall demonstrate to the satisfaction of the Community Development Director, that the proposed building design incorporates design features for bird-safe buildings, so long as they do not conflict with the proposed Project objective of constructing an energy efficient building designed to meet LEED Gold certification. Bird-safe design guidelines, such as the Standards for Bird-Safe Buildings adopted by the City of San Francisco Planning Department in July 2011 should be used to identify appropriate design features. Design features shall be directed towards the building facades that face large open areas. In addition, the applicant will be required to work with future tenants to implement a "Lights Out" program.

(c) **Mitigation Measure 4.3-4b:** Non-Special Status-Species: Prior to the issuance of Grading Plans or improvement plans, the Project applicant shall demonstrate to the satisfaction of the Community Development Director that the following notes are shown on the grading and improvement plans: All tree and building removal and initial grading of the site shall occur outside of the migratory bird and raptor breeding season (August 16 through February 28) unless the following requirements are implemented:

- If construction activities are scheduled to occur during the breeding season for non-special-status species (generally between March 1 and August 15), a qualified wildlife biologist shall be retained to conduct the following focused nesting surveys, as follows:
- Tree surveys shall be conducted within the Project site to look for nesting non-special-status migratory birds and raptors.
- In addition, surveys of all buildings shall be conducted to look for nesting non-special-status migratory birds and raptors.
- The surveys shall be conducted between March 1 and August 15 and within one week prior to initiation of construction activities. A summary report of the survey findings shall be submitted to the satisfaction of the Community Development Director. If no active nests are detected during surveys, then no additional mitigation is required.
- If construction activities are scheduled to occur during the breeding season (generally between March 1 and August 15), and if surveys indicate that migratory bird or raptor nests are found in any areas that would be directly affected by construction activities, a no-disturbance buffer shall be established around the site to avoid disturbance or destruction of the nest site until after the breeding season, or after a wildlife biologist determines that the young have fledged (usually late-June to mid-July). The extent of these buffers shall be determined by a qualified wildlife biologist and shall depend on the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. These factors shall be analyzed in order to make an appropriate decision on buffer distances. A summary report of the survey findings with the location of the active nests and required buffer distances shall be submitted to the satisfaction of the Community Development Director.

(d) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(e) **Facts Supporting Finding.** Mitigation Measures 4.3-4a and 4.3-4b are included in the MMRP. The proposed Project could result in bird collisions and mortalities due to the large percentage of glass proposed for the buildings and the extensive landscaping proposed onsite. Bird collisions would be expected to mostly occur at the lower levels of the buildings where the vegetation is most prominent. Implementation of Mitigation Measure 4.3-4a would reduce impacts associated with bird collisions to a less than significant level.

Landscape and structures on the Project site may provide nesting habitat for non-special-status migratory birds and raptors. If construction occurs during the breeding season (generally between March 1 and August 15), demolition and construction activities (e.g., tree and shrub

removal, excavation, grading) that occur within the Project area could disturb or remove occupied nests of non-special-status migratory birds and raptors. This disturbance could cause nest abandonment and subsequent loss of eggs or developing young at active nests located in or near the Project area. Implementation of Mitigation Measure 4.3-4b would reduce this impact to a less than significant level as defined by CEQA.

3. Impact 4.3-5: The project would not conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance.

(a) Significant Environmental Effect: Removal of protected trees. This impact is further described on page 4.3-16 of the DSEIR.

(b) Mitigation Measure 4.3-5: The applicant shall demonstrate to the satisfaction of the Director of Community Development that the removal of the protected trees as defined by the City Code has been mitigated through the planting of new trees at a 1:1 ratio, in conformance with the Landscape Plan.

(c) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Finding. Mitigation Measure 4.3-5, which requires compliance with the City's code, is included in the MMRP. The landscape plan proposes to plant approximately 292 trees in replacement throughout the Project site including common areas and parking areas, at a replacement ratio of 1:1. This mitigation measure would reduce this impact to a less than significant level as defined by CEQA.

D. Geology and Soils

1. Impact 4.4-1: The proposed project could result in exposure of people and structures to potential adverse effects, including risk of loss, injury, or death involving strong seismic ground shaking; or seismic related ground failure, including liquefaction.

(a) Significant Environmental Effect: Seismic activity: Ground shaking, fault rupture, and liquefaction. This impact is further described on pages 4.4-9 through 4.4-11 of the DSEIR.

(b) Mitigation Measure 4.4-1a: Foundations: The proposed 8-story office buildings and parking structures should be supported on deep foundations consisting of driven, precast, pre-stressed concrete friction piles or augured cast-in-place piles. In order to reduce the potential for settlements due to liquefaction impacting pile foundations, it is recommended that each pile extend to a depth of at least 50 feet below grade. The amenities building and vehicular bridge may be supported on conventional shallow foundations consisting of continuous and/or isolated

spread footings, as long as the estimated differential settlements are considered reasonable from a structural viewpoint.

(c) **Mitigation Measure 4.4-1b:** Implement Recommendations of Geotechnical Report: The project sponsor shall implement all of the recommendations of the project geotechnical report, and any associated updates or revisions, related to review of plans and specifications for proposed buildings; demolition observation and testing; construction observation and testing; site demolition, clearing, and preparation; subgrade preparation; subgrade stabilization; material for fill; compaction requirements; trench backfill; site drainage; foundations; concrete slabs and pedestrian pavements; vehicular pavements; and retaining walls.

(d) **Mitigation Measure 4.4-1c:** Geological Monitor: A representative from TRC should observe the geotechnical aspects of the grading and earthwork for general conformance with their recommendations including site preparation, selection of fill materials, and the placement and compaction of fill. The proposed Project plans and specifications should incorporate all recommendations contained in the Geotechnical Report.

(e) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(f) **Facts Supporting Finding.** Mitigation Measures 4.4-1a through 4.4-1c are included in the MMRP. Compliance with these measures will address these seismic concerns. Consequently, these mitigation measures would reduce this impact to a less than significant level as defined by CEQA.

2. **Impact 4.4-3: The proposed project could cause a geologic unit to become unstable as a result of the project, and potentially resulting in lateral spreading, subsidence, liquefaction or collapse.**

(a) **Significant Environmental Effect:** This impact is further described on pages 4.4-12 through 4.4-114 of the DSEIR in addition to the summary immediately below.

(b) **Mitigation Measure 4.4-3a:** Compaction: In accordance with the recommendations of the project geotechnical report, all fill and scarified surface soils should be uniformly compacted to at least 90 percent relative compaction at a moisture content near the laboratory optimum, except for the native expansive clays. The native expansive clays should be compacted to between 87 and 92 percent relative compaction at a moisture content at least 3 percent over optimum. Fill should be placed in lifts no greater than 8 inches in un-compacted thickness. Each successive lift should be firm and relatively non-yielding under the weight of construction equipment.

In pavement areas, the upper 6 inches of subgrade and full depth of aggregate base should be compacted to at least 95 percent relative compaction, except for the native clays. Aggregate

base and all import soils should be compacted at a moisture content near the laboratory optimum moisture content.

If there are updates or revisions to the project geotechnical report, the above mitigation requirements shall be revised to match the updated recommendations as necessary.

(c) **Mitigation Measure 4.4-3b:** Abandonment of Existing Utilities: In accordance with the recommendations of the project geotechnical report, the project sponsor shall ensure that existing utilities are completely removed from all building areas. A utility may only be abandoned in place if it would not pose an unacceptable risk, and if approved by the geotechnical engineer. If abandoned in place, the utility must be completely backfilled with grout or sand-cement slurry and the ends outside of the building area must be capped with concrete. Trench fills must also be removed and replaced with engineered fill with the trench side slopes flattened to at least 1:1.

If there are updates or revisions to the project geotechnical report, the above mitigation requirements shall be revised to match the updated recommendations as necessary.

(d) **Mitigation Measure 4.4-3c:** Corrosion Protection Engineer: In accordance with the recommendations of the preliminary geotechnical report, a corrosion protection engineer shall be consulted about appropriate corrosion protection methods for buried metallic materials on the project site prior to site grading and construction.

(e) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(f) **Facts Supporting Finding.** Mitigation Measures 4.4-1a through 4.4-1c are included in the MMRP. Compliance with these measures will address these seismic concerns. Consequently, these mitigation measures would reduce this impact to a less than significant level as defined by CEQA.

3. **Impact 4.4-4: The proposed project could be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property.**

(a) **Significant Environmental Effect.** This impact is further described on pages 4.4-14 of the DSEIR.

(b) **Mitigation Measure 4.4-1a:** Foundations: The proposed 8-story office buildings and parking structures should be supported on deep foundations consisting of driven, precast, pre-stressed concrete friction piles or augured cast-in-place piles. In order to reduce the potential for settlements due to liquefaction impacting pile foundations, it is recommended that each pile extend to a depth of at least 50 feet below grade. The amenities building and vehicular bridge may be supported on conventional shallow foundations consisting of continuous and/or isolated

spread footings, as long as the estimated differential settlements are considered reasonable from a structural viewpoint.

(c) **Mitigation Measure 4.4-1b:** Implement Recommendations of Geotechnical Report: The project sponsor shall implement all of the recommendations of the project geotechnical report, and any associated updates or revisions, related to review of plans and specifications for proposed buildings; demolition observation and testing; construction observation and testing; site demolition, clearing, and preparation; subgrade preparation; subgrade stabilization; material for fill; compaction requirements; trench backfill; site drainage; foundations; concrete slabs and pedestrian pavements; vehicular pavements; and retaining walls.

(d) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(f) **Facts Supporting Finding.** Mitigation Measures 4.4-1a and 4.4-1b are included in the MMRP. Compliance with these measures will require the Project applicant to provide the proper foundations and to implement the appropriate geotechnical building techniques. Consequently, these mitigation measures would reduce this impact to a less than significant level as defined by CEQA.

E. Transportation and Traffic

1. **Impact 4.6-1a:** The proposed project could conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

(a) **Significant Environmental Effect:** This impact is further described on pages 4.6-27 – 4.6-42 of the DSEIR, and 3-4 of the FSEIR.

(b) **Mitigation Measure 4.6-1a:** Prior to occupancy of each phase, the project applicant shall, to the satisfaction of the Public Works Director, provide a Traffic Impact Fee payment to the City. The payment would be based on the amount of development associated with each phase of development and be based on the current TIF rates at the time of payment. Payment of the TIF fee would constitute the project's fair share contribution to the required improvements to reduce potential impacts at the Mathilda/Moffett Park intersection. Required improvements consist of reconfiguration of the SR 237/Mathilda Avenue ramp intersections, as recommended by the 2006 Route 237 Corridor Study:

- Shifting the SR 237 Westbound Off-ramp 150 feet to the north to align with Moffett Park/Mathilda Avenue;
- Removing SR 237 Westbound On-ramp; and

- Constructing a direct southbound right-turn on-ramp from Mathilda Avenue to US 101 north

Reconfiguration of the SR 237/Mathilda Avenue ramp intersections would reduce the impact to a less-than-significant level. These improvements are programmed in both the City's Transportation Strategic Program and the Valley Transportation Plan (VTP) 2035 list of constrained projects, and the project is currently in the design/environmental phase. The final design of the Mathilda/237 interchange will be determined in the design phase.

(c) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Finding. Mitigation Measures 4.6-1 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

2. **Impact 4.6-1b: Mathilda Avenue/Westbound SR 237 Ramps (#7) During the PM peak hour, the addition of project traffic exacerbates unacceptable LOS F operations under Background plus Project Conditions.**

(a) Significant Environmental Effect: This impact is further described on page 4.6-43 of the DSEIR.

(b) **Mitigation Measure 4.6-1b**. The mitigation for this impact is the same as Mitigation Measure 4.6-1a.

(c) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Finding. Mitigation Measures 4.6-1a is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

3. **Impact 4.6-2: The proposed project could conflict with an applicable congestion management program, including, but not limited to LOS standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.**

(a) Significant Environmental Effect: This impact is further described on pages 4.6-49 – 4.6-52 of the DSEIR.

(b) **Mitigation Measure 4.6-2**: Prior to occupancy of each phase, the project applicant shall, to the satisfaction of the Public Works Director, provide a fair share contribution to

freeway improvements were identified in the Valley Transportation Plan (VTP) 2035 to improve freeway operations on the affected segments:

- Convert HOV lanes to express lanes on US 101 from SR 85 in Mountain View to San Jose (VTP ID H5)
- Convert HOV lanes to express lanes on SR 237 from I-880 to Mathilda Avenue (VTP ID H9)
- Construct new HOV/express lanes on SR 237 between Mathilda Avenue and SR 85 (VTP H11).

The payment would be based on the amount of development associated with each phase of development and be based on the VTA project estimates at the time of payment. The freeway improvement projects listed in the VTP 2035 are financially constrained (financially constrained projects are planned project for which VTA anticipates full funding within the timeframe of the VTP 2035 and are currently under design). These improvements are anticipated to relieve traffic congestion added by the project. Therefore a fair share contribution to these regional projects, which VTA is actively designing, would constitute mitigation toward the following identified freeway impacts:

US 101: Convert HOV lanes to express lanes from SR 85 in Mountain View to San Jose (VTP ID H5)

- Northbound, Ellis Street to SR 237
- Northbound, Mathilda Avenue to Fair Oaks Avenue
- Northbound Fair Oaks Avenue to Lawrence Expressway

SR 237: Convert HOV lanes to express lanes from I-880 to Mathilda Avenue (VTP H9)

- Westbound, Fair Oaks Avenue to Mathilda Avenue
- Eastbound/Westbound, Fair Oaks Avenue to Lawrence Expressway

SR 237 – Construct new HOV/express lanes between Mathilda Avenue and SR 85 (VTP H11)

- Eastbound/Westbound, US 101 to Maude Avenue
- Eastbound, Mathilda Avenue to US 101

(c) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Finding. Mitigation Measures 4.6-2 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA, because payment of fair share contributions are considered mitigation.

4. Impact 4.6-3 (Air Traffic Patterns): The proposed project could result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks.

(a) Significant Environmental Effect: The Project site is located within the Airport Influence Area (AIA) of Moffett Field Airport, less than one mile away. This impact is further described on pages 4.6-55 of the DSEIR.

(b) **Mitigation Measure 4.6-3:** Refer to Section 4.4-1, Mitigation Measures 4.1-1a and 4.1-1b

(c) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) **Facts Supporting Finding.** Mitigation Measures 4.6-3 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

5. **Impact 4.6-8:** The proposed project could result in inadequate roadway operations as a result of construction related traffic.

(a) **Significant Environmental Effect.** This impact is further described on pages 4.6-59-4.6-60 of the DSEIR.

(b) **Mitigation Measure 4.6-8:** Prior to issuance of a grading permit, the applicant shall, to the satisfaction of the Public Works Director, receive approval of a traffic control plan that restricts directional access to the construction site. In-bound construction traffic from Mathilda Avenue shall be directed to access the construction site via Mathilda Avenue or Moffett Park Drive, while outbound construction traffic shall be restricted to Java Drive, eastbound Moffett Park Drive or as approved by the Public Works Director.

The traffic control plan shall prohibit truck access to the site during peak commute times (7 AM to 9 AM and 4 PM to 6 PM) to limit potential impacts to the operations of Mathilda Avenue. Alternative times may be considered in specific cases as approved by the Public Works Director.

(c) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) **Facts Supporting Finding.** Mitigation Measures 4.6-8 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

F. Noise

1. **Impact 4.7-1:** Project construction could cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project due to operation of heavy equipment during construction.

(a) **Significant Environmental Effect.** This impact is further described at pages 4.7-13 through 4.7-16 of the DSEIR.

(b) **Mitigation Measure 4.7-1:** Prior to the issuance of demolition permits or ground disturbing activities (whichever occurs first), the Contractor shall demonstrate to the satisfaction of the City of Sunnyvale Community Development Department that the proposed project complies with the following:

- Construction contracts specify that all construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and other state required noise attenuation devices.
- Property occupants located adjacent to the project boundary shall be sent a notice, at least 15 days prior to commencement of construction of each phase, regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted at the project construction site. All notices and signs shall be reviewed and approved by the City of Sunnyvale Community Development Department prior to mailing or posting and shall indicate the dates and duration of construction activities, as well as provide a contact name and a telephone number where residents can inquire about the construction process and register complaints.
- The Contractor shall provide evidence that a construction staff member will be designated as a Noise Disturbance Coordinator and will be present on-site during construction activities. The Noise Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Noise Disturbance Coordinator shall notify the City within 24-hours of the complaint and determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the Community Development Department. All notices that are sent to residential units immediately surrounding the construction site and all signs posted at the construction site shall include the contact name and the telephone number for the Noise Disturbance Coordinator.
- During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers.
- Pursuant to the Municipal Code Chapter 16.08, construction activities shall occur between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, 7:00 a.m. and 5:00 p.m. on Saturdays, and shall be prohibited on Sundays and holidays or as approved by the Chief Building Official.

(c) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) **Facts Supporting Finding.** Mitigation Measures 4.7-1 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

G. Air Quality

1. **Impact 4.8-1:** Project construction would violate an air quality standard or contribute substantially to an existing or projected air quality violation.

(a) Significant Environmental Effect. This impact is further described on pages 4.8-10 through 4.8-17 of the DSEIR.

(b) **Mitigation Measure 4.8-1a:** BAAQMD Basic and Additional Construction Mitigation Measures: Prior to issuance of any Grading or Demolition Permit, the City Engineer and the Chief Building Official shall confirm that the Grading Plan, Building Plans, and specifications stipulate that the following basic and enhanced construction mitigation measures shall be implemented:

- Water all active construction areas to maintain 12 percent soil moisture.
- All grading shall be suspended when winds exceed 20 miles per hour.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- 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. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Wind breaks and perimeter sand bags shall be used to minimize erosion.
- The amount of simultaneously disturbed surface shall be minimized as much as possible.
- Site access points from public roadways shall be paved or treated to prevent track-out.
- Replace vegetation in disturbed areas as quickly as possible.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes. Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

(c) **Mitigation Measure 4.8-1b:** BAAQMD Architectural Coatings Mitigation Measures: Prior to issuance of any Building Permit, the Chief Building Official and Project LEED Accredited Professional shall confirm that the Building Plans and specifications include the following BAAQMD additional construction mitigation measures:

- Use low volatile organic compounds (VOC) (i.e., reactive organic gases [ROG] coatings beyond the BAAQMD requirements [i.e., Regulation 8, Rule 3: Architectural Coatings]).
- VOC content of architectural coatings shall not exceed the following for each construction phase:
 - Phases 1 and 2: VOC content of architectural coatings shall not exceed 23 grams per liter.
 - Phase 3: VOC content of architectural coatings shall not exceed 31 grams per liter.
 - Phase 4: VOC content of architectural coatings shall not exceed 25 grams per liter.

(d) **Mitigation Measure 4.8-1c:** NO_x Reduction Measures: The following measures shall be implemented during construction to reduce NO_x related emissions. They shall be included in the Grading Plan, Building Plans, and contract specifications. Contract specification language shall include the following:

- All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NO_x.¹
- All contractors shall use equipment that meets the California Air Resources Board's most recent certification standard for off-road heavy duty diesel engines.
- The idling time of diesel powered construction equipment shall be minimized to two minutes.
- The Project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NO_x reduction and 45 percent PM reduction compared to the most recent California Air Resources Board fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- Utilize existing power sources (i.e., electrical power) when available. This measure would minimize the use of higher polluting gas or diesel generators.

(e) **Finding.** Changes or alterations have been incorporated into the Project that avoid or lessen the significant environmental effects identified in the SEIR, with the exception of violations of air quality standards during construction activity, which exceed the BAAQMD thresholds for NO_x emissions, during construction years 1 through 4. This constitutes a **significant and unavoidable impact** under CEQA.

(f) **Facts Supporting Finding.** Mitigation Measures: 4.8-1a; 4.8-1b; 4.8-1c; 4.8-3 are included in the MMRP. As shown in Table 4.8-4 of the SEIR, implementation of these mitigation measures would reduce emissions to a less than significant level for ROG, PM₁₀, and PM_{2.5}. However, NO_x would remain significant and unavoidable during construction years 1 through 4. There is no mitigation identified that would eliminate this impact.

¹ Best Available Control Technology (BACT) is defined as technology, verified by CARB, for an off-road vehicle that achieves reductions in emissions at the highest applicable classification level for diesel emission control strategies. A summary of CARB-verified diesel emission control strategies may be found at <http://www.arb.ca.gov/diesel/verdev/vt/cvt.Htm>. Where this policy requires BACT, this requirement can be satisfied by a factory installed equivalent device, such as a diesel particulate filter.

2. **Impact 4.8-3: Project implementation would not expose sensitive receptors to substantial pollutant concentrations.**

(a) **Significant Environmental Effect.** Exposure to sensitive receptors. This impact is further described at pages 4.8-23 through 4.8-25 of the DSEIR.

(b) **Mitigation Measure 4.8-3:** Refer to Mitigation Measure 4.8-1a.

(c) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) **Facts Supporting Finding.** Mitigation Measure 4.8-1a is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

H. Hazards and Hazardous Materials

1. **Impact 4.10-2: The project could create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials to the environment during building demolition.**

(a) **Significant Environmental Effect.** This impact is further described at pages 4.10-11 through 4.10-12 of the DSEIR.

(b) **Mitigation Measure 4.10-2:** Hazardous Building Materials Surveys and Abatement: Prior to demolition of each building, the project applicant shall incorporate into contract specifications the requirement that the contractor(s) have a hazardous building materials survey completed by a Registered Environmental Assessor or a registered engineer. This survey shall be completed prior to any demolition activities associated with the project. If any friable asbestos-containing materials or lead-containing materials are identified, adequate abatement practices, such as containment and/or removal, shall be implemented in accordance with applicable laws prior to demolition. Specifically, asbestos abatement shall be conducted in accordance with Section 19827.5 of the California Health and Safety Code, as implemented by the BAAQMD, and 8 CCR Section 1529 and Sections 341.6 through 341.14, as implemented by Cal/OSHA. Lead-based paint abatement shall be conducted in accordance with Cal/OSHA's Lead in Construction Standard.

Any PCB-containing equipment, fluorescent light tubes containing mercury vapors, and fluorescent light ballasts containing DEHP shall also be removed and legally disposed of in accordance with applicable laws including 22 CCR Section 66261.24 for PCBs, 22 CCR Section 66273.8 for fluorescent lamp tubes, and 22 CCR Division 4.5, Chapter 11 for DEHP.

(c) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Finding. Mitigation Measure 4.10-2 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

I. Cultural Resources

1. Impact 4.11-2: Demolition and construction activities on the project site could cause a substantial adverse change in the significance of unknown subsurface archaeological resources, including the disturbance of human remains.

(a) Significant Environmental Effect. This impact is further described at pages 4.11-5 through 4.11-8 of the DSEIR.

(b) Mitigation Measure 4.11-2a: Discovery of Archaeological Resources: If prehistoric or historic archaeological resources are encountered during project activities, all work within 25 feet of the discovery should be stopped and a qualified archeologist meeting federal criteria under 36 CFR 61 should be contacted to assess the resources and make recommendations. While prehistoric or historic archaeological resources should be avoided by project activities, if the resources cannot be avoided, they should be evaluated for their potential historic significance in consultation with the City of Sunnyvale. If the resources are recommended to be non-significant, avoidance is not necessary. If the resources are recommended as potentially significant or eligible to the CRHR, they should be avoided. If avoidance is not feasible, project impacts should be mitigated in accordance with the recommendations of the evaluating archaeologist and CEQA Guidelines §15126.4 (b)(3)(C), which require development and implementation of a data recovery plan that would include recommendations for the treatment of the discovered archaeological materials. The data recovery plan should be submitted to the City of Sunnyvale for review and approval. Upon approval and completion of the data recovery program, project construction activity within the area of the find may resume, and the archaeologist will prepare a report documenting the methods of investigation and the findings. The report will be submitted to the City of Sunnyvale. Once the report is reviewed and approved by the City of Sunnyvale, a copy of the report will be submitted to the NWIC.

(c) Mitigation Measure 4.11-2b: Discovery of Human Remains: In the event that human remains are discovered, the County Coroner, upon recognizing the remains as being of Native American origin, is responsible to contact the NAHC within 24 hours. The Commission has various powers and duties, including the appointment of a Most Likely Descendant (MLD) to the project. The MLD, or in lieu of the MLD, the NAHC, has the responsibility to provide guidance as to the ultimate disposition of any Native American remains. The MLD shall make recommendations to the Community Development Director regarding the method for exposure and removal of human burials and associated grave goods, and shall advise the Community Development Director regarding the place and method of reburial of these materials.

(d) Mitigation Measure 4.11-2c: Archaeological Monitor: A qualified archaeologist shall be retained to monitor the site clearing and grading operations in those areas where

buildings will be removed and/or new construction will occur. The archaeologist shall be present on-site to observe site clearing at a representative sample of building removal areas until he/she is satisfied that there is no longer a potential for finding buried resources. In the event that any potentially significant archaeological resources (i.e., potential historical resources or unique archaeological resources) are discovered, the project archaeologist shall stop work inside a zone designated by him/her where additional archaeological resources could be found. A plan for the evaluation of the resource shall be submitted to the Community Development Director for approval. Evaluation normally takes the form of limited hand excavation and analysis of materials and information removed to determine if the resource is eligible for inclusion on the California Register of Historic Resources (CRHR).

(e) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(f) Facts Supporting Finding. Mitigation Measures 4.11-2a through 4.11-2c are included in the MMRP. Compliance with these measure would reduce this impact to a less than significant level as defined by CEQA.

2. **Impact 4.11-3: Demolition and construction activities on the project site would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature.**

(a) Significant Environmental Effect. This impact is further described at page 4.11-10 of the DSEIR.

(b) **Mitigation Measure 4.11-3a**: Halt Construction and Evaluate Resource: In the event that a paleontological resource (fossilized invertebrate, vertebrate, plan or micro-fossil) is found during construction, excavation within 50 feet of the find shall be temporarily halted or diverted until the discovery is evaluated. Upon discovery, the Community Development Director shall be notified immediately and a qualified paleontologist shall be retained to document and assess the discovery in accordance with Society of Vertebrate Paleontology's 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources, and determine procedures to be followed before construction is allowed to resume at the location of the find. If the Community Development Director determines that avoidance is not feasible, the paleontologist will prepare an excavation plan for mitigating the project's impact on this resource, including preparation, identification, cataloging, and curation of any salvaged specimens.

(c) **Mitigation Measure 4.11-3b**: Paleontological Monitor: A qualified paleontologist shall be retained to monitor the site clearing and grading operations in those areas where buildings will be removed and/or new construction will occur. The paleontologist shall be present on-site to observe site clearing at a representative sample of building removal areas until he/she is satisfied that there is no longer a potential for finding buried resources. In the event that any potentially significant paleontological resources are discovered, the project paleontologist shall stop work inside a zone designated by him/her where additional paleontological resources

could be found. A plan for the evaluation of the resource shall be submitted to the Community Development Director for approval.

(d) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(e) Facts Supporting Finding. Mitigation Measures 4.11-3a and 4.11-3b are included in the MMRP. Compliance with these measures would reduce this impact to a less than significant level as defined by CEQA.

J. Public Services and Utilities

1. **Impact 4.12-1: Construction of the proposed Project would require additional emergency and public services for future visitors or workers, and could require the construction of new or physically altered government facilities to maintain acceptable service ratios, response times, or other performance objectives for fire protection, police protection, schools, or other public facilities.**

(a) Significant Environmental Effect. This impact is further described at page 4.12-17 through 4.12-18 of the DSEIR.

(b) **Mitigation Measure 4.12-1**: Fire and Police Protection: Concurrent with project entitlements, the Project applicant will enter into a binding agreement with the City of Sunnyvale regarding the addition of adequate public safety facilities and equipment.

(c) Finding. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) Facts Supporting Finding. Mitigation Measures 4.12-1 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

K. Cumulative Impacts

1. **Impact 5.4-1: (Cumulative, Traffic) The proposed project could conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.**

(a) Significant Environmental Effect. This impact is further described at pages 5-15 through 5-36.

(b) **Mitigation Measure 5.4-1:** Traffic Signal at Moffett Park Drive/Bordeaux Drive Intersection. Construct a traffic signal to the satisfaction of the Public Works Director at the Moffett Park Drive/Bordeaux Drive intersection prior to occupancy of the second phase of development. Impacts at this intersection would not occur with the first phase of development (Buildings B1, B2, and B5 and Parking Structure A). This intersection could potentially be removed when the future improvements to the SR 237/Mathilda Avenue interchange are constructed. Temporary traffic signals or other interim traffic improvements may be considered by the Public Works Director and installed/ completed prior to occupancy of the second phase of development if the SR 237/Mathilda Avenue interchange project has not been completed at that time. The final design of the SR 237/Mathilda interchange will be determined in the operations study lead by VTA.

(c) **Finding.** Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environments effects identified in the SEIR (14 California Code of Regulations § 15091(a)(1).)

(d) **Facts Supporting Finding.** Mitigation Measures 5.4-1 is included in the MMRP. Compliance with this measure would reduce this impact to a less than significant level as defined by CEQA.

VII. SUMMARY OF UNAVOIDABLE SIGNIFICANT ADVERSE EFFECTS.

The following significant adverse effect of the Project is found to be unavoidable despite the adoption by the City Council of all feasible mitigation measures identified in the SEIR: Emission of exhaust during construction of the Project would be expected to increase NO_x related emissions to an unacceptable level during construction years 1 through 4.

VIII. PROJECT ALTERNATIVES

A. **Legal Requirements.** Section 15126.6(f) of the State CEQA Guidelines requires that an environmental impact report include a "reasonable range of alternatives to the project, or to the location of the project, which would avoid or substantially lessen any significant effects of the project." Based on the analysis in the SEIR, the Project would be expected to result in significant and unavoidable temporary impacts to Air Quality. The SEIR alternatives were designed to avoid or reduce this significant unavoidable impact, while attaining the proposed objectives of the Project. The City Council has reviewed the significant impacts associated with the reasonable range of alternatives as compared to the Project, and in evaluating the alternatives has also considered each alternative's feasibility, taking into account a range of economic, environmental, social, legal, and other factors. In evaluating the alternatives, the City Council has also considered the important factors listed in the Statement of Overriding Considerations listed in Section IX below.

Public Resources Code Section 21081(b)(3) provides that when approving a project for which an environmental impact report has been prepared, a public agency may find that specific economic, legal, social, technological, or other considerations, including considerations for the

provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

B. Range of Alternatives. Chapter 5 of the SEIR describes the alternatives considered and compares their impacts to the Project. The SEIR evaluated three alternatives to the Project: Alternative 1: No Project/Existing Moffett Park Specific Plan (MPSP) and Zoning; Alternative 2: Existing Specific Plan (0.60 FAR); and Alternative 3: Fire Station.

C. Alternative 1: No Project/Existing Moffett Park Specific Plan (MPSP) and Zoning (“No Project Alternative”)

Pursuant to CEQA Guidelines, Section 15126.6 (e)(3)(A), when a project is a revision to an existing land use or regulatory plan, the No Project alternative will be the continuation of the existing land use or regulatory plan for the project site. In the case of the Project, the existing plan would be the Moffett Park Specific Plan and zoning. Under the No Project Alternative, the existing office space would continue to be utilized in the same fashion as it is today. However, the portion of the existing office and commercial space that is vacant would presumably be rented out, and traffic levels on local roadways providing access to the site would increase. Traffic increases on local roadways and intersections under this alternative would result in less-than-significant traffic impacts, as it is assumed that traffic levels would remain at Background Conditions and all study intersections would operate at acceptable levels. This alternative would also eliminate potential increases in construction-related noise and air quality impacts, as well as operational GHG emissions.

Finding: The No Project Alternative is less desirable than the Project. Specific economic, legal, social, technological, or other considerations make infeasible the No Project Alternative, and therefore, this alternative is rejected for the following reasons. The No Project Alternative does not meet any of the objectives for the proposed Project. This alternative would result in a continued lack of Class A office space necessary to attract and accommodate large, high quality corporate tenants. In addition, this alternative would result in a continued lack of density necessary to take advantage of the site’s proximity to the existing transit facilities. Moreover, the need for expanded and updated facilities would continue to persist and would not be satisfied by interior remodeling (which would not be subject to environmental review).

The No Project Alternative would not meet the City’s General Plan vision of environmental sustainability because it would not result in the construction of energy efficient buildings. This alternative would not meet the General Plan vision for a robust economy, as it would not result in the development of a Class A corporate campus that would attract businesses, which provide jobs and tax revenue. This alternative would not meet some of the goals, policies, and action statements of the General Plan, such as to develop clear, safe, and convenient linkages between all modes of travel, including access to transit stations and stops, and connections between work, home, and commercial sites (Action Statement LT-5.6a). The No Project Alternative would not meet General Plan Goal LT-6 or supporting policies LT-6.2 and LT-7-2, as it would not promote economic development or business opportunities.

In addition, the No Project Alternative would not meet some of the guiding principles and objectives of the Moffett Park Specific Plan. Specifically, it would not develop additional needed

Class A office space (Guiding Principle 1.0). It would not focus areas of higher intensity development in areas adjacent to public transportation facilities (Guiding Principle 5.0). Nor would it result in the construction of energy efficient buildings that would contribute to the Moffett Park Specific Plan Guiding Principle 10.0 of incorporating sustainable design and green building concepts into private and public projects. This alternative would not provide for higher intensity development within close proximity to rail and transit stations (Objective LU-6).

D. Alternative 2: Existing Specific Plan (0.60 FAR)

Implementation of the Existing Specific Plan (0.60 FAR) Alternative would result in the development of the Project site with a corporate campus similar to the proposed Project. The site layout, access, number of buildings/parking garages, green building techniques, and landscaping, would remain the same as the proposed Project; however, the amount of gross building area would be reduced from a total of 1,779,554 square feet as proposed by the proposed Project to a total of 1,395,662 square feet. The overall amount of building space on the Project site would be increased by 723,717 square feet over existing conditions and the footprint of the buildings would be slightly larger than the proposed Project. It should be noted that under this alternative, a ten percent increase in square footage would be sought under the City's Green Building Program.

Environmentally Superior Alternative. CEQA requires the identification of an Environmentally Superior Alternative among the alternatives to the project. The Environmentally Superior Alternative is the alternative that would avoid or substantially lessen, to the greatest extent, the environmental impacts associated with the project while feasibly obtaining most of the major objectives of the project. Additionally, if the No Build Alternative or the No Project Alternative is determined to be the Environmentally Superior Alternative, CEQA requires that the EIR identify an Environmentally Superior Alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)).

The identification of the Environmentally Superior Alternative results from a comparison of the impacts associated with each alternative to the project. The No Project Alternative would be environmentally superior because it would have the fewest environmental impacts. However, as required by CEQA (CEQA Guidelines Section 15126.6(e)), another alternative must be identified as the Environmentally Superior Alternative.

Based on a comparison of the impacts of each alternative, Alternative 2 was identified as the "environmentally superior" alternative. The environmental effects of this alternative would be similar to those of the proposed Project; impacts under this alternative associated with land use, aesthetics, transportation and traffic, noise and vibration, air quality, greenhouse gases, public services and utilities, and recreation and energy would be less than the impacts identified under the proposed Project. Similar mitigation measures for land use, aesthetics, public services and utilities, and construction impacts related to noise would remain. With the reduction in total building square footage, the amount of traffic would be reduced under this alternative. Similarly, operational impacts regarding noise and vibration, air quality would be less than identified for the proposed Project, because of the reduced project size, and thus the reduction in the potential number of employees. However, similar to the proposed Project, construction related and

operational impacts regarding air quality standards would be considered significant and unavoidable, despite compliance with BAAQMD rules and implementation of a TDM plan.

Finding: The Existing Specific Plan Alternative is less desirable than the Project. Specific economic, legal, social, technological, or other considerations make infeasible the Existing Specific Plan Alternative, and therefore, this alternative is rejected for the following reasons. Although the Existing Specific Plan Alternative has been found to be the environmentally superior alternative, it does not reduce any significant and unavoidable impacts of the Project to a level of insignificance. Approximately the same land area would be developed, and significant and unavoidable impacts regarding pollutant emissions during construction would remain.

Under this alternative, six office buildings, one amenities building, and two parking structures would be constructed, the same as the proposed Project. All the features of the amenities building would remain the same, including the number of stories (two), height (60 feet), and square footage (50,000 square feet). The six office buildings, however, would be six stories and 96 feet tall under Alternative 2, as compared to the proposed Project which has eight-story buildings that are 129 feet tall. Parking would be provided at the same ratio of one space per 300 square feet of building space and thus, 4,652 parking spaces would be provided under Alternative 2, which would result in a reduction of 1,114 parking spaces compared to the proposed Project. Due to the reduction in parking spaces, the two parking structures under this alternative would be 2.5 levels, 24 feet high and two levels, 17 feet high, respectively.

This alternative would not meet the key proposed Project objectives of developing an office/R&D park of sufficient size and quality that enable it to attract and accommodate large corporate tenants and to develop a project of sufficient density to support the proposed amenities.

E. Alternative 3: Fire Station Alternative

This alternative would result in the same development as the proposed Project with the exception that a new fire station would be constructed in the northwestern corner of the Project site, which would reduce the amount of surface parking in this area by approximately 250 spaces. The lost parking would be accommodated in Parking Garage B, which would convert from a two-level to a 2-3/4-level structure to house the 250 spaces lost by the construction of the fire station. The proposed fire station building would be a single-story structure and would be approximately 17,250 square feet.

Under this alternative, the applicant and City would participate in a land exchange. The applicant would receive title to the parcel where the existing fire station is located, at 1120 Innovation Way (approximately 0.72 acres), and an adjacent parcel totaling approximately 1.03 acres. In exchange, the City would receive title to the property located at 1190 Bordeaux Drive (approximately 2.07 acres) where the proposed fire station in this alternative would be located. The land exchange is proposed because the Moffett Place parcel is larger and better suited for providing fire (and public safety) services than the existing fire station location on Innovation Way. As part of a Development Agreement, the applicant would be required to build the fire station within 18 months of the effective date of the Development Agreement. Discretionary

approvals or entitlements for any future development at the 1120 Innovation Way site are not included in this alternative.

This alternative was selected to alleviate the proposed Project's increased demand on fire protection services and the resulting decreases in response times and coverage ability, and accommodate applicant's need for phasing construction of the Project. It would result in a beneficial impact of improving fire response times and coverage ability for the Project area.

Finding: This alternative is similar to the Project and meets the key proposed Project objectives. The environmental effects of this alternative would be similar to those of the proposed Project including land use, aesthetics, hydrology/water quality, noise, air quality, and greenhouse gases. A slight increase in impact intensity would occur for land use, aesthetics, hydrology/water quality, noise, greenhouse gases, and air quality as compared to the proposed Project; however, the mitigation measures identified for the proposed Project would also be used for this alternative, reducing impacts to less than significant levels. However, with the addition of a new fire station, construction and operational related air quality impacts would incrementally increase. Operational impacts would be similar to the proposed Project since the additional fire station would replace the existing fire station on Innovation Way. Like the proposed Project, construction air quality impacts would be considered significant and unavoidable. This alternative meets the Project objectives, is feasible, and addresses the public safety concerns.

F. Conclusion

After consideration of this reasonable range of identified alternatives to the Project, the City Council finds that alternatives 1 and 2 are rejected as being infeasible, as described above, and that alternative 3 is feasible, meets the Project objectives, and provides more benefits to the City than the Project.

IX. STATEMENT OF OVERRIDING CONSIDERATIONS

In approving the Project, the Council makes the following Statement of Overriding Considerations in support of its findings on the SEIR. The Council has considered the information contained in the SEIR and all other public comments, responses to comments, and accompanying technical memoranda and staff reports included in the public record.

The Council has carefully balanced the benefits of the Project against any adverse impacts identified in the SEIR that could not be feasibly mitigated to a level of insignificance. Notwithstanding the identification and analysis of impacts that are identified in the SEIR as being significant and which have not been eliminated, lessened or mitigated to a level of insignificance, the Council, acting pursuant to CEQA Guidelines Section 15092 and 15093, hereby determines that significant effect on the environment found to be unavoidable in Section VII above (temporary effect on air quality during construction), is acceptable due to overriding concerns described herein. Specifically, the benefits of the Project outweigh the unmitigated adverse impact and the Project should be approved.

Based on the objectives identified in the proposed Project and SEIR, the Council has determined that the Project should be approved, and the unmitigated environmental impact attributable to the Project is outweighed by the following specific environmental, economic, fiscal, social, housing and other overriding considerations, each one being a separate and independent basis upon which to approve the Project. Substantial evidence in the record demonstrates the City would derive the following benefits from adoption and implementation of the Project:

- A. The Project incorporates all feasible mitigation measures to reduce potential environmental impacts to the greatest extent feasible. No mitigation measures identified in the SEIR have been found to be infeasible, except where they are within the jurisdiction of another agency. No feasible mitigation measures or alternatives have been identified to mitigate the one significant and unavoidable adverse effect of the Project.
- B. The City Council finds that the development of the site with an office campus environment, containing six eight-story office buildings, where uses would range from research and development (R&D) to corporate office uses, would be consistent with the City of Sunnyvale's General Plan. The creation of an office campus environment that brings jobs to the residents of Sunnyvale and the surrounding area would meet several major goals of the City including developing and maintaining a strong economic base.
- C. The proposed Project would increase local government revenues via additional business tax, which in turn will be used to enhance City services.
- D. The proposed Project would provide more opportunities for businesses to be located in Sunnyvale, which would provide more employment opportunities for residents and attract new residents to the City.
- E. The proposed project would increase the number of employees in the MPSP area which would provide additional opportunities for existing businesses in the area.
- F. The proposed project will replace older buildings with modern office buildings that are more energy efficient and incorporate "green building" construction materials and design standards.
- G. The proposed project will increase the number of employment opportunities that can be served by mass transit in the MPSP area.
- H. The proposed Project would provide monetary contributions to planned improvements at the Mathilda/SR 237 interchange and SR 237 freeway improvements.

The above statements of overriding considerations are consistent with, and substantially advance, the following goals and policies of the City's General Plan and the following guiding principles of the MPSP:

1. General Plan

Goal C-4: *Sustain a strong local economy that contributes fiscal support for desired City services and provides a mix of jobs and commercial opportunities.*

Goal 5.1C: *Endeavor to maintain a balanced economic base that can resist downturns of any one economic sector.*

Policy 5.1C.3 *Maintain an attractive business community.*

Policy 5.1C.4 *Promote business opportunities and business retention in Sunnyvale.*

Policy 5.1C.5 *Support land use policies that provide a diversified mix of commercial/industrial development.*

2. MPSP

Guiding Principle 1.0: *Positively influence the Sunnyvale business climate and enhance economic vitality by providing comprehensive land use policies and permitting processes that encourage development of additional needed Class A office space to diversify the industrial base of Sunnyvale.*

Guiding Principle 4.0: *Provide opportunity for strategic retention and attraction of business and private investment.*

Guiding Principle 5.0: *Focus areas of higher intensity development in areas adjacent to public transportation facilities.*

Guiding Principle 8.0: *Increase utilization of public transit through coordinated land use, transportation, and infrastructure planning.*

Guiding Principle 9.0: *Incorporate the principles of "smart growth" into all planning decisions.*

Guiding Principle 10.0: *Incorporate sustainable design and green building concepts into private and public projects.*

Guiding Principle 11.0: *Preserve Moffett Park for Industrial Uses into the future and prevent erosion of its industrial base to non-compatible uses.*

Based on the detailed findings made above, the City Council hereby finds that economic and social considerations outweigh the remaining environmental effects of approval and implementation of the Project, and the City Council hereby concludes that the Project should be approved.

Without limitation, this incorporation is intended to elaborate on the scope and nature of project and cumulative impacts, related mitigation measures, the basis for determining the significance of impacts, and the comparative analysis of alternatives.

X. MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program (“MMRP”) contained on pages 4-3 through 4-19 of the FSEIR, including the applicable measures of the certified, program-level Moffett Park Specific Plan EIR, attached to the MMRP as Appendix A, sets forth specific monitoring actions, timing requirements and monitoring/verification entities for each mitigation measure adopted in this Exhibit A, in compliance with Public Resources Code Section 21081.6(a)(1) and CEQA Guidelines Section 15097. The City Council hereby adopts the MMRP and determines that compliance with the MMRP is a condition of approval of the Project.

XI. THE RECORD

The environmental analysis provided in the SEIR and these findings are based on and are supported by the following documents, materials and other evidence, which constitute the administrative record for the approval of the Project:

A. All application materials for the Project and supporting documents submitted by the applicant, including but not limited to those materials constituting the Project and listed in Section III of this Exhibit A.

B. The NOP, comments received on the NOP and all other public notices issued by the City in relation to the SEIR (e.g., Notice of Availability).

C. The Draft SEIR, the Final SEIR, all appendices to any part of the SEIR, all technical materials cited in any part of the SEIR, comment letters, oral testimony, responses to comments, as well as all of the comments and staff responses entered into the record orally and in writing between November 1, 2013 and December 3, 2013, as well as accompanying technical memos or evidence entered into the record.

D. All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants related to the SEIR, its analysis and findings.

E. City of Sunnyvale, *Moffett Park Specific Plan EIR*, December 2002, SCH #:2001052121, certified November 11, 2003.

F. Minutes and transcripts of the discussions regarding the Project and/or Project components at public hearings or scoping meetings held by the Planning Commission and the City Council.

G. Staff reports associated with Planning Commission and Council Meetings on the Project and supporting technical memoranda and any letters or other material submitted into the record by any party; and

H. Matters of common knowledge to the City Council which they consider, such as the Sunnyvale General Plan, any other applicable specific plans or other similar plans, and the Sunnyvale Municipal Code.

XII. LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the Council findings regarding the mitigation measures and statement of overriding considerations are based are located and in the custody of the Community Development Department, 456 West Olive Avenue, Sunnyvale, California 94086. The location and custodian of these documents is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

FILING NOTICE OF DETERMINATION

The Council hereby directs the Planning Division to file a Notice of Determination regarding the approval of the Project within five business days of adoption of this resolution.