EXHIBIT A

Resolution No. 10-7700

CEQA Findings and Statement of Overriding Considerations for the Approval of General Plan Amendment #72 and Redevelopment Plan Amendment #20 Relating to the 49ers Santa Clara Stadium Project

Pursuant to Sections 15096(h) of the State CEQA Guidelines (California Code of Regulations, Title 14) and Section 21081 of the California Environmental Quality Act (Public Resources Code, Division 13)

I. INTRODUCTION

These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City Council of the City of Santa Clara (the "City") in connection with the Environmental Impact Report ("EIR") prepared for the 49ers Santa Clara Stadium Project at 4900 Tasman Drive ("the Project"), EIR SCH # 2008082084. The City was the lead agency for the Project.

These findings are attached and incorporated by reference into the Resolution. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

II. PROJECT DESCRIPTION

The proposed Project, which is the subject of the EIR, is located at 4900 Centennial Boulevard in the City of Santa Clara. The project site consists of approximately 22 acres bounded on the north by Tasman Drive, on the east by the Santa Clara Youth Soccer Park and the existing Marie P. DeBartolo Sports Center, on the South by Silicon Valley Power's Northern Receiving Station and the City of Santa Clara's North Side Water Storage Tanks, and on the west by San Tomas Aquino Creek (the "Project Site").

The Project which was reviewed and analyzed in the EIR includes five specific components: (1) the Stadium, (2) the Substation Relocation, (3) the Parking Garage, (4) the Off-Site Parking and (5) the Transportation Management Plan. The proposed stadium would have a permanent seating capacity of up to 68,500 seats and will be designed to expand to approximately 75,000 seats for special events. The Stadium structure would have a maximum height of 175 feet above the ground surface with light standards on top of the structure reaching a maximum height of 200 feet above the ground surface. The proposed stadium would require 17,125 parking stalls under the City's zoning requirements. It is estimated, however, based on historic usage of the existing 49ers team stadium that approximately 19,000 attendee parking stalls and 1,740 employee parking stalls will be required for NFL Football events and other large non NFL events. The anticipated parking demand will require approval of a parking arrangement or master plan that utilizes existing off-site parking facilities. The new six-story

parking garage would be located on approximately two-acres of a four-acre site directly across Tasman Drive from the proposed stadium and would have up to 1,708 parking stalls which would be utilized by the stadium, convention center, and the Great America theme park. The proposed Project also consists of the relocation of an existing electric substation.

In approving the Resolution, the City is approving a general plan amendment and an amendment to the Bayshore North Redevelopment Plan. Additional discretionary approvals of the City or the Santa Clara Redevelopment Agency required to implement the project include but are not limited to:

a. Approval of planned development zoning for the site

b. Vacation and abandonment of an existing roadway

c. Approval of a tentative map

d. Approval of a parking variance

e. Approval of a Disposition and Development Agreement and related conveyance documents

f. Creation of a parking overlay zone, or similar implementation mechanism

g. Creation of a joint powers authority public agency (Stadium Authority) that will develop and own the Stadium.

h. Approval of the design and construction of a new six-story parking garage to serve the Project, the convention center, and Great America theme park.

i. Approval of the abandonment, removal and relocation of portions of the transmission lines and electrical substation equipment located on the Tasman Substation Site.

j. Creation of a Mello-Roos community facilities district or other financing district for hotels in the Stadium area if approved by a vote of the affected hotels.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

Pursuant to CEQA and the CEQA Guidelines, the City determined that an EIR would be required for the Project. On August 19, 2008, the City issued a Notice of Preparation for the EIR. On February 24, 2009, the City issued an amended Notice of Preparation for the EIR. The Notice of Preparation and the Amended Notice of Preparation were circulated to responsible agencies and interested groups and individuals for review and comment. A copy of this Notice, and the Amended Notice and the comments thereon are included in Appendix O of the Draft EIR.

A Draft EIR was prepared for the Project to analyze its environmental impacts. The Draft EIR was properly circulated for a 45-day public review period from July 30, 2009 to September 14, 2009 which review period was extended for an additional 14 days at the request of commenters and concluded on September 28, 2009.

The City received written and oral comments on the Draft EIR. The City prepared responses to comments on environmental issues and made changes to the Draft EIR. The responses to comments, changes to the Draft EIR and additional information were published in a Final EIR on November 13, 2009. The Draft EIR, the Final EIR and all appendices thereto constitute the "EIR" referenced in these findings. On November 18, 2009, the City Planning Commission held a publicly noticed meeting on the Final EIR, provided the City Council with comments and unanimously recommended certification of the EIR. On December 8, 2009 the City Council certified the EIR pursuant to CEQA Guidelines Section 15090.

The proposed amendment to the General Plan and the Bayshore North Redevelopment Plan Amendment makes changes to the permitted land uses and development regulations within each document to accommodate the Project. The City is consequently required to make required CEQA findings for the overall Project.

IV. THE ADMINISTRATIVE RECORD

The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

a. The EIR and all documents referenced in or relied upon by the EIR.

b. All information (including written evidence and testimony) presented to the City, Staff of the City, the Project sponsor, consultants, and others.

c. All information (including written evidence and testimony) provided by City staff to the City Planning Commission relating to the EIR, the approvals, and the Project.

d. All information (including written evidence and testimony) presented to the City Planning Commission by the Project sponsor, consultants, and others.

e. All final applications, letters, testimony, exhibits, and presentations presented by the Project sponsor, consultants, and others to the City or Agency in connection with the Project.

f. All final information (including written evidence and testimony) presented at any City or Agency public hearing or public meeting or City workshop related to the Project and the EIR.

g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and

ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

h. The Mitigation Monitoring and Reporting Program for the Project.

i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of the Department of Planning and Inspection, or his or her designee. Such documents and other materials are located at the Department of Planning and Inspection 1500 Warburton Avenue, Santa Clara, California, 95050.

V. REVIEW AND CONSIDERATION OF THE EIR

In accordance with CEQA, the City certifies that it has been provided copies of the EIR and has reviewed and considered the environmental effects of the Project as shown in the EIR.

VI. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MITIGATION MONITORING AND REPORTING PROGRAM

Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program ("MMRP") is attached and incorporated by reference into the Resolution and is adopted by the City. The MMRP satisfies the requirements of CEQA.

The mitigation measures set forth in the MMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City, other identified public agencies of responsibility or the project applicant. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts will result. The MMRP adequately describes implementation procedures, monitoring responsibility, reporting actions, compliance schedule, non-compliance sanctions, and verification of compliance in order to ensure that the Project complies with the adopted mitigation measures.

The City has committed to enforcing the mitigation measures contained in the MMRP and has adopted the MMRP as enforceable conditions of approval for the Project, should the voters approve the ballot measure related to the Stadium. The Project applicant must comply with the MMRP regarding the Project. The City will also ensure that the plans submitted for discretionary approvals, the subsequent construction and the on-going operation of the Project all conform to the mitigation measures as set forth in the MMRP. The MMRP contains measures to substantially lessen or eliminate all significant environmental effects, where feasible.

The mitigation measures incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the EIR.

VII. FINDINGS REGARDING IMPACTS

In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the City adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR and summarized in the MMRP. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The City ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments and conclusions of the EIR.

The City recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The City has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the City to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR, as well as other relevant information in the record of the proceedings for the Project, including the administrative record.

A. POTENTIALLY SIGNIFICANT BUT MITIGABLE IMPACTS

Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR and the MMRP, the City finds that changes or alterations have been or will be required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures:

a. Hydrology:

Impact HYD-1: The EIR found that the implementation of the revised General Plan land use designation allowing up to 75 percent building coverage could impede or redirect flood flows, substantially increase runoff, and impact stormwater systems and groundwater discharge, resulting in *a potentially significant impact.*

Mitigation Measures HYD-1: The following General Plan Policies would reduce hydrology impacts from development allowed by the proposed General Plan amendment to a less than significant level:

1. *Water Resources Policy No. 14* states that the City should regulate the type, location and intensity of land uses within flood-prone areas.

2. *Water Resources Policy No. 16* states that the City should participate on a regional basis in a Non-Point-Source Control Program in order to reduce pollutants in storm water runoff.

3. *Water Resources Policy No. 17* states that the City should maximize water retention and reduce the quantity of water runoff.

4. *Water Resources Policy No. 18* states that the City should encourage programs to improve the quality of stormwater runoff.

The following program mitigation would reduce hydrology impacts to a less than significant level:

1. The City of Santa Clara is one of 13 co-permittees under a Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) Permit issued to the municipalities in Santa Clara Valley, the County of Santa Clara, and the Santa Clara Valley Water District. Under provisions of the NPDES Municipal Permit, projects that disturb more than 10,000 square feet are required to incorporate Best Management Practices for operational non-point pollution control. These measures may include: (a) Installing bioswales in new landscape and surface parking areas to treat runoff prior to discharge to the stormwater system; (b) Installation of landscaping that will facilitate the infiltration of stormwater; (c) Use of landscape species that minimize irrigation, runoff, pesticide and fertilizer application; (d) Design landscape areas to be lower in elevation than surrounding paved areas; (e) Planting new trees within 30 feet of impervious surfaces; (f) Use efficient irrigation systems to minimize runoff; (g) Stencil stormwater catch basins to discourage illegal dumping; (h) Installation of oil/water separators in parking structures; (i) Cover dumpsters and other storage areas and/or protect by a berm or curb; (j) Use source control BMPs in vehicle areas, roofs, gutters, downspouts, dumpster/trash areas, floor drains, etc.; (k) Maintenance of landscaped areas as necessary to maintain soil structure and permeability; (l) Site maintenance, including routine catch basin cleaning; and (m) Maintenance of landscaping with minimal pesticide use, including landscape maintenance techniques listed in the Fact Sheet on Landscape Maintenance Techniques for Pest Reduction prepared by the Santa Clara Valley Urban Runoff Pollution Prevention Program.

Findings HYD-1: Although the Project will result in 75 percent building coverage, with implementation of the identified General Plan policies and mitigation measures listed above Residents will not be subject to flood hazards or increased storm water runoff beyond the capacity of the existing storm water drainage systems. The above listed mitigation measures reduce runoff and manage the impacts to storm water systems and groundwater discharge thereby reducing the project impact to *less than significant levels*.

Impact HYD-5: The EIR found that the construction activities would result in a *potentially significant temporary impact* on stormwater quality.

Mitigation Measure HYD-5: The following project-specific measures, based on Regional Water Quality Control Board Best Management Practices, will be included in the project to reduce construction-related water quality impacts. All mitigation will be implemented

prior to the start of earthmoving activities on-site and will continue until the construction is complete.

1. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

2. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

3. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

4. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

5. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard.

6. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers). In addition, a tire wash system may be required.

7. Vegetation in disturbed areas shall be replanted as quickly as possible.

8. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.

9. A Storm Water Permit will be administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses, the project proponent will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB mitigation.

10. The project proponent will submit a copy of the draft SWPPP to the City of Santa Clara for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.

11. When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the Regional Water Quality Control Board and the City of Santa Clara. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of,

and a post construction storm water management plan is in place as described in the SWPPP for the site.

The following project specific measures, based on Regional Water Quality Control Board Best Management Practices, will be included in the project to reduce post-construction water quality impacts.

1. As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities (i.e., sweeping, maintaining vegetative swales, litter control, and other activities as specified by the City) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Storm water catch basins will be stenciled to discourage illegal dumping.

The following project specific mitigation measure will be included in the Project to reduce storm water drainage impacts:

1. The proposed Project will be required to record an Operation & Management (O&M) agreement with the City to insure continued maintenance and performance of post construction measures including CDS units and roof-drainage systems.

Findings HYD-5: With implementation of the mitigation measures listed above, the Project will not substantially alter the existing drainage pattern, substantially degrade water quality or subject residents to flood hazards or increased storm water runoff beyond the capacity of the existing stormwater drainage system. Thus, by implementing the indentified mitigation measures the Project will result in *less than significant impacts* on storm water quality.

b. Vegetation and Wildlife:

Impact BIO-2: The EIR found that construction activities could result in the abandonment of active raptor nests or destruction of other migratory birds' nests, resulting in *a potentially significant impact.*

Mitigation Measures BIO-2: The following General Plan Policy would reduce biological impacts from development allowed by the proposed General Plan amendment to a less than significant level:

1. *Flora and Fauna Policy No. 6* states that the City should support programs for the protection of fish and wildlife and their habitats, including rare and endangered species.

The following project specific mitigation measures will be implemented during construction to avoid abandonment of raptor and other protected migratory birds' nests:

1. Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February through August.

2. If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

Findings BIO-2: Implementation of the identified General Plan policy and proposed mitigation measures will reduce the likelihood that Project related construction activities will negatively impact raptors and other migratory birds nesting habits because such activities will be planned and coordinated to avoid nesting season to the extent feasible and, if construction occurs during the nesting season, pre-construction surveys and buffer zones around any active nests found will prevent disturbance of bird nests. Thus the impact can be mitigated to a *less than significant* level.

c. Hazards and Hazardous Materials:

Impact HAZ-2: Implementation of the proposed project could expose construction workers and future site users to contaminated soil, resulting in *a potentially significant impact*.

Mitigation Measures HAZ-2: The following project specific mitigation measures will be implemented during construction to protect construction workers and future users from contaminated soils:

1. Prior to the issuance of grading permits, shallow soil samples shall be taken to determine the location of contaminated soils with concentrations above established construction/trench worker thresholds. The soil sampling plan must be reviewed and approved by the Santa Clara Fire Chief prior to initiation of work. Any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

2. A Site Management Plan (SMP) will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include: a detailed discussion of the site background; preparation of a Health and Safety Plan by an industrial hygienist; notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the California Regional Water

Quality Control Board, San Francisco Bay Region's reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; soil stockpiling protocols; and protocols to manage ground water that may be encountered during trenching and/or subsurface excavation activities. Prior to issuance of grading permits, a copy of the SMP must be approved by the City's Director of Planning and Inspection and the Santa Clara Fire Chief.

Findings HAZ-2: To the extent that contaminated soils are present in the proposed project site, implementation of the mitigation measures including a Site Management Plan and the testing, removal and off-site disposal of contaminated soils found in concentrations above the established thresholds will reduce the exposure of construction workers and future users. By identifying and removing contaminated soils according to California Hazardous Waste Regulations, the impact can be mitigated to a *less than significant level.*

Impact HAZ-3: Implementation of the proposed project could expose construction workers and/or nearby sensitive receptors to air-borne asbestos particles and lead-based paint, resulting in *a potentially significant impact.*

Mitigation Measures HAZ-3: The proposed project will conform with the following regulatory programs and implement the following standard measures to reduce impacts due to the presence of asbestos containing materials (ACMs):

1. In conformance with state and local laws, a visual inspection/pre-disassemble survey, and possible sampling, shall be conducted prior to the dismantling of the substation to determine the presence of asbestos containing materials.

2. All potentially friable ACMs shall be removed in accordance with NESGAP guidelines prior to dismantling that may disturb the materials. All dismantling activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from exposure to asbestos.

3. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

4. Materials containing more than one percent asbestos are also subject to BAAQMD regulations.

5. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements.

The proposed project will conform with the following regulatory programs and implement the following standards to reduce the impacts due to the presence of lead based paints:

1. In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site buildings to determine the presence of lead-based paint.

2. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control.

3. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

Findings HAZ-3: To the extent that lead based paints or asbestos are present in the proposed project site, implementation of the proposed mitigation measures in conformance with established BAAQMD Regulations and Cal/OSHA Construction Standards will reduce hazardous materials impacts to construction workers and nearby sensitive receptors to a *less than significant level* by reducing their exposure to such materials.

d. Cultural Resources:

Impact CUL-2: The EIR found that the implementation of the proposed Project could have a *potentially significant impact* on unknown buried prehistoric and/or historic resources.

Mitigation Measures CUL-2: The following project-specific mitigation measures will be implemented during construction to avoid significant impacts to unknown cultural resources:

1. A qualified archaeologist will be on site to monitor the initial excavation of native soil once all pavement and engineered soil is removed from the project site. After monitoring the initial excavation, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring will be required.

2. In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 150-foot radius of the find will be stopped, the City Director of Planning and Inspection will be notified, and the archaeologist will examine the find and make appropriate recommendations. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the City Director of Planning and Inspection.

3. In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the

Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

Findings CUL-2: To the extent that any prehistoric or historic resources are encountered on the Project Site during the construction of the Project, implementation of the proposed mitigation measures will reduce cultural resources impacts to *a less than significant level* by ensuring that any discoveries made during excavation and/or grading of the site are handled in a manner that ensures preservation to the extent feasible.

e. Air Quality.

Impact AIR-7: The EIR found that construction activities would result in *potentially significant temporary impacts* to local air quality.

Mitigation Measures AIR-7: The following General Plan Policy would reduce most air quality impacts from development allowed by the proposed General Plan amendment to a less than significant level:

1. *Air Quality Policy 19* states that the City will protect the air quality of the City of Santa Clara and its sphere of influence and promote land use and transportation policies which maintain air quality.

The following mitigation measures (recommended by BAAQMD) are proposed as part of the Project to avoid or reduce significant construction related air quality impacts:

1. The following dust control measures will be implemented during all construction phases: (a) Water all active construction areas at least twice daily and more often during windy periods; (b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; (c) 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; (d) Sweep daily (preferably with water sweepers) all paved access roads on-site, parking areas and staging areas at construction sites; (e) Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets; (f) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas; (g) Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.); (h) Limit traffic speeds on unpaved roads to 15 mph; (j) Replant vegetation in disturbed areas as quickly as possible; (k) Suspend construction activities on windy days that cause visible dust plumes that extend beyond the construction site; (l) Idling time of all diesel powered construction equipment will be limited to five minutes (based on California Air Resources Board regulations) and/or alternative powered construction equipment (i.e., hybrid, compressed natural gas, bio-diesel, electric) will be used; (m) All diesel powered construction equipment will be outfitted with add-on control devices such as diesel oxidation catalysts or particulate filters where possible; (n) All contractors will be required to use equipment that meets the California Air

Resources Board most recent certification standard for off-road heavy duty diesel engines.

2. A Disturbance Coordinator will be designated by the applicant. The Coordinator shall be responsible for responding to any local complaints about construction activities. The Coordinator will determine the cause of the complaint and implement reasonable measures to correct the problem. A telephone number for the Coordinator will be clearly posted at the construction site and included in the notice sent to nearby properties regarding the construction schedule. This information will also be distributed to all residences and businesses within 750 feet of the Project Site.

3. The Project shall ensure that emissions from all off-road diesel powered equipment used on the Project Site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. This measure means that equipment with continuous dark emissions is in violation of the requirement.

4. Signs shall be posted that indicate diesel equipment standing idle for more than five minutes shall be turned off or operators would be subject to fines. This would include trucks waiting to deliver or receive soil, aggregate or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they are onsite.

5. Reduce vehicle emissions. Properly tune and maintain equipment for low emissions.

Findings AIR-7: Implementation of the proposed BAAQMD recommended mitigation measures would reduce temporary air quality impacts by reducing the amount and types of airborne pollutants resulting from construction activities thereby reducing the project's impact to a *less than significant level.*

Impact AIR-11: The EIR further found that numerous barbeque activities occurring within 750 feet of the residences could result in odor complaints which would be an indication of a *potentially significant impact.*

Mitigation Measures AIR-11: The following project specific mitigation measures will be implemented to reduce odor related impacts created by barbeque activities:

1. Reserve surface parking within 750 feet of residences for vehicles only. Prohibit tailgating within these areas.

2. Designate a "disturbance coordinator" to investigate and respond to odor or air quality complaints. Provide the name and contact information for the disturbance coordinator to residents within 750 feet of the stadium or surface parking lots.

Findings AIR-11: Prohibiting tailgating in areas within 750 feet of residences and designating a disturbance coordinator to investigate and respond to odor or air quality complaints

will reduce odor impacts associated with tailgating during stadium events to a *less than significant level.*

f. Noise.

Impact NOI-1: The EIR found that the increase in allowable building size could lengthen construction periods, exposing sensitive receptors to additional construction noise, resulting in a *potentially significant impact.*

Mitigation Measures NOI-1: Conformance with the following General Plan Policy would reduce noise impacts from the proposed project:

1. *Noise Policy No. 24* states that the City should reduce noise from fixed sources, construction, and special events.

Conformance with the City's Noise Ordinance (City Code 9.10.040) would reduce noise impacts of the proposed project:

1. It shall be unlawful for any person to operate or cause to allow to be operated, any fixed source of disturbing, excessive or offensive sound or noise on property owned, leased, occupied or otherwise controlled by such person, such that the sound or noise originating from that source causes the sound or noise level on any other property to exceed the maximum noise or sound levels which are set forth in Schedule A of the City Code. Except as otherwise provided in this chapter, the noise or sound standards for the various zone districts as presented in this Schedule A shall apply to all such properties within a specified zone, as designated on the most recent update of the official zoning map of the City. For planned development, agricultural or mixed zoning site, the most restrictive noise standard for the comparable zone district, as determined by the Director of Planning and Inspection, shall apply. (Ord. 1588 § 1, 6-14-88. Formerly § 18-26.4).

Findings NOI-1: As a result of implementing the above mitigation measures the proposed General Plan text amendment would *not result in a significant noise impact.*

g. Energy.

Impact ENR-1: The EIR found that the proposed project would have a *potentially significant impact* on projected electricity and natural gas supplies.

Mitigation Measure ENR-1: The following General Plan Policy would reduce energy impacts from development allowed by the proposed General Plan amendment to a less than significant level:

1. *Public Facilities &* Services *Policy 7* states that the City will continue an innovative energy program to develop cost effective new power sources and encourage conservation.

The measures to reduce energy consumption listed below would mitigate the energy impacts of the proposed Project to a less than significant level and will be required as conditions of approval:

1. The project shall be certified in accordance with the Leadership in Energy and Environmental Design (LEED) requirements, a nationally acceptable benchmark for the design, construction, and operation of high performance green buildings. The level of LEED certification will be at the discretion of the project applicant.

2. The project shall exceed Title 24 energy requirements by 10 percent to the satisfaction of the Director of Silicon Valley Power.

3. The project shall include a minimum of 27,000 square feet of green roofs.

4. The project shall, to the extent feasible and available, utilize local and regional building materials in order to reduce energy consumption associated with transporting materials over long distances.

5. The project shall utilize building products that contain post-consumer recycled materials, to the extent feasible.

6. Although there is not a formal EnergyStar program for non-residential buildings, the stadium shall be constructed to meet the same standards as those that apply to the residential program to the extent feasible.

7. The stadium shall include a photovoltaic (i.e., solar electric) system. The Project proposes a minimum of 20,000 square feet of photovoltaic cells. (Note: The rule of thumb is that each square foot of photovoltaic cells produces 10 watts of power in bright sunlight.)

8. Geothermal heat pumps should be installed to provide heating, cooling, and hot water. Geothermal heat pumps are generally more efficient and less expensive to operate and maintain than conventional systems.

Findings ENR-1: The proposed Project would be infill development and would comply with existing state and federal regulations regarding the energy efficiency of buildings, appliances, lighting, and other components. Therefore, the proposed Project will not result in the wasteful use of energy. The above mitigation measures will be incorporated into the Project to the extent feasible. LEED certification of the building through a combination of the above mitigation measures including water conservation, use of recycled water, use of transit, and use of renewable energy would reduce the demand for new energy resources in relation to projected supplies to a *less than significant level.*

Impact ENR-2: The EIR found that the proposed project would increase vehicle miles traveled for game attendees resulting in increased gasoline usage, thereby resulting in a *potentially significant impact.*

Mitigation Measure ENR-2: The City will require, as a condition of project approval, the preparation and implementation of a Transportation Management and Operational Plan (TMOP) and the formation of a working group to oversee the plan's implementation. The TMOP is more fully described in the discussion of the Master Transportation Impact under Section B below. The TMOP will be designed to provide adequate transit capacity for stadium events, thereby reducing vehicle miles traveled and gasoline usage. The TMOP will be completed for the opening of the stadium utilizing the most current roadway and transit data available at that time (estimated mid-2014), and will be updated annually as necessary.

Findings ENR-2: The City will require, as a condition of project approval, the preparation and implementation of a Transportation Management and Operational Plan (TMOP) and the formation of a working group to oversee the plan's implementation. Implementation of the TMOP together with increased public transit marketing to season ticketholders will mitigate the proposed project's gasoline demand to a *less than significant level.*

B. SIGNIFICANT AND UNAVOIDABLE IMPACTS

Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the MMRP, the City finds that the following impacts of the Project remains significant and unavoidable, notwithstanding the imposition of all feasible mitigation measures, as set forth below. The City also finds that any alternative discussed in the EIR that may reduce the significance of these impacts is rejected as infeasible for the reasons given below.

a. Transportation and Circulation.

Master Transportation Impact: The EIR identified the following four transportation impacts that may result in *potentially significant impacts*. The Project's transportation impacts will not occur very often. The weekday impacts (which might occur for Monday or Thursday night NFL games and potentially for larger Non-NFL events), are projected to occur a maximum of eight times per year due to either NFL or large non-NFL events. The weekend impacts could occur up to ten times a year if one team occupies the stadium and up to 20 times a year if two teams occupy the stadium plus potentially up to 22 additional weekend days for large non-NFL events, although most such non-NFL events will have lower attendance than a NFL game. These impacts, further analyzed below, include:

> Impact TRAN-1: The Project could impact 17 intersections (eight Santa Clara intersections, six San José intersections, one Sunnyvale intersection, and two Milpitas intersections) during at least one weekday study period during weekday NFL events, resulting in *potentially significant impacts.*
>
> Impact TRAN-2: The Project could impact two CMP intersections in San José during at least one weekend study period on up to 20 NFL event days per year, resulting in *potentially significant impacts.*

Impact TRAN-3: The Project would exceed the adopted threshold on 16 of the studied directional freeway segments and one HOV lane under project conditions during at least one of the weekday study periods, resulting in *potentially significant impacts*.

Impact TRAN-5: The 17 large non-NFL events could *significantly impact* local intersections and freeway segments on up to four weekdays and 22 weekend days per year but to a lesser extent than NFL events.

Master Transportation Mitigation Measures: Although stadium traffic does not fit within the typical definition of "significant" traffic congestion (it will occur intermittently on a limited number of days and not every weekday in the morning and early evening), the quantity of vehicular traffic generated by NFL and other major events will result in significant congestion at certain locations in the region on the days those events occur. The details of how the complex transportation system for the stadium will be managed will be described in a Transportation Management and Operations Plan (TMOP) that will be prepared by the Stadium Authority, the City, Valley Transit Authority and the 49ers organization and required as a condition of Project approval. It is currently envisioned that the working group responsible for implementation and oversight of the TMOP will also include the two cities responsible for implementing the traffic control plan, and that the group will need to confer regularly and work closely with all affected agencies, including Caltrans, the City of Milpitas, Caltrain, ACE, and Amtrak.

The TMOP will be completed for the opening of the stadium utilizing the most current roadway and transit data available at that time (estimated mid-2014), and will be updated annually as necessary.

The TMOP will build on the information provided in the Transportation Management Plan provided as Appendix I of the EIR which indentifies road closures, officer controlled intersections, intersection lane configurations and other measures designed to move pedestrian and vehicle traffic efficiently. Those elements will be implemented by the proposed TMOP, which will build on that foundation and incorporate the details of all of its elements – an off-site parking program with specific parking locations included with game tickets, road closures, officer controlled intersections, directional signage, an efficient exit plan, and careful integration of a substantial multi-modal transit program.

To the extent that the off-site parking locations remain unchanged and the transit systems (including shuttles, charter and municipal buses) operate without significant changes needed, the TMOP could be unchanged from year to year. If the redevelopment of privately owned properties in Santa Clara, San José, and Sunnyvale continue as in the recent past, including the introduction of residential uses into areas that are now industrial, the traffic management system may need to be modified over time. It will be flexible enough to respond to unwanted behaviors, wherever it might occur. The City will therefore review the TMOP each year to identify any necessary changes.

The City will work with the 49ers organization to create an outline of the components and a set of objectives for the TMOP that can be approved with the Planned Development zoning for the Project. Objectives for the TMOP shall be consistent with the following:

- Build on the foundation established by the draft Transportation Management Plan ("Draft TMP") included in the EIR to provide reasonably efficient and safe entry and exit to the Stadium area, including (a) road closures; (b) officer controlled intersections; (c) directional signage; and (d) careful integration of a substantial multi-modal transit program.
- Disperse Stadium traffic as quickly as feasible after Stadium events to a variety of traffic routes.
- Flexibly accommodate traffic conditions as they change due to different types and sizes of events at different times of year, different days of the week, different times of the day, and to coordinate with activities on other nearby properties, including the Great America Theme Park.
- Discourage traffic intrusion into nearby residential neighborhood areas to the maximum extent feasible.
- Maintain a reasonable level of access to properties in the project area.
- For NFL games and other large scale events, require a detailed, off-site parking plan that would provide 20,740 parking spaces (including employee parking) and a detailed transit operations plan, including measures to encourage transit use, to provide for 19% of the attendees to arrive via transit in any given year.
- If insufficient parking is available within walking distance of the Stadium, or transit operations will not support 19% of event attendees arriving via transit, other transportation options would be required, such as providing parking at more distant locations combined with shuttle service, increased transit access and subsidy or other support necessary to provide adequate transit use, and/or construction of structured parking.

The Project proposes several additional mitigations to reduce the adverse effects of the congestion, as more fully described below. One is to contribute to programmed roadway improvements approved by the relevant jurisdiction to serve existing, approved, and planned-for growth. Those roadway improvements, when built, will mitigate the Project's impacts at those locations without creating capacity for additional unplanned growth and without creating new land use and other environmental impacts not already found acceptable by the local jurisdiction in previously certified CEQA documents.

Master Transportation Findings: The Project's transportation impacts will not occur very often. The weekday impacts (which might occur for Monday or Thursday night NFL games or large non-NFL events occurring on weekday evenings), would only occur (if at all) up to a maximum of eight times per year. The weekend impacts could occur up to ten times a year if one team occupies the stadium and up to 20 times a year if two teams occupy the stadium plus up to 22 additional days for large non-NFL events although such events most likely would be smaller than NFL events and thus would have a reduced impact. The City will require, as a condition of Project approval, the preparation and implementation of a Transportation Management and

Operational Plan (TMOP) and the formation of a working group to oversee the TMOP's implementation and refinement. The TMOP will be designed to maximize use of available transit options to minimize vehicle miles traveled and gasoline usage as well as implement traffic control measures at congested intersections to improve traffic flow during the times impacts occur. In addition to the TMOP objectives described above, the Project includes a requirement for any NFL game occurring on weekday evenings that would conflict with peak hour traffic, that if insufficient parking is available within walking distance of the Stadium or transit operations will not support 19% of NFL event attendees arriving via transit, the team(s) must inform the NFL that they will forego weekday evening games on their schedule for that year. Implementation of the TMOP, other related mitigation measures and Project features will address the *significant impacts* of the Project to the maximum degree possible but traffic impacts will continue to be significant on game days.

Impact TRAN-1: The Project could impact 17 intersections (eight Santa Clara intersections, six San José intersections, one Sunnyvale intersection, and two Milpitas intersections) during at least one weekday study period on up to four NFL event days per year, resulting in *potentially significant impacts*. Those intersections include:

Santa Clara:
3 Great America Parkway and Tasman Drive *
8 Great America Parkway and Mission College Boulevard*
14 Great America Parkway and Yerba Buena Way
15 Great America Parkway and Alviso Road
16 Great America Parkway and Bunker Hill Lane
17 Great America Parkway and Old Glory Lane
18 Great America Parkway and Patrick Henry Drive
35 Lafayette Street and Yerba Buena Way

San Jose:
83 North First Street and Montague Expressway*
84 Zanker Road and Montague Expressway*
87 O'Toole Avenue and Montague Expressway*
89 Trade Zone Boulevard and Montague Expressway*
91 North First Street (N) and SR 237*
93 Great America (N) and SR 237*

Sunnyvale:
97 Lawrence Expressway and Tasman Drive*

City of Milpitas:
112 I-880 NB and Tasman Drive
115 Abbott Avenue and Calaveras Boulevard

Mitigation Measure: Individual mitigation measures for the impacted intersections are discussed below and include officer control of intersections, signal adjustments and contributions to physical improvements. Where the physical

improvements to intersections are currently programmed as part of the transportation improvements of the City or another jurisdiction, the Project will contribute a fair share toward the improvement based on the Project's share of traffic as mitigation of the impact. Where no such improvements have been programmed and no funding mechanism for such improvements has been established, there is no metric for imposing a fair share contribution, it is unlikely that the improvements could be constructed and implemented in a successful manner within a reasonable time, and the City lacks the authority to require a developer to fund improvements that would be speculative. Consequently, not all of the mitigation measures are feasible.

Findings: For intersections nos. 3, 14, 15, 16, 17, 18, and 97, the implementation of the TMOP consistent with the TMP included in the Project Application will reduce the impacts of the Project during Stadium events by limiting the duration of such impacts, efficiently dealing with capacity issues and eliminating certain critical movements to allow for smoother traffic flow. However, the impacts will remain significant. The weekday impacts resulting from either NFL or large non-NFL events would only occur up to eight times per year. Non-NFL events occurring on weekdays are expected to have event times that do not interfere with peak hour traffic as well as reduced traffic demands in comparison to weekday NFL games and thus have a reduced impact. The weekend impacts from NFL games would occur only ten times a year if one team occupies the stadium and 20 times a year if two teams occupy the stadium. Construction of traffic improvements to serve conditions that will occur only intermittently will result in over-built intersections that would have unwanted secondary impacts, including facilitating growth with related climate change impacts from greenhouse gas emissions that would result from additional traffic generated by additional projects that could be accommodated by such over-built intersections. This additional capacity would not be consistent with current General Plan policies and goals designed to promote increase transit use and use of alternate transportation modes such as bicycles. Chapter 4.3 of the Transportation Element, for example, proposes "reducing the number of autos used in commuting" by promoting "carpooling, use of transit for home-to-work trips, incentive programs by employers including staggered work hours and rewards for carpooling, [and] the creation of an attractive transit service." Chapter 4.5 identifies a strategy to "[r]educe traffic impacts within the City of Santa Clara by reducing the number of commute-generated vehicular trips and total vehicle miles traveled." Spurring additional automobile-based development would be directly contrary to these policies. Moreover, the elimination of setbacks, landscaping, and/or parking that would be necessary for roadway widening at several intersections would contradict aspects of the Land Use Element. Chapter 2.12 requires that prior to issuance of building permits, projects go through design review to ensure "both a distinctive character and a high quality standard of development for structures and outdoor uses in all zoning districts in the City." This process includes careful consideration of the location of developments and their relationship to neighboring developments and traffic, and removing large strips of land from such designs would violate this process. As identified below, several such road widening measures would also interfere with Planned Development zones, which the City Code requires have sufficient "space, circulation, density, off-street parking and other conditions pertinent to the proposed use in such a

way as to form a harmonious, integrated project of sufficient unity and architectural quality." City Code § 18.54.050. The City also lacks the legal authority to require a developer to fully fund the improvement of an intersection that will only be impacted 1.5% of the time.

The proposed mitigation measures for intersection 35 and several components of the proposed mitigation measure for intersection 8 are part of the City of Santa Clara's programmed capital improvement plans and the Project applicant will contribute a fair share contribution based on the number of days the Stadium is projected to contribute to impacts. The fair share contribution mitigates the Project's impacts on intersection 35 to a less than significant level. The remaining impacted intersections are outside the jurisdiction of the City of Santa Clara. The mitigation measures proposed for intersections 83, 84, 87, 89 and 115 are currently part of the programmed improvements in the controlling jurisdiction and the Project applicant will pay a fair share contribution toward those improvements to the controlling jurisdiction as a condition of Project approval. The amount of the fair share contribution will be determined based on the number of days the Stadium is projected to contribute to impacts. Of the remaining impacted intersections, the proposed mitigation measures for intersection 93 are not financially or physically feasible since the provision of the identified additional turn lanes would require complete reengineering and reconstruction of the overpass embankments and footings and would require alterations of a Caltrans facility which Caltrans currently does not believe is feasible. There are no feasible mitigation measures for intersection 97 since there is inadequate right of way to accommodate the identified improvements and obtaining the necessary right of way would require the removal of homes. The proposed mitigation measure for intersection 112 is not feasible since the addition of a west bound turn lane cannot be accommodated in the receiving onramp, would require additional right of way, elimination of open spaces within the adjacent residential neighborhood, and would impact the existing light rail crossing at this intersection. Moreover, the City of Milpitas has determined that these impacts would be inconsistent with its General Plan. An alternative mitigation measure that would reduce impacts, but not to a less than significant level, would include funding the design and implementation of traffic operation improvements to help in signal coordination with adjacent intersections (e.g. Tasman Drive/I-880 SB Ramps and Tasman Drive/Alder Drive). This measure has not been programmed and the Project cannot therefore make a fair share contribution. The proposed mitigation measures to intersection 91, an exclusive southbound right turn lane, could be accommodated within the existing right of way and the construction of such a dedicated lane might be financially feasible, however, the intersection is outside the jurisdiction of the City of Santa Clara and the proposed improvement is not a programmed improvement by the City of San Jose. Additional findings are set forth for each of the specific mitigation measures below.

Intersection 3- Great America Parkway and Tasman Drive* (Santa Clara)
Impact: The level of service would be LOS C during the early and standard weekday PM peak hours under background conditions and would degrade to LOS F during the early and standard weekday PM peak hours under project conditions. This is a *significant impact* by both City of Santa Clara and CMP standards.

Mitigation Measure: The improvement that could mitigate the Project impact at this intersection would consist of the addition of an exclusive eastbound right-turn lane. The intersection improvement would improve intersection operating levels to LOS C and E during the early and standard weekday PM peak hours, respectively.

Findings: The implementation of this improvement would require land acquisition for additional right-of-way at a fully built out intersection. This improvement has not been programmed by the City, no funding mechanism has been established for this improvement, and acquiring the land necessary for the improvement at this intersection would also interfere with setbacks and parking at the existing development and conflict with the approved development plan under the ML zoning at the site. Construction of the improvement would also necessitate the relocation of an underground wastewater pump. The physical and legal constraints related to expanding the right-of-way make the improvements infeasible. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. Since the physical mitigation is not programmed and infeasible, this impact is *significant and unavoidable.*

Intersection 8- Great America Parkway and Mission College Boulevard* (Santa Clara)

Impact: The intersection will operate at LOS D during the early weekday PM peak hour study period under background conditions and would degrade to LOS F under project conditions. The intersection would be at LOS F during the standard weekday PM peak hour under background conditions and the addition of Project traffic would cause the critical-movement delay at the intersection to increase by four or more seconds and the demand- to-capacity ratio (V/C) to increase by 0.01 or more under project conditions. These are both *significant impacts* by both City of Santa Clara and CMP standards.

Mitigation Measure: The improvements to mitigate the project impact at this intersection would consist of the addition of a third northbound left-turn lane, third westbound left-turn lane, a fourth southbound through lane, and a separate southbound right-turn lane. The intersection improvements would improve intersection operating levels to LOS E during both the early and standard weekday PM peak hours and will also mitigate project impacts. A planned capital improvement project of the City of Santa Clara's CIP includes the addition of a third northbound left-turn lane, third westbound left-turn lane, and a separate southbound right-turn lane at this intersection. However, it does not include the addition of a fourth southbound through lane. The Project applicant will make a fair-share contribution toward programmed intersection improvements in an amount proportionate to the total number of days the impacts will occur.

Findings: The Project applicant will make a fair-share contribution toward the cost of the currently proposed improvements at the intersection, proportionate to the total number of days the impacts will occur. However, the addition of a fourth southbound through lane is not programmed as part of the City of Santa Clara's CIP, no funding mechanism has been established for this improvement, and acquiring the land necessary for the improvement at this intersection would require the removal of existing buildings and would also

interfere with setbacks and parking at the existing development. The physical and legal constraints related to expanding the right-of-way make the addition of a fourth southbound through lane infeasible. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. Although this impact would be partially mitigated by the Project applicant making a fair-share contribution toward three of the four improvements identified as part of the physical mitigation, the remaining improvement is not programmed and infeasible. Therefore this impact is *significant and unavoidable*.

Intersection 14-Great America Parkway and Yerba Buena Way (Santa Clara)
Impact: The intersection will operate at LOS C during the standard weekday PM peak hour under background conditions and would degrade to LOS F under Project conditions. This is a *significant impact* by City of Santa Clara standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would consist of the addition of a second westbound left-turn lane. The intersection improvement would improve intersection operating levels to LOS D during the standard weekday PM peak hour.

Findings: The adoption of the mitigation measure is *not feasible* since it would require the acquisition of additional right of way which would interfere with setbacks and parking at the approved development and conflict with the PD zoning at the site. The proposed mitigation measure would also result in a secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. Under the TMP, the intersection is proposed to be a controlled intersection during stadium events prohibiting access to and from Yerba Buena Way which eliminates the need for the proposed mitigation measure. The Project cannot make a fair share contribution because the second westbound left-turn lane is not programmed and no funding mechanism for this improvement has been established. Since the physical mitigation is not feasible and the mitigation is not programmed, this impact is *significant and unavoidable*.

Intersection 15- Great America Parkway and Alviso Road (Santa Clara)
Impact: The intersection will operate at LOS B during the early and standard weekday PM peak hours under background conditions and would degrade to LOS F during the early and standard weekday PM peak hours under project conditions. This is a *significant impact* by City of Santa Clara standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would consist of the addition of second eastbound and northbound left-turn lanes and an adjustment to signal timing, using standard assumptions. The intersection improvement would improve intersection operating levels to LOS C during both the early and standard weekday PM peak hours.

Since the intersection will serve as a primary entrance to identified stadium parking and traffic will be officer controlled, the adjustment of signal timing is only necessary based upon standard intersection level of service operations. The adjustment of signal timing is

not typically considered as mitigation for normal peak hour operations in the City of Santa Clara, but the unique character of the stadium traffic may require an adjustment to the signal timing.

Findings: Officer control of the intersection prohibiting the left turn movement during stadium events mitigates the Projects impacts on this intersection when the impacts occur. To the extent necessary, the signal timing will be adjusted to maintain the level of service operations at the intersection. The mitigation measures will reduce Stadium related impacts when they occur to a less-than-significant level. The physical mitigation measure proposed is infeasible since it would require the acquisition of additional right of way. Construction of the additional left turn lanes would require widening of the receiving lane on Alviso including widening the current bridge structure. Changes to the bridge structure would impact the creek and potentially sensitive habitat and wetlands areas. The additional right of way would cause the adjacent properties to violate the planned development zoning. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. Since the physical mitigation is not feasible and the mitigation is not programmed, this impact is *significant and unavoidable*.

Intersection 16- Great America Parkway and Bunker Hill Lane (Santa Clara)
Impact: The level of service will be LOS B during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS E under 'Project conditions. This is a *significant impact* by City of Santa Clara standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would consist of the addition of second westbound and northbound left-turn lanes. The intersection widening would improve operating levels to LOS D during the standard weekday PM peak hour.

Findings: The implementation of this improvement would require land acquisition for additional right-of-way at a fully built out intersection and would cause the adjacent properties to violate the current Planned Development zoning as well as interfere with current parking supply and therefore is *not feasible*. The physical and legal constraints related to expanding the right-of-way make the improvements infeasible. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. Since the physical mitigation is infeasible and the mitigation is not programmed, this impact is *significant and unavoidable*.

Intersection 17- Great America Parkway and Old Glory Lane (Santa Clara)
Impact: The intersection will operate at LOS B during the early and standard weekday PM peak hour study periods under background conditions and would degrade to LOS F and E during the early and standard weekday PM peak hours, respectively, under Project conditions. This is a *significant impact* by City of Santa Clara standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would be an adjustment of signal timing under standard assumptions. Changing the signal

timing would improve intersection operating levels to LOS D and B during the early and standard weekday PM peak hours, respectively. Since the intersection will serve as a primary entrance to identified stadium parking and will be officer controlled, the adjustment of signal timing would not be necessary under project conditions.

Findings: Officer control of the intersection during stadium events mitigates the Projects impacts on this intersection when the impacts occur. To the extent necessary, the signal timing will be adjusted to maintain the level of service operations at the intersection. The mitigation measures will mitigate stadium related impacts when they occur to a less-than-significant level.

Intersection 18- Great America Parkway and Patrick Henry Drive (Santa Clara)
Impact: The intersection will operate at LOS C during the early weekday PM peak hour under background conditions and would degrade to LOS F under Project conditions. The level of service would be LOS F during the standard weekday PM peak hour under background conditions and the addition of Project traffic would cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.01 or more under Project conditions. This is a *significant impact* by City of Santa Clara standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would consist of the addition of a second northbound left-turn lane, a fourth southbound through lane, and a second eastbound right-turn lane. The additional lanes would improve intersection operating levels to LOS E and D during the early and standard weekday PM peak hours, respectively. Although the added lanes will improve the level of service, the intersection will continue to operate at LOS F during the early weekday PM peak hour. This intersection will serve as a primary entrance to identified stadium parking and will be officer controlled which will mitigate Project related traffic impacts at this intersection.

Findings: The physical modifications to improve this intersection would require the acquisition of right of way at a fully built out intersection and would affect existing landscaping, setbacks and parking. Since the impacts are projected to only occur infrequently and the modifications proposed, even if fully implemented, do not mitigate the impacts, the mitigation measures are infeasible. There are no further feasible improvements that can be made at the intersection that will improve the level of service at this intersection. The officer control of the intersection during stadium events fully mitigates the Project's impacts on this intersection when the impacts occur. The mitigation measures will *mitigate* stadium related impacts when they occur but the impact remains a significant unavoidable impact.

Intersection 35- Lafayette Street and Yerba Buena Way (Santa Clara)
Impact: The level of service would be LOS D during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS E under Project conditions. This is a *significant impact* by City of Santa Clara standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would be the signalization of the intersection. The intersection improvement would improve intersection operating levels to LOS C during the standard weekday PM peak hour, and will also mitigate project impacts. This improvement is programmed as part of the City's transportation plans and the Project applicant will pay a fair-share contribution toward the required improvement. The Project's fair-share contribution toward the intersection improvement will be proportionate to the total number of days the impacts will occur.

Findings: The Project applicant will make a fair-share contribution toward the cost of signalization of the intersection to improve intersection operating levels to LOS C during the standard weekday PM peak hour which improvement will *mitigate* Project impacts to a less-than-significant level.

Intersection 83- North First Street and Montague Expressway* (San José)
Impact: The level of service at this intersection would be LOS F during the early and standard weekday PM peak hour under background conditions and the addition of Project traffic would cause the critical-movement delay at the intersection to increase by four or more seconds and the demand to- capacity ratio (V/C) to increase by 0.01 or more during the standard peak hour under project conditions during both study periods. This is a *significant impact* by both City of San José and CMP standards.

Mitigation Measure: The improvement remaining for this intersection is the widening of Montague Expressway to eight lanes as identified in the County's Expressway Study and in the North San Jose Development Policy. The widening to eight mixed-flow lanes (for part of the expressway length that would involve converting HOV lanes to mixed-flow) would improve intersection operating levels, but the intersection will continue to operate at LOS F, with or without project traffic. There are no further feasible improvements that can be made at the intersection.

Developments in North San José are being assessed for the cost of implementing this improvement and others in the area. Recent development proposals outside North San José (e.g., in Milpitas and Santa Clara) have proposed to make fair-share contributions to improvements at regional intersections where the development will have a significant impact. This improvement will reduce Project impacts but not to a less than significant level. The Project applicant will make a fair-share contribution toward this improvement of an amount proportionate to the total number of days the impacts will occur.

Findings: Full mitigation of this impact at this intersection would require widening the intersection to ten lanes which is not feasible due to both physical and financial constraints. The widening would be projected to cost more than $20,000,000 and require acquisition of additional land which is not available. The Project applicant will make a fair-share contribution toward the widening of Montague Expressway to eight lanes, of an amount proportionate to the total number of days the Project impacts will occur. There are no further feasible improvements that can be made at the intersection. Despite

the improvements, the intersection will continue to operate at LOS F, with or without the Project, thus the project impacts are considered to be a *significant unavoidable impact.*

Intersection 84- Zanker Road and Montague Expressway (San José)
Impact: The level of service would be LOS E and F during the early and standard weekday PM peak hours respectively, under background conditions and the addition of Project traffic would cause the demand-to-capacity ratio (V/C) to increase by 0.01 or more under Project conditions during both study periods. This is a *significant impact* by both City of San Jose and CMP standards.

Mitigation Measure: The only improvement remaining for this intersection is the widening of Montague Expressway to eight lanes as identified in the County's Expressway Study and in the North San José Development Policy. The widening to eight mixed-flow lanes (for part of the expressway length that would involve converting HOV lanes to mixed flow) would improve intersection operating levels, but the intersection will continue to operate at LOS F, with or without project traffic. There are no further feasible improvements that can be made at the intersection.

Developments in North San José are being assessed for the cost of implementing this improvement and others in the area. Recent development proposals outside North San José (e.g., in Milpitas and Santa Clara) have proposed to make fair-share contributions to improvements at regional intersections where the development will have a significant impact. This improvement will reduce Project impacts but not to a less than significant level. The Project applicant will make a fair-share contribution toward this improvement. The amount of the contribution will be proportionate to the total number of days the impacts will occur.

Findings: Full mitigation of the impacts at this intersection would require widening the intersection to ten lanes which is not feasible due to both physical and financial constraints. The widening is projected to cost more than $20,000,000 and require acquisition of additional land which is not available. The Project applicant will make a fair-share contribution toward the widening of Montague Expressway to eight lanes, of an amount proportionate to the total number of days the impacts will occur. There are no further feasible improvements that can be made at the intersection. Despite the improvements, the intersection will continue to operate at LOS F, with or without the Project, thus the Project would continue to have a *significant unavoidable impact.*

Intersection 87- O'Toole Avenue and Montague Expressway* (San José)
Impact: The level of service would be LOS F during the standard weekday PM peak hours under background conditions, and the addition of Project traffic would cause the demand- to-capacity ratio (V/C) to increase by 0.01 or more under project conditions. This is a significant impact by both City of San Jose and CMP standards.

Mitigation Measure: The improvement remaining for this intersection is the construction of a "square loop" intersection as identified as part of the North San José Development Policy (NSJDP). The recommended mitigation measure would improve intersection

operation to LOS C for the typical peak hour and will also fully mitigate the Project's impacts.

Developments in North San José are being assessed for the cost of implementing this improvement and others in the area. Recent development proposals outside North San José (e.g., in Milpitas and Santa Clara) have proposed to make fair-share contributions to improvements at regional intersections where the development will have a significant impact. The Project applicant will make a fair-share contribution toward the intersection improvement. The amount of the contribution will be proportionate to the total number of days the impacts will occur.

Findings: The Project applicant will make a fair-share contribution toward the construction of the "square loop" intersection. The recommended mitigation measure would improve intersection operation to LOS C for the typical peak hour and will also *fully mitigate* the project's impacts.

Intersection 89- Trade Zone Boulevard and Montague Expressway* (San José)
Impact: The level of service would be LOS E during the early weekday PM peak hours under background conditions and the addition of Project traffic would cause the demand-to-capacity ratio (V/C) to increase by 0.01 or more under Project conditions. This constitutes a *significant impact* by City of San José standards.

Mitigation Measure: The only improvement remaining for this intersection is the widening of Montague Expressway to eight lanes as identified in the County's Expressway Study and in the North San José Development Policy. The widening to eight mixed-flow lanes (for part of the expressway length that would involve converting HOV lanes to mixed flow) would improve intersection operating levels, but the intersection will continue to operate at LOS F, with or without Project traffic. There are no further feasible improvements that can be made at the intersection.

Developments in North San José are being assessed for the cost of implementing this improvement and others in the area. Recent development proposals outside North San José (e.g., in Milpitas and Santa Clara) have proposed to make fair-share contributions to improvements at regional intersections where the development will have a significant impact. This improvement will reduce Project impacts but not to a less than significant level. The Project applicant will make a fair-share contribution toward this intersection improvement. The amount of the contribution will be proportionate to the total number of days the impacts will occur.

Findings: Full mitigation of this impact at this intersection would require widening the intersection to ten lanes which is not feasible due to both physical and financial constraints. The widening would be projected to cost more than $20,000,000 and require acquisition of additional land which is not available. The Project applicant will make a fair-share contribution toward the widening of Montague Expressway to eight lanes, of an amount proportionate to the total number of days the Project impacts will occur. There are no further feasible improvements that can be made at the intersection. Despite

the improvements, the intersection will continue to operate at LOS F, with or without the Project, thus the project impacts are considered to be a *significant unavoidable impact*.

Intersection 91- North First Street (N) and SR 237* (San José)
Impact: The level of service would be LOS F during the standard weekday PM peak hour under background conditions and the addition of Project traffic would cause the critical-movement delay at the intersection to decrease and the demand-to-capacity ratio (V/C) to increase by 0.01 or more under Project conditions. This constitutes a *significant impact* by both City of San José and CMP standards.

Mitigation Measure: The necessary improvement to mitigate the Project impact at this intersection would consist of the addition of an exclusive southbound right-turn lane. The intersection improvement would improve intersection operating levels to LOS E during the standard weekday PM peak hour, which is better than background. The intersection is in the City of San José and neither the City nor Caltrans have programmed or established a funding mechanism for this improvement. This impact is therefore significant and unavoidable.

Findings: Since the implementation of the mitigation measure would be under the jurisdiction of the City of San José and Caltrans; and neither the City nor Caltrans have programmed or established a funding mechanism for this improvement, adoption of the mitigation measure is *not feasible*. The mitigation measure would also result in a secondary growth inducing impacts by creating overbuilt intersections to serve what are intermittent traffic needs. Since the mitigation is not feasible, this impact is *significant and unavoidable*.

Intersection 93- Great America and SR 237 (San José)
Impact: The level of service would be LOS C during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS F under Project conditions. This is a *significant impact* by both City of San José and CMP standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would be the addition of a third westbound left-turn lane. The improvement will require acquisition of right-of-way, and may not be feasible. The improvement would result in better intersection operating levels, but the intersection will continue to operate at LOS E. There are no further feasible improvements that can be made at the intersection. According to Caltrans, "A third through lane would need to be added, as there are only two through lanes existing at this section. In addition, the eastbound SR 237 off-ramp to Great America Parkway free right turn lane would need to be converted into a controlled movement." Implementation of the mitigation would require alteration of a Caltrans facility which Caltrans currently does not believe is feasible.

Findings: Construction of the proposed improvements would require reconstruction of the overpass embankments and footings which is not physically or financially feasible. The physical and financial constraints related to implementation of mitigation makes

mitigating Project impacts infeasible. Since the mitigation is not feasible, this impact is *significant and unavoidable*.

Intersection 97- Lawrence Expressway and Tasman Drive*(Sunnyvale)
Impact: The level of service would be LOS E during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS F under Project conditions. This constitutes a *significant impact* by CMP standards.

Mitigation Measure: There are no feasible improvements that can be made at the intersection due to insufficient right-of-way. Traffic control at the intersection as identified in the TMP and implemented as part of the TMOP will maintain efficient operations during NFL and large non-NFL events.

Findings: There are no feasible improvements that can be made at the intersection due to insufficient right-of-way. Acquisition of the necessary right of way would require the removal of homes and trees, creating secondary impacts. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. Since physical mitigation is not feasible, this impact is *significant and unavoidable* although the implementation of the TMOP is expected to mitigate the impact.

Intersection 112- I-880 Northbound and Tasman Drive (Milpitas)
Impact: The level of service would be LOS D during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS E under Project conditions. This is a *significant impact* by City of Milpitas standards.

Mitigation Measure: The improvement to mitigate the Project impact at this intersection would be the addition of a second westbound left-turn lane. The additional lane would improve intersection operating levels to LOS D during the standard weekday PM peak hour. An additional lane would require acquisition of additional right-of-way, elimination of open spaces within the adjacent residential neighborhood, and would impact the existing light rail crossing at this intersection. The City of Milpitas has determined that these impacts would be inconsistent with its General Plan. An alternative mitigation measure that would reduce impacts, but not to a less than significant level, would include funding the design and implementation of traffic operation improvements to help in signal coordination with adjacent intersections (e.g., Tasman Drive/I-880 SB Ramps and Tasman Drive/Alder Drive). This measure has not been programmed and no funding mechanism for it has been established. Therefore the Project cannot make a fair-share contribution.

Findings: The City of Milpitas has concluded that the impacts of the mitigation measure including loss of open space and interference with an existing light rail crossing would be inconsistent with its General Plan making the mitigation measure infeasible. Additionally, the implementation of the mitigation measure is not feasible since the additional left turn lane cannot be accommodated in the existing receiving onramp. Since the mitigation is not feasible and the alternative mitigation is not programmed or funded, this impact is *significant and unavoidable*.

Intersection 115- Abbot Avenue and Calaveras Boulevard (Milpitas)
Impact: The level of service would be LOS D during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS E under Project conditions. This is a *significant impact* by City of Milpitas standards.

Mitigation Measure: The planned improvement that would mitigate the Project impact at this intersection would be the addition of a fourth westbound through lane. The City of Milpitas has plans to widen Calaveras Boulevard to eight lanes between Abbott Avenue and Milpitas Boulevard. A traffic impact fee has been implemented to fund the planned widening. Developments that impact intersections along this segment of Calaveras Boulevard are required to pay a fee of $2,500 per PM peak hour trip. The planned intersection improvement would improve operating levels to LOS D during the standard weekday PM peak hour and will fully mitigate project impacts. The Project applicant will make a fair-share contribution toward the intersection improvement. The amount of the contribution will be proportionate to the total number of days the impacts will occur.

Findings: The Project applicant will make a fair-share contribution toward the widening of Calaveras Boulevard to eight lanes. The amount of the contribution will be proportionate to the total number of days the impacts will occur. The planned intersection improvement would improve operating levels to LOS D during the standard weekday PM peak hour and will fully mitigate Project impacts during the weekday and Sunday study periods, mitigating the Project's impacts to *less than significant levels.*

Impact TRAN-2: The Project would impact two CMP intersections in San José during at least one weekend study period on up to 20 NFL event days per year, resulting in *potentially significant impacts*. Those intersections include:

83 North First Street and Montague Expressway*
91 North First Street (N) and SR 237*

Mitigation Measure TRAN-2: See discussion above regarding weekday study period impacts at Intersection 83 and Intersection 91.

Findings TRAN-2: See discussion above regarding weekday study period impacts at Intersection 83 and Intersection 91. For the same reasons set forth in that discussion, weekend study period impacts at these intersections would be *significant and unavoidable.*

Impact TRAN- 3: For a maximum of eight times per year including both NFL and large non-NFL events, the Project would exceed the adopted threshold on all 16 of the directional freeway segments identified below and one HOV lane under Project conditions during at least one of the weekday study periods, resulting in a *significant unavoidable impact.*

US-101, DeLaCruz Boulevard to Montague Expressway (Northbound)
SR-237, North Fair Oaks Avenue to Lawrence Expressway (Eastbound)

SR-237, Lawrence Expressway to Great America Parkway (Eastbound)
SR-237, Great America Parkway to North First Street (Eastbound)
SR-237, North First Street to Zanker Road (Eastbound)
SR-237, McCarthy Boulevard to I-880 (Eastbound)
SR-237, McCarthy Boulevard to Zanker Road (Westbound)
SR-237, Zanker Road to North First Street (Westbound)
US-101, Fair Oaks Avenue to Lawrence Expressway (Southbound)
US-101, Lawrence Expressway to Great America Parkway (Southbound)
US-101, Great America Pkwy. to Montague Expwy. (Southbound)
US-101, Montague Expressway to De La Cruz Boulevard (Southbound)
US-101, De La Cruz Boulevard to SR-87 (Southbound)
US-101, SR-87 to North First Street (Southbound)
US-101, North First St. to Old Bayshore Hwy (Southbound Mixed-Flow and Northbound HOV)
US-101, Old Bayshore Highway to I-880 (Southbound)

Mitigation Measure TRAN-3: The City will require, as a condition of Project approval, the preparation and implementation of a Transportation Management and Operation Plan (TMOP) and the formation of a working group to oversee the TMOP's implementation. The TMOP is more fully described in the discussion above regarding the Master Transportation Impact. The TMOP will be designed to provide adequate transit capacity for stadium events, thereby reducing vehicle miles traveled and gasoline usage. The TMOP will be completed for the opening of the stadium utilizing the most current roadway and transit data available at that time (estimated mid-2014), and will be updated annually as necessary. No other feasible mitigation is available. Full mitigation of the Project's impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. Additional freeway capacity would have unwanted secondary impacts by facilitating unplanned growth in the region, discouraging alternative methods of transportation and increasing greenhouse gases by facilitating increased vehicle traffic. It is not feasible for an individual development project to bear responsibility for implementing such extensive transportation system improvements due to constraints in acquisition and cost of right-of-way, and no comprehensive project to add through lanes, to which an individual project could make a fair share contribution, has been developed or programmed by Caltrans or the Valley Transportation Authority.

Findings TRAN-3: Although the City will adopt the above mitigation measure regarding the creation of and implementation of the TMOP, the impacts remain *significant and unavoidable.*

Impact TRAN-5: The 17 large non-NFL events could significantly impact local intersections and freeway segments on up to four weekdays and 22 weekend days per year but to a lesser extent than NFL events, resulting in a *significant unavoidable impact.*

Mitigation Measure TRAN-5: The City will require, as a condition of project approval, the preparation and implementation of a Transportation Management and Operational

Plan (TMOP) and the formation of a working group to oversee the TMOP's implementation. The TMOP is more fully described in the discussion above regarding the Master Transportation Impact. The TMOP will be designed to provide adequate transit capacity for stadium events, thereby reducing vehicle miles traveled and gasoline usage as well as implement intersection and traffic control measures to address congestion from stadium events. The TMOP will be completed for the opening of the stadium utilizing the most current roadway and transit data available at that time (estimated mid-2014), and will be updated annually as necessary. The Project applicant will also pay fair share contributions toward those intersection improvements programmed by the City of Santa Clara or other jurisdictions as set forth above.

Findings TRAN-5: The City will require as a condition of approval of the Project the preparation and implementation of a TMOP, the formation of a working group to oversee the TMOP's implementation and the implementation of those mitigation measures that are feasible as identified above with respect to Impact TRAN-1. However, despite adopting all feasible mitigations and the fact that the impacts will occur only intermittently, the impact is *significant and unavoidable*.

b. Air Quality.

Impact AIR-2: The EIR found that the proposed Project would cause an increase in NO_x emissions that exceed the significance thresholds established by BAAQMD on NFL event days, resulting in *potentially significant impacts*.

Mitigation Measure AIR-2:

The following project specific mitigation measures will be implemented to reduce significant air quality impacts:

1. Develop a Transportation Demand Management program that would include financial incentives for employees to reduce automobile vehicle trips.

2. Encourage use of public transit for events through advertising.

3. Provide shuttle service from LRT and Caltrain stations.

4. Bicycle amenities should be provided for the project. These would include secure bicycle parking for employees and attendees and safe bike lane connections.

5. Enforce State law idling restrictions of trucks or buses and include signage indicating the restriction and associated fines.

6. Where appropriate, provide 110- and 220-volt electrical outlets at loading docks or areas where media operations occur to eliminate any idling of trucks or generators to operate auxiliary equipment.

7. Provide exterior electrical outlets to encourage use of electrical landscape equipment.

8. Implement a landscape plan that provides shade trees along pedestrian pathways.

9. Implement "Green Building" designs, such a Leadership in Energy and Environmental Design (LEED) into buildings to increase energy efficiency, which would reduce the future energy demand caused by the project, and therefore, reduce air pollutant emissions indirectly.

10. Implementation of the TMOP.

11. The 49ers will coordinate with transit providers on a yearly basis to offer promotions for event attendees to use transit.

Findings AIR-2: It is concluded that this air quality impact can be reduced, but not fully mitigated through implementation of the proposed mitigation. No other feasible mitigation measures are available. Therefore, the identified regional air quality impacts on intermittent event days would remain *significant and unavoidable.*

Impact AIR-3: The EIR found that the proposed project would cause an increase in emissions that exceed the significance thresholds established by BAAQMD on large non-NFL event days, resulting in *potentially significant impacts.*

Mitigation Measure AIR-3: Same as those discussed in Mitigation Measure AIR-2, above.

Findings AIR-3: It is concluded that this air quality impact can be reduced, but not fully mitigated through implementation of the proposed mitigation. Direct and indirect emissions of ROG, NO_x, and PM_{10} associated with build out and operation of the stadium would have to be reduced by up to 120 percent or greater on days with the busiest non-NFL events to mitigate the significance of the impact. Ultimately, the effectiveness of the mitigation is difficult to determine because it is dependent on the origin of trips for each event. No other feasible mitigation measures are available. Therefore, the identified regional air quality impacts on intermittent event days would remain *significant and unavoidable.*

Impact AIR- 4: The EIR found that NFL events in summer and early fall would have significant NOx emissions that could increase ozone concentrations in downwind portions of the Bay Area up to 12 times per year, resulting *potentially significant impacts.*

Mitigation Measure AIR-4: Same as those discussed in Mitigation Measure AIR-2, above.

Findings AIR-4: It is concluded that this air quality impact can be reduced, but not fully mitigated through implementation of the proposed mitigation. No other feasible mitigation measures are available. Therefore, the identified regional air quality impacts on intermittent event days would remain *significant and unavoidable.*

Impact AIR-5: The EIR found that Non-NFL events with an attendance over 20,000 would significantly contribute to emissions of ROG, NO_x, and non-NFL events with an attendance of 15,000 would significantly contribute to emissions of PM_{10} up to 26 times per year, resulting *potentially significant impacts.*

Mitigation Measure AIR-5: Same as those discussed in Mitigation Measure AIR-2.

Findings AIR-5: It is concluded that this air quality impact can be reduced, but not fully mitigated through implementation of the proposed mitigation. Direct and indirect emissions of ROG, NO_x, and PM_{10} associated with build out and operation of the stadium would have to be reduced by up to 120 percent or greater on days with the busiest non-NFL events to mitigate the significance of the impact. Ultimately, the effectiveness of the mitigation is difficult to determine because it is dependent on the origin of trips for each event. No other feasible mitigation measures are available. Therefore, the identified regional air quality impacts on intermittent event days would remain *significant and unavoidable.*

c. Noise.

Impact NOI-4: The EIR identified that tailgating activities would have a *significant impact* on nearby residents on game days.

Mitigation Measures NOI-4:

The following project specific stadium event mitigation measures are proposed by the Project and will be implemented to lessen or avoid identified significant noise impacts:

1. Tailgating activities shall not occur prior to 9:00 am on game days in the Great America Theme Park, Golf and Tennis Club, and stadium parking areas. These parking areas will be barricaded until 9:00 am to preclude event attendees from arriving prior to 9:00 am.

2. Tailgating in surface parking areas within 750 feet of residences will be prohibited. Tailgating in surface lots will also be prohibited within 750 feet of school buildings on weekday evenings and Saturdays. There will be no restrictions to surface lots within 750 of school buildings on Sundays. Posted signs and security patrols of these parking areas prior to, during, and after game times will enforce these restrictions.

3. The use of loudspeakers, stereo systems, or fireworks within the Great America Theme Park, Golf and Tennis Club, and stadium parking areas would be prohibited. Posted signs and security patrols of these parking areas prior to, during, and after game times will enforce this restriction.

4. Post-event cleanup activities in parking lots located within 750 feet of residences shall be completed prior to 10:00 pm the day of the game or no earlier than 9:00 am the following morning.

5. A Disturbance Coordinator will be designated by the Stadium Authority to investigate and respond to noise complaints. The name and contact information of the Disturbance Coordinator will be made readily available to all residents and businesses within the project area.

Findings NOI-4: Limiting tailgating activities in surface parking areas within 750 feet of residences and educational facilities and restrictions on the use of loudspeakers, stereo systems and fireworks, and the designation of a disturbance coordinator to investigate and respond to noise related complaints will reduce the Project impact, but not to a less than significant level and thus tailgating activities will result in a *significant unavoidable impact*.

Impact NOI-5: The EIR found that noise from NFL games would have a *significant noise impact* on nearby sensitive receptors on game days.

Mitigation Measure NOI-5: Conformance with the City's Noise Ordinance (City Code 9.10.040) would reduce noise impacts of the proposed Project:

1. It shall be unlawful for any person to operate or cause to allow to be operated, any fixed source of disturbing, excessive or offensive sound or noise on property owned, leased, occupied or otherwise controlled by such person, such that the sound or noise originating from that source causes the sound or noise level on any other property to exceed the maximum noise or sound levels which are set forth in Schedule A of the City Code. Except as otherwise provided in this chapter, the noise or sound standards for the various zone districts as presented in this Schedule A shall apply to all such properties within a specified zone, as designated on the most recent update of the official zoning map of the City. For planned development, agricultural or mixed zoning site, the most restrictive noise standard for the comparable zone district, as determined by the Director of Planning and Inspection, shall apply. (Ord. 1588 § 1, 6-14-88. Formerly § 18-26.4).

The following project specific stadium event mitigation measures are proposed by the Project and will be implemented to lessen or avoid identified significant noise impacts:

1. Tailgating activities shall not occur prior to 9:00 am on game days in the Great America Theme Park, Golf and Tennis Club, and stadium parking areas. These parking areas will be barricaded until 9:00 am to preclude event attendees from arriving prior to 9:00 am.

2. Tailgating in surface parking areas within 750 feet of residences will be prohibited. Tailgating in surface lots will also be prohibited within 750 feet of school buildings on weekday evenings and Saturdays. There will be no restrictions to surface lots within 750 of school buildings on Sundays. Posted signs and security patrols of these parking areas prior to, during, and after game times will enforce these restrictions.

3. The use of loudspeakers, stereo systems, or fireworks within the Great America Theme Park, Golf and Tennis Club, and stadium parking areas would be prohibited.

Posted signs and security patrols of these parking areas prior to, during, and after game times will enforce this restriction.

4. Post-event clean up activities in parking lots located within 750 feet of residences shall be completed prior to 10:00 pm the day of the game or no earlier than 9:00 am the following morning.

5. A Disturbance Coordinator will be designated by the Stadium Authority to investigate and respond to noise complaints. The name and contact information of the Disturbance Coordinator will be made readily available to all residents and businesses within the project area.

Findings NOI-5: Given the ambient day-night average noise levels resulting from aircraft and other transportation noise sources in the project area, the use of the stadium for NFL events would not substantially increase day-night average noise levels at nearby noise sensitive land uses. The Project would, however, introduce new sources of noise that are more continuous in nature that would substantially increase ambient noise levels when aircraft, railroad, and/or vehicle noise is not present. The use of the stadium for NFL events would substantially increase noise levels on as many as 20 game days per year for up to 10 hours, resulting in a significant noise impact.

There are no feasible mitigation measures that would reduce noise levels generated by all NFL game related activities and large non-NFL events to background noise levels at nearby residences. As a result, stadium events would have a *significant unavoidable noise impact.*

Impact NOI-6: The EIR found that noise from large non-NFL sporting events would have a *significant noise impact* on nearby residents on event days.

Mitigation Measure NOI-6: The same mitigation measures implemented during NFL games would be implemented during non-NFL events. See discussion of Mitigation Measure NOI-5, above.

Findings NOI-6: Large non-NFL events would also introduce new sources of noise that are more continuous in nature that would substantially increase ambient noise levels when other noise sources are not present. The use of the stadium for large non-NFL events would substantially increase noise levels on as many as 26 days per year, resulting in a significant noise impact.

There are no feasible mitigation measures that would reduce noise levels generated by all large non- NFL events to background noise levels at nearby residences. As a result, large non-NFL stadium events would have a *significant unavoidable noise impact.*

Impact NOI-7: The EIR found that concert noise would have a *significant impact* on the nearest residential neighborhoods which a concert occurs, which is projected to be infrequently and potentially only one day a year.

Mitigation Measure NOI-7: The same mitigation measures implemented during NFL games would be implemented during non-NFL events. See discussion of Mitigation Measure NOI-5, above.

Findings NOI-7: Concert noise would also introduce new sources of noise that are more continuous in nature that would substantially increase ambient noise levels when other noise sources are not present. Concert events are expected to occur infrequently so the noise impacts would be limited to those limited occasions. There are no feasible mitigation measures that would reduce noise levels generated by concerts to background noise levels at nearby residences. As a result, stadium events would have a *significant unavoidable noise impact.*

Impact NOI-11: The EIR found that construction activities will temporarily impact nearby sensitive receptors, resulting in a *potentially significant impact.*

Mitigation Measure NOI-11: The following project specific mitigation measures are proposed by the Project and will be implemented to lessen or avoid identified significant construction noise impacts:

1. The applicant will be required to develop a Construction Mitigation Plan that will schedule construction activities so as to minimize noise disturbances to sensitive land uses. The Construction Mitigation Plan will include but is not limited to the following: (a) The holes for the piles will be pre-drilled; (b) Pile driving shall be prohibited on weekends and holidays to minimize disturbances at the theme park, Golf and Tennis Club, and residences; (c) Construction within 300 feet of any residentially zoned property shall only occur within designated time limits. Construction within 300 feet of any residence will only occur between the hours of 7:00 am to 6:00 pm on weekdays (other than holidays) and between 9:00 am and 6:00 pm on any Saturday that is not a holiday. No construction will be permitted on Sundays or holidays; (d) The contractors shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists; (e) Contractors shall equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment; (f) Temporary noise barriers shall be used during grading and foundation work; (g) Staging areas and construction material storage areas will be located as far away as possible from nearby residences; (h) Unnecessary idling of internal combustion engines shall be prohibited; (i) All nearby noise sensitive land uses within the area of impact shall be notified in writing of the construction schedule; (j) A Disturbance Coordinator will be designated by the applicant. The Coordinator shall be responsible for responding to any local complaints about construction noise. The Coordinator will determine the cause of the noise complaint and implement reasonable measures to correct the problem. A telephone number for the Coordinator will be clearly posted at the construction site and included in the notice sent to nearby properties regarding the construction schedule. The proposed mitigation will reduce construction noise levels but will not reduce construction noise to existing background noise levels. Construction of the proposed project will expose sensitive noise receptors to increased background noise levels for more than two years.

Findings NOI-11: The proposed construction related mitigation measures will reduce construction noise levels but will not reduce construction noise to existing background noise levels. Construction of the proposed project will expose sensitive receptors to increased background noise levels for more than two years. Noise generated by construction activities would substantially increase ambient noise levels at the nearby industrial, commercial, and residential land uses for a period of approximately 28 months. Implementation of the proposed mitigation will reduce impacts from construction noise levels. Nevertheless, the mitigation will not reduce construction noise to the same level as existing background noise. As a result, construction of the proposed Project will expose sensitive noise receptors to increased background noise levels for more than two years, resulting in a *temporary significant unavoidable impact.*

C. CUMULATIVE IMPACTS

The CEQA Guidelines states that an EIR must discuss impacts of a project when the project's incremental effect is cumulatively considerable, as defined in Section 15065(a)(3). Cumulative impacts consist of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. The purpose of the cumulative analysis is to allow decision makers to better understand the potential impacts which might result from approval of past, present and reasonably foreseeable future projects, in conjunction with the proposed project.

a. Cumulative Transportation Impacts.

Weekday Impacts: The EIR shows that under cumulative conditions 40 of the 120 study intersections could be significantly impacted.

City of Santa Clara Cumulative Traffic Impact: On up to eight weekdays per year, significant cumulative level of service impacts would occur at 19 intersections in Santa Clara, nine of which are CMP intersections. These intersections include:

3 Great America Parkway and Tasman Drive *
8 Great America Parkway and Mission College Boulevard *
14 Great America Parkway and Yerba Buena Way
15 Great America Parkway and Alviso Road
16 Great America Parkway and Bunker Hill Lane
17 Great America Parkway and Old Glory Lane
18 Great America Parkway and Patrick Henry Drive
20 Bowers Avenue and US 101 SB *
21 Bowers Avenue and Augustine Drive
23 Bowers Avenue and Central Expressway *
27 Bowers Avenue and Monroe Street
35 Lafayette Street and Yerba Buena Way
60 San Tomas Expressway and Homestead Road *
61 San Tomas Expressway and Benton Street
62 San Tomas Expressway and El Camino Real *

65 San Tomas Expressway and Walsh Avenue
66 San Tomas Expressway and Scott Boulevard *
67 Mission College Boulevard and Montague Expressway *
71 Lawrence Expressway Ramps and El Camino Real *

City of San José Cumulative Traffic Impact: On a up to eight weekdays per year, significant cumulative level of service impacts would occur at seven intersections in San José, five of which are CMP intersections. These intersections include"

78 North First Street and Tasman Drive
83 North First Street and Montague Expressway *
84 Zanker Road and Montague Expressway *
85 Montague Expressway and River Oaks Parkway
87 O'Toole Avenue and Montague Expressway *
89 Trade Zone Boulevard and Montague Expressway *
93 Great America (north) and SR 237 *

City of Sunnyvale: On up to eight weekdays per year, significant cumulative level of service impacts would occur at eight intersections in Sunnyvale, four of which are CMP intersections. These intersections include:

95 Reamwood Avenue and Tasman Drive
96 Birchwood Avenue and Tasman Drive
97 Lawrence Expressway and Tasman Drive *
104 Lawrence Expressway and Oakmead Parkway
105 Lawrence Expressway and Arques Avenue *
106 Lawrence Expressway and Kifer Road
107 Lawrence Expressway and Reed Avenue/Monroe Street *
108 Lawrence Expressway and Homestead Road *

Impacts, mitigation measures and findings for the following intersections are discussed in Section VII(B) above:

Santa Clara:
3 Great America Parkway and Tasman Drive *
8 Great America Parkway and Mission College Boulevard*
14 Great America Parkway and Yerba Buena Way
15 Great America Parkway and Alviso Road
16 Great America Parkway and Bunker Hill Lane
17 Great America Parkway and Old Glory Lane
18 Great America Parkway and Patrick Henry Drive
35 Lafayette Street and Yerba Buena Way

San Jose:
83 North First Street and Montague Expressway*
93 Great America (N) and SR 237*

Sunnyvale:
97 Lawrence Expressway and Tasman Drive*

City of Milpitas:
112 I-880 NB and Tasman Drive
115 Abbott Avenue and Calaveras Boulevard

Mitigation measures proposed by the EIR to mitigate the cumulative impacts at intersections 3, 8, 14, 16, 17 and 112 include mitigations in addition to those discussed above in Section VII(B). These additional mitigation measures are discussed below.

The Project's contribution to cumulative impacts during the weekday study period at the following intersections have been determined to be less than cumulatively considerable and, therefore, the Project will result in less than significant cumulative impacts at these intersections due to NFL and non-NFL events occurring on weekdays. Whether the cumulative impact was considerable was determined based on the percentage the Project's traffic contributed to the cumulative traffic volume for each intersection. As with all of the traffic analysis this metric was determined assuming that the Project traffic occurred five days a week rather than the reality of the intermittent and infrequent impacts expected with the Stadium project. Thus Project traffic's contribution to the cumulative traffic volume is overstated. Nevertheless, the City standard threshold for determining if a project's cumulative traffic impact is considerable of 25% or more of the cumulative traffic volume was used. Even assuming Project traffic occurred every weekday, the Project's traffic contributed less than 25% of the cumulative traffic volumes at the following intersections:

Santa Clara:
60 San Tomas Expressway and Homestead Road*
61 San Tomas Expressway and Benton Street
62 San Tomas Expressway and El Camino Real
65 San Tomas Expressway and Walsh Avenue
66 San Tomas Expressway and Scott Boulevard

San Jose:
84 Zanker Road and Montague Expressway*
87 O'Toole Avenue and Montague Expressway*
89 Trade Zone Boulevard and Montague Expressway*

Sunnyvale:
104 Lawrence Expressway and Oakmead Parkway
105 Lawrence Expressway and Arques Avenue*
106 Lawrence Expressway and Kifer Road
107 Lawrence Expressway and Reed Avenue/Monroe Street*
108 Lawrence Expressway and Homestead Road*

Intersection 3 – Great America Parkway and Tasman Drive (Santa Clara)

Impact: The level of service would be LOS C during the early and standard weekday PM peak hours under background conditions and would degrade to LOS F under cumulative conditions. This constitutes a significant cumulative impact. The Project would account for 74 percent of the traffic volume in the early weekday PM peak hour and 64 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable.*

Mitigation Measure: The significant cumulative impact to this intersection could be partially mitigated by the addition of exclusive westbound, eastbound and southbound right-turn lanes. With these improvements, the intersection would continue to operate at LOS F under both the early and standard weekday study periods. There are no further feasible improvements that can be made at the intersection due to insufficient right-of-way.

Findings: The implementation of this improvement would require land acquisition for additional right-of-way at a fully built out intersection. This improvement has not been programmed by the City, no funding mechanism has been established for this improvement, and acquiring the land necessary for the improvement at this intersection would also interfere with setbacks and parking at the existing development and conflict with the ML zoning at the site. Construction of the improvement would also necessitate the relocation of an underground wastewater pump. The physical and legal constraints related to expanding the right-of-way make the improvements infeasible. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. Since the physical mitigation is not programmed and infeasible, this impact is *significant and unavoidable.*

Intersection 8- Great America Parkway and Mission College Boulevard* (Santa Clara)

Impact: The level of service would be LOS D during the early weekday PM peak hour under background conditions and the intersection would degrade to LOS F under cumulative conditions. The level of service would be LOS F during the standard weekday PM peak hour under background conditions and the critical-movement delay at the intersection will increase by four or more seconds and the demand-to-capacity ratio (V/C) will increase by 0.01 or more under cumulative conditions. This constitutes a significant cumulative impact. The project will account for 67 percent of the cumulative traffic volume in the early weekday PM peak hour and 59 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable.*

Mitigation Measure: The significant cumulative impact to this intersection could be partially mitigated by the construction of a grade separated intersection. With this improvement, the intersection would continue to operate at LOS F during the early and standard weekday PM peak hours. The City has determined that the identified improvement is infeasible due to existing development directly adjacent to the roadway and insufficient right-of-way.

Findings: The City of Santa Clara's CIP has programmed improvements to this intersection, however, the construction of a grade separated intersection is not feasible. Acquiring the land necessary for the improvement at this intersection would require the removal of existing buildings and would also interfere with setbacks and parking at the existing development. The physical and legal constraints related to construction of a grade separated intersection make the improvement infeasible. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. This impact is *significant and unavoidable*.

Intersection 14-Great America Parkway and Yerba Buena Way (Santa Clara)
Impact: The level of service would be LOS C during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS F under cumulative conditions. This constitutes a significant cumulative impact. The project will account for 75 percent of the cumulative traffic volume in the early weekday PM peak hour and 72 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the adjustment of cycle time. The intersection improvement would improve intersection operating levels to LOS D during the standard weekday PM peak hour.

Findings: The draft TMP proposed that the intersection be a controlled intersection during stadium events, prohibiting access to and from Yerba Buena Way which would eliminate the need for adjustment to signal timing. However, cycle times could be adjusted if necessary. The adoption of the mitigation measure will improve intersection operating levels to LOS D during the standard weekday PM peak hour, which improvement will mitigate the Project impacts to a *less than significant* level.

Intersection 16- Great America Parkway and Bunker Hill Lane (Santa Clara)
Impact: The level of service would be LOS B during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS E under cumulative conditions. This is a significant cumulative impact. The project will account for 80 percent of the cumulative traffic volume in the early weekday PM peak hour and 74 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the addition of second westbound and northbound left-turn lanes and an adjustment of cycle time. The intersection improvements would improve operating levels to LOS C during the standard weekday PM peak hour.

Findings: The implementation of additional left turn lanes would require land acquisition for additional right-of-way at a fully built out intersection and would cause the adjacent properties to violate the current Planned Development zoning as well as interfere with current parking supply and therefore is *not feasible*. The intersection is proposed to have

officer controls during stadium events which would eliminate the need for the adjustment to the cycle timing, however, if the intersection is not officer controlled for any reason the adjustments to cycle timing can be made. The physical and legal constraints related to expanding the right-of-way make the physical improvements infeasible. Additionally, implementation of the TMOP will mitigate the impacts at this intersection when Stadium events occur. Since the physical mitigation is infeasible and the mitigation is not programmed, this impact is *significant and unavoidable*.

Intersection 17- Great America Parkway and Old Glory Lane (Santa Clara)
Impact: The level of service would be LOS B during the early and standard weekday PM peak hours under background conditions and the intersection would degrade to LOS F under cumulative conditions. This constitutes a significant cumulative impact. The project will account for 72 percent of the cumulative traffic volume in the early weekday PM peak hour and 66 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the addition of a second eastbound right-turn lane, a fourth southbound through lane, and an adjustment of cycle time. The intersection improvements would improve intersection operating levels to LOS C and B during the early and standard PM peak hours, respectively.

Findings: The implementation of additional lanes would require land acquisition for additional right-of-way at a fully built out intersection, eliminating landscaping and setbacks and would conflict with the approved development plan approved under the ML zoning as well as interfere with current parking supply and therefore is *not feasible*. Officer control of the intersection during stadium events mitigates the Projects impacts on this intersection when the impacts occur. To the extent necessary, the signal timing will be adjusted to maintain the level of service operations at the intersection. Since the physical mitigation is infeasible and the mitigation is not programmed, this impact is *significant and unavoidable*.

Intersection 20- Bowers Avenue and US 101 SB *(Santa Clara)
Impact: The level of service would be LOS A during the standard weekday PM peak hour under background conditions, and the intersection would degrade to LOS F under cumulative conditions. This constitutes a significant cumulative impact. The Project will account for 49 percent of the cumulative traffic volume in the early weekday PM peak hour and 37 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the addition of a third eastbound left-turn lane. The intersection improvement would improve intersection operating levels to LOS D during the standard weekday PM peak hour.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. Additionally, the mitigation of traffic impacts that would occur on 20 days a year with the installation of permanent additional capacity enhancements is not required under existing City or CMP policies. The Project cannot make a fair-share contribution because the improvement of adding an additional left-turn lane is not currently programmed and no funding mechanism has been established. Since the mitigation is infeasible and the mitigation improvement is not programmed, this cumulative impact is *significant and unavoidable*.

Intersection 21- Bowers Avenue and Augustine Drive (Santa Clara)
Impact: This intersection would operate at LOS C during the early and standard weekday PM peak hours under background conditions, and the intersection would degrade to LOS E and F under cumulative conditions, respectively. This constitutes a *significant cumulative impact*. The Project will account for 27 percent of the cumulative traffic volume in the early weekday PM peak hour and 12 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact at this intersection could be mitigated by adding a second southbound left-turn lane, a second westbound right-turn lane, a third eastbound left-turn lane, a free westbound right-turn lane, and the widening of Bowers Avenue to eight lanes. The identified improvement would improve intersection operating levels to LOS C during both the early and standard weekday PM peak hours.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. The installation of the physical improvements would require the acquisition of right of way resulting in the removal of existing buildings and the remaining development at the intersection violating its current zoning requirements. The Project cannot make a fair-share contribution because the improvements are not currently programmed and no funding mechanism has been established. Since the mitigation is infeasible and the mitigation improvements are not programmed, this cumulative impact is *significant and unavoidable*.

Intersection 23- Bowers Avenue and Central Expressway * (Santa Clara)
Impact: The level of service would be LOS D and E during the early and standard weekday PM peak hours, respectively, under background conditions and the intersection would degrade to LOS F under cumulative conditions. This constitutes *a significant cumulative impact*. The Project will account for 33 percent of the cumulative traffic volume in the early weekday PM peak hour and 12 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be partially mitigated by converting the existing HOV lanes on eastbound and westbound Central Expressway to mixed-flow lanes. The Comprehensive County Expressway

Planning Study identifies as a Tier 1A project the conversion of HOV lanes to mixed-flow lanes at this intersection. With this modification, the intersection would continue to operate at LOS F during the standard PM peak hour. The Comprehensive County Expressway Planning Study identifies the construction of a full interchange at this intersection as a Tier 2 priority. This improvement would fully mitigate the cumulative impact at this intersection.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. The Comprehensive County Expressway Planning Study identifies this improvement as a Tier 2 priority, but the improvement is not yet programmed and no funding mechanism has been established. Portions of the proposed improvements are outside the jurisdiction of the City of Santa Clara and thus cannot be implemented by the City. Since the mitigation is infeasible and the mitigation is not programmed, this cumulative impact is *significant and unavoidable*.

Intersection 27- Bowers Avenue and Monroe Street (Santa Clara)
Impact: The level of service would be LOS C during the standard weekday PM peak hour under background conditions, and the intersection would degrade to LOS E under cumulative conditions. This constitutes a *significant cumulative impact*. The Project will account for 56 percent of the cumulative traffic volume in the early weekday PM peak hour and 18 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the addition of separate northbound and southbound left-turn lanes with protected phasing. The intersection improvements would improve intersection operating levels to LOS C during the standard weekday PM peak hours.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. Since the mitigation is infeasible, the mitigation is not programmed and no funding mechanism has been established, this cumulative impact is *significant and unavoidable*.

Intersection 67- Mission College Boulevard and Montague Expressway * (Santa Clara)
Impact: The level of service would be LOS D during the early weekday PM peak hour under background conditions and the intersection would degrade to LOS F under cumulative conditions. The level of service would be LOS D during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS F under cumulative conditions. This constitutes a *significant cumulative impact*. The Project will account for 35 percent of the cumulative traffic volume in the early weekday PM peak hour and 18 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by third eastbound and southbound left-turn lanes. The intersection improvements would improve intersection operating levels to LOS D and E during the early and standard weekday PM peak hours, respectively.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. The implementation of the improvements would also require the removal of existing buildings and a rezoning to the site to meet set back and parking requirements. Since the mitigation is infeasible and the mitigation is not programmed, this cumulative impact is *significant and unavoidable.*

Intersection 71- Lawrence Expressway Ramps and El Camino Real * (Santa Clara)
Impact: The level of service would be LOS E during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS F under cumulative conditions. This constitutes a *significant cumulative impact.* The Project will account for 27 percent of the cumulative traffic volume in the early weekday PM peak hour and 19 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable.*

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the addition of an exclusive eastbound right-turn lane. The identified improvement would improve intersection operating levels to LOS E during the standard weekday PM peak hour.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. Since the mitigation is infeasible and the mitigation is not programmed, this cumulative impact is *significant and unavoidable.*

Intersection 78- North First Street and Tasman Drive (San José)
Impact: The level of service would be LOS D during the early and standard weekday PM peak hours under background conditions, and the intersection would degrade to LOS E under cumulative conditions. This constitutes a *significant cumulative impact.* The Project will account for 52 percent of the cumulative traffic volume in the early weekday PM peak hour and 15 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable.*

Mitigation Measure: There are no feasible improvements that can be made at the intersection due to right-of-way restrictions.

Findings: There are no feasible improvements that can be made at this intersection due to right-of-way restrictions. The acquisition of additional right-of-way at a fully built out intersection is not feasible. Since the mitigation is not feasible this cumulative impact is *significant and unavoidable.*

Intersection 85- River Oaks Parkway and Montague Expressway *(San José)
Impact: The level of service would be LOS D during the early weekday PM peak hour under background conditions and the intersection would degrade to LOS E under cumulative conditions. This constitutes a *significant cumulative impact*. The Project will account for 27 percent of the cumulative traffic volume in the early weekday PM peak hour and 11 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: There are no further feasible improvements at the intersection beyond the widening of Montague Expressway to eight lanes as identified as part of the North San José Development Policy (NSJDP). As described under Project impacts, the NSJDP identified the impacts to the intersection associated with its development as significant and unavoidable due to the lack of feasible mitigation measures. A traffic impact fee has been implemented as part of the NSJDP, but is only applicable to development within the NSJDP area. Development outside the area that impacts intersections within the NSJDP area can make a fair-share contribution towards identified improvements.

Findings: The Project applicant will make a fair-share contribution toward the widening of Montague Expressway to eight lanes, proportionate to the total number of days the impacts will occur. There are no further feasible improvements that can be made at the intersection. Despite the improvements, the intersection will continue to operate at LOS F, with or without the Project, thus this cumulative impact remains *significant and unavoidable*.

Intersection 95- Reamwood Avenue and Tasman Drive (Sunnyvale)
Impact: The level of service would be LOS A during the early weekday PM peak hour under background conditions, and the intersection would degrade to LOS F under cumulative conditions. This constitutes a significant cumulative impact. The Project will account for 57 percent of the cumulative traffic volume in the early weekday PM peak hour and 39 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: There are no feasible improvements that can be made at the intersection due to right-of-way restrictions.

Findings: There are no feasible improvements that can be made at this intersection due to right-of-way restrictions. Additionally any improvements would interfere with light rail operations at the intersection. The acquisition of additional right-of-way at a fully built out intersection is not feasible. Since the mitigation is not feasible, this cumulative impact is *significant and unavoidable*

Intersection 96- Birchwood Avenue and Tasman Drive (Sunnyvale)
Impact: The level of service would be LOS B during both the early and standard weekday PM peak hours under background and the intersection would degrade to LOS F and E during the early and standard weekday peak hours, respectively, under cumulative

conditions. This constitutes a *significant cumulative impact*. The Project will account for 57 percent of the cumulative traffic volume in the early weekday PM peak hour and 40 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: There are no feasible improvements that can be made at the intersection due to right-of-way restrictions.

Findings: There are no feasible improvements that can be made at this intersection due to right-of-way restrictions. The acquisition of additional right-of-way at a fully built out intersection is not feasible. Additionally, improvements at the intersection would interfere with light rail operations at the intersection. Since the mitigation is not feasible, this cumulative impact is *significant and unavoidable*

Intersection 110- Alder Drive and Tasman Drive (Milpitas)
Impact: The level of service would be LOS D during the early weekday PM peak hour under background conditions, and the intersection would degrade to LOS F under cumulative conditions. The level of service would be LOS F during the standard weekday PM peak hour under background conditions and the critical-movement delay at the intersection will increase by four or more seconds and the demand- to-capacity ratio (V/C) will increase by 0.01 or more under cumulative conditions. This constitutes a *significant cumulative impact*. The Project will account for 30 percent of the cumulative traffic volume in the early weekday PM peak hour and seven percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be partially mitigated by the addition of a northbound right-turn lane, a third southbound left-turn lane, and a second westbound left-turn lane. The intersection improvement would improve intersection operating levels, but the intersection will continue to operate at LOS E and F during the early and standard weekday PM peak hours, respectively. The City of Milpitas has found these additional lanes infeasible due to impacts to pedestrian and bicycle crossings and impacts to the vehicles and light rail progression along Tasman Drive. There are no further feasible improvements that can be made at the intersection. An alternate mitigation measure would include funding the design and implementation of traffic operation improvements to help in signal coordination with adjacent intersections. These measures will reduce impacts to the intersection, but not to less than significant levels. The mitigation measure is not programmed and no funding mechanism for it has been established.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. Mitigation measures involving physical improvements would also interfere with bicycle and pedestrian crossings and light rail and vehicle progressions along Tasman. The City of Milpitas has deemed physical improvements to this intersection infeasible. An alternate mitigation measure of funding the design and

implementation of traffic operation improvements to help in signal coordination with adjacent intersections is also infeasible, because the City of Milpitas has not programmed or established a funding mechanism for this improvement. Since the mitigation is infeasible and the mitigation is not programmed, this cumulative impact is *significant and unavoidable.*

Intersection 111- I-880 Southbound and Tasman Drive (Milpitas)
Impact: The level of service would be LOS D during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS E under cumulative conditions. This constitutes a *significant cumulative impact.* The Project will account for 32 percent of the cumulative traffic volume in the early weekday PM peak hour and seven percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable.*

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the addition of a second eastbound right-turn lane. The identified improvement would improve intersection operating levels to LOS D during the standard weekday PM peak hour. The City of Milpitas previously found this mitigation infeasible because the Tasman/Great Mall Parkway overpass would require widening to accommodate the channelized eastbound right-turn movement and the elevated on-ramp would require widening to accommodate the receiving vehicles from the eastbound approach. There are no further feasible improvements that can be made at the intersection. An alternate mitigation measure would include funding the design and implementation of traffic operation improvements to help in signal coordination with adjacent intersections (e.g., Tasman Drive/I-880 NB Ramps and Tasman Drive/Alder Drive.) These measures will reduce impacts to the intersection, but not to less than significant levels. This mitigation is not programmed and no funding mechanism for it has been established.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve intermittent traffic needs. Additionally, the adoption of the intersection improvements is not within the jurisdiction of the City of Santa Clara and the City of Milpitas has found the physical improvements to be infeasible for the reasons stated above. An alternate mitigation measure of funding the design and implementation of traffic operation improvements to help in sign coordination with adjacent intersections is also infeasible because the City of Milpitas has not programmed or established a funding mechanism for this improvement. Since the mitigation is infeasible and the mitigation is not programmed, this cumulative impact is *significant and unavoidable.*

Intersection 112- I-880 Northbound and Tasman Drive (Milpitas)
Impact: The level of service would be LOS D during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS F under cumulative conditions. This constitutes a significant cumulative impact. The project will account for 45 percent of the cumulative traffic volume in the early weekday PM

peak hour and 20 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by a second westbound left-turn lane and northbound right-turn lane. The intersection improvement would improve the intersection operating levels to LOS D during the standard weekday PM peak hour. The City of Milpitas previously found this mitigation infeasible because the Tasman/Great Mall Parkway overpass would require widening to accommodate the channelized eastbound right-turn movement and the elevated on-ramp would require widening to accommodate the receiving vehicles from the eastbound approach. There are no further feasible improvements that can be made at the intersection. An alternative mitigation measure that would reduce impacts, but not to a less than significant level, would include funding the design and implementation of traffic operation improvements to help in signal coordination with adjacent intersections (e.g., Tasman Drive/I-880 SB Ramps and Tasman Drive/Alder Drive). This measure has not been programmed and no funding mechanism for it has been established. Therefore the Project cannot make a fair-share contribution.

Findings: The City of Milpitas has concluded that the mitigation measure is infeasible for the reasons stated above. Since the physical improvement is not feasible and the alternative mitigation is not programmed or funded, this impact is *significant and unavoidable*.

Intersection 114- I-880 Northbound and Calaveras Boulevard (Milpitas)
Impact: The level of service would be LOS D during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS E under cumulative conditions. This constitutes a *significant cumulative impact*. The Project will account for 48 percent of the cumulative traffic volume in the early weekday PM peak hour and 36 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: The significant cumulative impact to this intersection could be mitigated by the addition of a second northbound right-turn lane. The identified improvement would improve intersection operating levels to LOS C during the standard weekday PM peak hour.

Findings: The adoption of the mitigation measure is not feasible since it would result in secondary growth inducing impacts by creating overbuilt intersections to serve what is intermittent traffic needs. The intersection is not within the jurisdiction of the City of Santa Clara and the City of Milpitas has not programmed or established a funding mechanism for this improvement. Since the mitigation is not feasible and the mitigation is not programmed, this cumulative impact is *significant and unavoidable*.

Intersection 117- Abel Street and Calaveras Boulevard (Milpitas)
Impact: The level of service would be LOS E during the standard weekday PM peak hour under background conditions and the intersection would degrade to LOS F under

cumulative conditions. This constitutes a *significant cumulative impact*. The Project will account for 46 percent of the cumulative traffic volume in the early weekday PM peak hour and 38 percent in the standard weekday PM peak hour up to eight times per year which is considered *cumulatively considerable*.

Mitigation Measure: There are no feasible improvements that can be made at the intersection due to right-of-way restrictions.

Findings: There are no feasible improvements that can be made at this intersection due to right-of-way restrictions. The acquisition of additional right-of-way at a fully built out intersection is not feasible. Since the mitigation is not feasible, this cumulative impact is *significant and unavoidable*.

Weekend Impacts: The analysis shows that four of the 120 study intersections could be significantly impacted under the cumulative conditions on weekends.

City of Santa Clara. On weekends, significant cumulative levels of service impacts would occur on a maximum of 22 weekend days per year at three intersections in Santa Clara;

10 Freedom Circle (west) and Mission College Boulevard
17 Great America Parkway and Old Glory Lane
67 Mission College Boulevard and Montague Expressway

City of San Jose. On weekends, significant cumulative level of service impacts would occur on a maximum of 22 weekend days at one intersection in San Jose:

91 North First Street (north) and SR 237

Intersections 10 and 17 would operate at LOS E during the weekend study period under cumulative conditions. LOS E is considered acceptable for CMP intersections by most jurisdictions including the City of Santa Clara. Because these impacts do not exceed the threshold of significance no mitigations are proposed for these two intersections. Intersection 67 will operate at LOS F during one or more weekend study periods with the addition of Project traffic. The mitigation measures identified for intersection 67 under the cumulative impacts for weekends are the same as those identified for weekdays impacts above and the findings related to that impact and mitigation are incorporated herein.

Intersection 91 is already operating at LOS F on weekends during the earlier study period. The mitigation and findings set forth for the Project impacts at this intersection are the same as those identified for the Project Impacts and the discussion of impacts and mitigations measures set forth with respect to intersection 91 in Section VII B.a are incorporated herein.

b. Cumulative Air Quality Impacts.

Cumulative Air Quality Impacts: The BAAQMD CEQA Guidelines state that if a project is proposed in a city or county with a general plan that is consistent with the Clean Air Plan *and* the project is consistent with that general plan (i.e., does not require a general plan amendment), then the project will not have a significant cumulative impact unless the project has a project specific impact.

The proposed change in land use would allow a 68,500 seat open-air stadium to be constructed on the Project Site. The project, along with the other pending projects, would increase vehicle miles traveled throughout the Bay Area. The increase in traffic trips resulting from the proposed Project would significantly increase emissions of regional pollutants (i.e., particulate matter). This significant impact, combined with other large-scale pending developments, would be inconsistent with the CAP.

The CAP identifies Transportation Control Measures (TCMs) that are intended to reduce vehicle miles traveled and associated air pollution impacts. The Project applicant will be required to implement the identified TDM measures as a condition of approval. While the Project will implement TCMs consistent with the 2005 Ozone Strategy, the Project cannot implement all the measures necessary to off-set the effects of the increased vehicle miles on large event days.

Even with the implementation of the identified TCMs the project, in combination with other pending development, will result in a *significant unavoidable cumulative air quality impact.*

Cumulative Air Quality Mitigation Measures: The Project will implement the air quality mitigation measures in Section 4.9.3 of the DEIR (as revised on page 172 of the FEIR) and discussed in Sections VII(A)(e) above.

Cumulative Air Quality Finding: Even though the proposed Project will implement the identified TCMs, which would reduce the Project's cumulative contribution to regional air quality impacts, it would not be reduced to a less than significant level. No other feasible mitigation measures are available. Therefore, even with full implementation of the proposed mitigation, the Project would have a significant unavoidable regional air quality impact. As a result, the Project would make a cumulatively considerable contribution to a significant and unavoidable cumulative regional air quality impact, resulting in a *significant unavoidable cumulative impact.*

c. Cumulative Global Climate Change Impacts.

Cumulative Global Climate Change Impact: The EIR found that the impacts to the Project from global climate change could include reduced water availability due to droughts. Non-potable water usage on-site (i.e., landscaping, turf, and bathrooms) would utilize recycled water, thereby reducing the need for potable water on-site. At this time, neither the State Department of Water Resources nor the Santa Clara Valley Water District has established the effects of global climate change on water supplies in California or locally. The City of Santa

Clara, as a water supplier, continues to work to ensure sustainable and reliable water supplies through a range of activities including water conservation.

Energy use on the Project Site could rise during hot summer months because energy demand for building cooling could increase. In the event regional demand exceeded supply, this could result in temporary interruptions in power supply. For the proposed land use, this would be primarily an economic rather than an environmental impact and is not discussed further. Utilities required by the proposed project would not be directly impacted by the effects of global climate change.

The Project Site is located approximately 1.9 miles from San Francisco Bay (as the crow flies) and is at an elevation of 15 feet above sea level. The Pacific Institute released a new study on sea level rise in March 2009, *The Impacts of Sea-Level Rise on the California Coast,* which updates the Institute's comprehensive regional assessment of sea-level rise completed in 1990. Based on climate scenarios prepared for the California Energy Commission's Public Interest Energy Research (PIER) Climate Change Research Program, the study found that mean sea level along the California coast will rise from 1.0 to 1.4 meters (3.3 to 4.6 feet) by the year 2100 above the previously predicted rise in sea level of up to three meters (approximately 10 feet).

Based on the new data, the Project Site is within the possible inundation area for sea level rise flooding if levees in the southern San Francisco Bay are overtopped when high tides coincide with winter storms. The Project, therefore, would be adversely impacted by sea level rise.

While the loss of trees from multiple development projects in the project area will reduce the potential for carbon sequestration in the short term, some new trees will be planted to offset the overall loss. Over time, the new trees will mature but they will not have the same carbon sequestration capacity as the existing trees because these development sites will not support enough trees to account for the total loss. Even if all 2,425 trees lost by pending and recently approved development are replaced in the project area, it would be many years before their carbon absorption would be equivalent to the existing condition. The loss of carbon sequestration capabilities combined with the increase in regional criteria pollutants would be significant.

Cumulative Global Climate Change Mitigation Measures: The Project has identified preliminary design features and measures that would reduce GHG emissions from energy usage. The design features and measures include:

1. Development and implementation of a TDM program consistent with BAAQMD guidelines.

2. Installation of green roofs.

3. Installation of approximately 20,000 square feet of photovoltaic panels.

4. Installation of programmable lighting.

5. Installation of programmable HVAC systems that meet the latest ASHRAE standards.

6. Compliance with the City's construction and demolition ordinance that requires diversion of 50 percent of waste generated from development of the site. The Project proposes to divert and/or salvage up to 75 percent of non-hazardous construction waste.

7. Installation of duel plumbing in incorporate recycled water for use in landscaping, toilets, and other non-potable applications.

The following project specific mitigation measures will be implemented to lessen identified significant cumulative global climate change impacts:

1. The proposed project will be built to exceed the minimum LEED certification requirements.

2. The project will implement the identified TDM measures as a condition of approval.

The following measures will also be included in the project as Conditions of Approval:

1. The stadium operators will be required to prepare and implement a Waste Reduction & Recycling Plan that targets 100 percent diversion of solid waste from stadium events, including composting or other diversion of compostable organics.

2. Offices and critical support features will be built above project flood levels or provide flood proofing.

3. Water conservation measures will be implemented for potable water use.

4. Construction contracts will include a provision encouraging the use of locally produced building materials to the extent feasible.

Cumulative Global Climate Change Findings: The proposed Project, when combined with other cumulative development, would result in a *significant cumulative global climate change impact*. Reducing greenhouse gas emission levels from 2020 to 1990 levels as required under AB 32 could require a 28 to 33 percent reduction of "business-as-usual" greenhouse gas emissions depending on the methodology used to determine the future emission inventories. Although the exact percent reduction that would be incorporated in the future design of the proposed buildings is not known, the reductions in energy use called for in the LEED certification requirements cannot be considered to fully mitigate the projected increases in greenhouse gas emissions from the Project. The Project, even with implementation of identified energy reduction policies, would result in a cumulatively considerable contribution to cumulatively *significant global climate change impacts*. Specific economic, social, and other benefits of the Project outweigh this unavoidable impact as set forth below in the Statement of Overriding Considerations.

VIII. FINDINGS REGARDING ALTERNATIVES

The City finds that specific economic, social, environmental, technological, legal or other considerations make infeasible the alternatives to the Project as described in the EIR. Many of the significant unavoidable impacts of the Project that cannot be fully mitigated through mitigation measures and standard conditions described in the EIR would also likely be present in all of the EIR identified alternatives.

The EIR evaluated a reasonable range of alternatives to the original Project that was described in the Draft EIR. The EIR identified 11 potential sites that could be suitable for the Project based on site size, accessibility to freeways and alternative modes of transportation, availability of parking, availability of public services and utilities, development time frame, existing hazardous conditions and economic feasibility. However, after close consideration these 11 sites were rejected as infeasible based on site constraints, inability to meet many project objectives and/or inability to substantially lessen or avoid most of the significant impacts. The eleven sites considered were: (1) Candelstick Point, (2) Hunters Point, (3) Pier 70, (4) Pier 80, (5) Piers 90-94 Backland/Piers 94-96, (6) Baylands, (7) San Francisco Airport, (8) Moffet Airfield, (9) Zanker Road, (10) San Jose State, and (11) Santa Clara Fairgrounds.

The EIR also examined a reasonable range of alternatives to the proposed development on the designated Project Site, including two design alternatives, one location alternative, and the no project alternative consistent with CEQA Guidelines section 15126.6(e)(2). These alternatives included: (1) the No Project Alternative, (2) the Reduced Stadium Size Alternative, (3) the Enclosed Stadium Design Alternative, and (4) the Great America Main Lot Design Alternative.

The No Project Alternative was identified as the environmentally superior alternative. Under CEQA Guidelines section 15126.6(e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. The Enclosed Stadium Alternative is the second environmentally superior alternative as it would result in fewer environmental effects while still meeting all of the project proponent's objectives. The EIR also identified the Reduced Stadium Size Alternative and the Great America Main Lot Design Alternative as environmentally superior alternatives.

The City certifies that it has considered the information on alternatives provided in the EIR and in the record. The other alternatives proposed and evaluated in the EIR are rejected as infeasible for the reasons stated in the EIR and for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

A. ALTERNATIVE SITES

1. ***Candlestick Point,*** there is already a stadium on the Candlestick Point site of comparable size to the proposed Project, thus placing the new stadium on the same site would

not result in a significant change from the existing conditions on and near Candlestick Point on event days.

Traffic patterns would not change and, as a result, no additional air pollutants related to traffic trips would be generated. The proposed stadium is not bigger than the existing stadium so the number of attendees would be the same or less. Depending on the stadium design and orientation, crowd noise and tailgating noise impacts could be comparable to the existing conditions at Candlestick Park. The replacement of the existing stadium with a new stadium would, however, create significant temporary noise, air quality, and traffic impacts associated with demolition and construction activities. These impacts would be comparable to the construction impacts identified for the proposed Project Site.

Moreover, the lack of multiple modes of public transit to serve Candlestick Park makes the site inconsistent with Project proponent's objectives to locate the stadium on a site that is readily accessible by public transportation, preferably two or more modes of regional public transit. The Candlestick Point alternative would only result in new significant temporary noise, air quality, and traffic impacts associated with demolition and construction activities comparable to the construction impacts identified for the proposed Project Site. All other new impacts would be avoided because the operation of the stadium would be comparable to the existing conditions. Nevertheless, construction of a new stadium on the Candlestick Point site would be infeasible unless the City and County of San Francisco's Proposition G voter initiative is rescinded or modified by the voters of San Francisco, because Proposition G endorsed a plan for redevelopment of Candlestick Point that would not include a stadium. This alternative would not attain any of the City's objectives for the Project. Therefore, this alternative location is infeasible.

2. ***Hunters Point***, under this alternative, the new stadium would be located on the 172-acre Hunters Point site. The stadium and associated surface parking would occupy approximately 97 acres of the Hunters Point Site. A preliminary evaluation of this site by the 49ers team found that the cost of relocating and extending utilities for a new stadium at this location would be more costly than utility relocation and upgrades at the proposed project site. The utility improvements needed for the Hunters Point site to be suitable would include low and high pressure water system improvements, storm drain improvements, and the need for joint trenches to serve electrical, communication and gas utilities.

The costs and time required for hazardous materials clean up, infrastructure and roadway /transit improvements, and permitting make the Hunters Point site inconsistent with the objectives to locate the stadium on a site that can be readily assembled and that enables the development of the stadium within budget and on schedule and to locate the stadium on a site that is served by existing streets and highway infrastructure adequate to reasonably accommodate local and regional game-day automobile circulation. This alternative also would not attain any of the City's objectives for the Project. For this reason, this alternative is infeasible.

Air quality impacts from cars could be somewhat less than those from the proposed project. However, on November 12, 2009, the City and County of San Francisco published a Draft Environmental Impact Report for the Candlestick Point-Hunters Point Shipyard Phase II project, which identified the following significant impacts from development of a new 49ers stadium at the Hunters Point site: (a) impacts from 49ers games on roadways and intersections;

(b) inadequate capacity to accommodate projected transit demand for 49ers games; (c) increased congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS and significant impacts at nine additional intersections and one additional freeway on-ramp resulting from weekday evening secondary events at the stadium; (d) inadequate capacity to accommodate projected transit demand for secondary events at the stadium with attendance of 37,500 spectators and transit lines serving the area would experience additional delays due to traffic generated by the secondary events; and (e) noise levels during football games and concerts at the stadium that could adversely affect surrounding residents. The Candlestick Point-Hunters Point Shipyard Phase II Draft EIR also concluded that operation of the project, including a new 49ers stadium at the Hunters Point site, would result in significant and unavoidable air quality impacts resulting from mass criteria pollutant emissions from mobile and area sources. Therefore, it is not clear that this site would be environmentally superior to the project site.

3. ***Pier 70***, under this alternative, the new stadium would be constructed on the 74 acre Pier 70 site. The stadium would replace several warehouses, a garage, two powerhouses, an industrial building, and an office building.

The hazardous materials, lack of adequate site access and roadway capacity, presence of unstable soils, and permitting issues discovered during the preliminary site assessment make the Pier 70 site inconsistent with the project objectives to (1) locate the stadium on a site that can be readily assembled and that enables the development of the stadium within budget and on schedule; (2) locate the stadium on a site that is served by existing streets and highway infrastructure adequate to reasonably accommodate local and regional game-day automobile circulation; and (3) locate the stadium on a site where a substantial percentage of the parking needed on game days and during other major events could be provided in existing parking facilities which are not in use during evenings and weekends and are located within a 20-minute walking distance of the stadium. This alternative also would not attain any of the City's objectives for the Project.

This site has size constraints and, as a result, there would be insufficient area for all parking to be located on-site in surface lots. Because of the minimal surface parking provided by the surrounding industrial land uses, there would not be sufficient parking in the surrounding area to make up the difference, which the project proponent believes would result in additional expenses. Development of the site is further constrained by the presence of multiple potentially historic structures and the demolition, alteration, or relocation of historic structures to accommodate the stadium would be a new significant impact. For all of the above reasons, this alternative would be infeasible.

While air quality impacts from cars would be less than those from the proposed project, air quality impacts from demolition, grading, and hazardous materials clean up are unknown and could be significant. Lack of adequate roadway capacity, unstable soils, and possible loss of historic structures could also result in new or more significant impacts than those from the proposed project. Noise impacts would, however, be less than those from the proposed project because the site is not located near sensitive receptors. *This site would not be environmentally superior to the project site.*

4. ***Pier 80***, under this alternative the stadium would be located on the 74-acre Pier 80 site. The site size, site access, and permitting issues discovered during the preliminary site assessment. make the Pier 80 site inconsistent with the project objectives to (1) locate the stadium on a site that can be readily assembled and that enables the development of the stadium within budget and on schedule; (2) locate the stadium on a site that is served by existing streets and highway infrastructure adequate to reasonably accommodate local and regional game-day automobile circulation; and (3) locate the stadium on a site where a substantial percentage of the parking needed on game days and during other major events could be provided in existing parking facilities which are not in use during evenings and weekends and are located within a 20-minute walking distance of the stadium. This alternative also would not attain any of the City's objectives for the Project.

This site has size constraints and, as a result, there would be insufficient area for all parking to be located on-site in surface lots. Because of the minimal surface parking provided by the surrounding industrial land uses, there would not be sufficient parking in the surrounding area to make up the difference, which the project proponent believes would result in additional expenses.

The City and County of San Francisco, in its review of alternative stadium locations in the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Draft EIR, concluded that a stadium at this site would displace maritime-dependent cargo handling and industrial uses not available or feasible elsewhere in San Francisco. In addition, sports facilities are not allowable uses at this site under the Port of San Francisco's Waterfront Land Use Plan.

While air quality impacts would be less than the proposed project and noise impacts would be avoided, this site does not appear environmentally superior to the project site and, if underlying soils are unstable, it could be inferior. For all of the above reasons, this alternative would be infeasible.

5. ***Piers 90-94 Backlands/Piers 94-96***, under this alternative the new stadium would be located on the Piers 90-94 Backlands development site.

The site access, parking, and permitting issues make this site inconsistent with the applicant's objectives: (1) to locate the stadium on a site that can be readily assembled and that enables the development of the stadium within budget and on schedule; (2) to locate the stadium on a site that is served by existing streets and highway infrastructure adequate to reasonably accommodate local and regional game-day automobile circulation; (3) to enhance the game day experience for fans by accommodating activities such as tailgating; (4) to locate the stadium on a site where a substantial percentage of the parking needed on game days and during other major events could be provided in existing parking facilities which are not in use during the evenings and weekends and are located within a 20-minute walking distance of the stadium. This alternative also would not attain any of the City's objectives for the Project.

Planned redevelopment of the site could be incompatible with the land area requirements for a stadium. Furthermore, the geological constraints of the site (landfill on top of bay mud) are much greater than the other pier sites or the proposed project site and could pose a significant public safety threat or would require substantially more expensive design solutions.

The City and County of San Francisco, in its review of alternative stadium locations in the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Draft EIR, concluded that a stadium at this site would displace maritime-dependent cargo handling and industrial uses not available or feasible elsewhere in San Francisco. In addition, sports facilities are not allowable uses at this site under the Port of San Francisco's Waterfront Land Use Plan. For all of the above reasons, this alternative would be infeasible.

While air quality impacts would be less than the proposed project and noise impacts would be avoided, this site is *not environmentally superior* to the project site.

6. ***Baylands***, under this alternative the proposed project would be located on the 540-acre Baylands site, in the City of Brisbane. Inadequate site access and the possible need for a freeway interchange would substantially increase costs and might result in a significantly longer implementation period than would the currently proposed project. This would be inconsistent with the project proponent's objective of locating the stadium on a site that can be readily assembled and that enables the development of the stadium within budget and on schedule. This alternative also would not attain any of the City's objectives for the Project.

The City of Brisbane is currently analyzing a Specific Plan that, although not yet formally adopted, does not include a stadium use in either the northern or southern portions of the site. Both sites within the Brisbane Baylands Phase I Specific Plan area are proposed to be designated for commercial, office, institutional, and industrial uses. While planning considerations could evolve over time, it is expected that the range of uses identified in the Specific Plan reflect the City of Brisbane's long-term planning goals for the site, which plans do not include development of a professional football stadium.

In addition, the construction of roadway improvements could result in unknown secondary impacts. Moreover, the property owners have indicated that they do not want a stadium constructed on this site. The applicant's inability to procure title to the site would make the site infeasible.

If the property owner were to agree to sell a portion of the property for the construction of an NFL stadium, the need to construct a freeway interchange and other roadway improvements could produce additional noise and air pollution and could have growth inducing impacts that cannot be known at this time. This alternative site would *not be environmentally superior* to the proposed project.

7. ***San Francisco Airport***, under this alternative the new stadium would be located on a 65-acre vacant lot surrounded by San Francisco Airport. The size of the site and the surrounding residential neighborhood would result in insufficient parking for a stadium on this site. This would be inconsistent with the applicant's objectives to 1) ensure that adequate parking for patrons (estimated to require approximately 19,000 spaces) and employees is available for use on game days and during other major events; and 2) locate the stadium on a site where a substantial percentage of the parking needed on game days and during other major events could be provided in existing parking facilities which are not in use during evenings and weekends and

are located within a 20-minute walking distance of the stadium. This alternative also would not attain any of the City's objectives for the Project.

In addition, this site may result in greater noise impacts than the proposed project site, may contain endangered species, and could be incompatible with SFO operations. There are no endangered species on the proposed project site. Therefore, the loss of individual garter snakes and their habitat to accommodate the stadium would be a new significant impact. This site would *not be environmentally superior* to the proposed project site. For all of the above reasons, this alternative would be infeasible.

8. ***Moffet Airfield***, under this alternative the new stadium would be located on the 750 acre former naval air station, part of which is currently occupied by NASA Ames. NASA Ames intends to redevelop part of the site into a research and development center for the nation's space program. According to representatives of the team, the federal government has not indicated that any other portion of the site is available for private development. If, however, a portion of the site were to be made available, the development of the NASA R&D center would not preclude other development on-site because of the size of the site. Air quality impacts would be similar to the proposed project. Noise impacts would be avoided because there are currently no sensitive receptors in the immediate project area.

The applicant's inability to procure title to the site would make the *site infeasible*. This alternative also would not attain any of the City's objectives for the Project.

9. ***Zanker Road***, under this alternative the new stadium would be located on the Zanker Road site is approximately 450 acres located in the City of San José. The site is currently used as buffer lands for the San Jose/ Santa Clara Water Pollution Control Plant (WPCP). This site would have air quality and noise impacts comparable to the proposed project site.

The site could have jurisdictional wetlands. There are no jurisdictional wetlands on the proposed project site so the loss of wetland habitat to accommodate the stadium would be a new significant impact. There are also no endangered or other special status species on the proposed project site. The loss of individual Burrowing Owls and their habitat to accommodate the stadium would be a new significant impact. The available area is, however, larger than the area needed to construct a stadium with surface parking. Therefore, it might be possible to avoid construction in designated wetlands and Burrowing Owl habitat.

The City of San José has not indicated that any portion of the WPCP buffer lands is available for private development. Previous proposals to place private land uses on the buffer lanes have been found inconsistent with the basic purpose of protecting the plant from complaints about odors and concerns about hazardous materials impacts. The applicant's inability to procure title to the site would make the site infeasible. This alternative also would not attain any of the City's objectives for the Project. This alternative is *not environmentally superior* to the proposed project.

10. ***San Jose State***, under this alternative the new stadium would be located on a 55-acre site located in San José, currently occupied by Spartan Stadium and a vacant field used for parking.

This property has size constraints, which means insufficient area for surface parking. In addition, there is not enough parking in nearby existing lots which makes this site inconsistent with the project proponent's objectives to 1) ensure that adequate parking for patrons and employees is available for use on game days and during other major events, and 2) locate the stadium on a site where a substantial percentage of the parking needed on game days and during other major events could be provided in existing parking facilities which are not in use during evenings and weekends and are located within a 20-minute walking distance of the stadium. In addition, the lack of available surface parking would require a change in the project design to utilize structured parking instead, if a site suitable for parking structure(s) could be identified.

The site does not have adequate site access and is, therefore, inconsistent with the project proponent's objective to locate the stadium on a site that is served by existing streets and highway infrastructure adequate to reasonably accommodate local and regional game-day automobile circulation. This alternative also would not attain any of the City's objectives for the Project.

This site would have air quality and noise impacts comparable to the proposed project site, plus noise and air quality impacts from vehicles traveling on residential streets could be substantially greater than those of the proposed project.

San José State University has not indicated that site is available for sale. The applicant's inability to procure title to the site would make the site infeasible. This alternative is *not environmentally superior* to the proposed project.

11. ***Santa Clara Fairgrounds***, under this alternative the new stadium would be located on a 136-acre site, located in an unincorporated area of Santa Clara County, currently occupied by the Santa Clara Fairgrounds.

The site has sufficient roadway capacity and there is currently bus service to the site; however, train services are 1.25 miles or more away from the site. The lack of multiple public transit modes within a reasonable walking distance of this site makes the site inconsistent with project proponent's objective to locate the stadium on a site that is readily accessible by public transportation, preferably two or more modes of regional public transit. This alternative also would not attain any of the City's objectives for the Project.

This site is adjacent to a residential neighborhood, although it would be possible to place the stadium on the site and have greater separation between the residences and the stadium than at the project site. This would reduce noise impacts compared to the proposed project. This site would have air quality impacts comparable to or slightly greater than the proposed project site. The fairgrounds property is near the middle of the City of San José. The 16 lanes of roadway that access various freeways pass through a number of residential neighborhoods and a variety of land uses. Unlike north Santa Clara, where two major arterials could be used to move a large

quantity of traffic out of the area in an efficient manner, vacating the fairgrounds site after a game would be less efficient and likely to have more impacts.

A County supervisor has recently stated that the County would be open to constructing a stadium on this site. If, however, the County were to find a new private developer for the site, the applicant's inability to procure title to the site, should the County sell to a private developer, would make the site infeasible.

B. PROJECT ALTERNATIVES

1. ***No Project Alternative.*** The No Project alternative analyzed both the existing conditions at the time of the Notice of Preparation as well as development that could occur on the site consistent with the current General Plan designations. Under the existing *Tourist Commercial* land use designation development of the site could consist of hotels, theaters, museums or specialty retail shops. Under the "No Project" alternative with construction of a large hotel and/or recreational facility on the site, significant traffic impacts could result which would also cause significant regional air quality impacts. The traffic impacts would be greater than the proposed project if a hotel were built on the site because the peak hour traffic impacts would occur more frequently. While there would be an incremental increase in ambient noise due to the increase in traffic it would likely not be a perceptible increase within the residential neighborhoods with either land use. This alternative would avoid the significant noise impacts identified in this EIR which are the result of crowd noise and amplified music.

Neither scenario under the No Project alternative would meet any of the objectives of the project proponent (the 49ers team). Should conditions remain physically unchanged on all of the properties, other than construction of the previously approved parking structure, the impacts of that scenario would be substantially less than those of the proposed project. Construction of a hotel and/or another recreational facility would result in some of the impacts of the proposed project, but not the noise and possibly less of a visual impact (which would be less than significant). That alternative would be *environmentally superior* to the proposed project.

2. ***Reduced Stadium Design***, under this alternative the new stadium would be reduced in size. In order to reduce the impacts on freeway segments or intersections the stadium size would have to be reduced significantly to somewhere between 1300 and 6800 seats. The Reduced Stadium Size alternative would reduce the impacts from traffic and air quality to a less than significant level. It would not, however, be large enough to be support standard NFL operations. The size would make the project infeasible because it would be inconsistent with its fundamental purpose. Furthermore, it would not meet the applicant's objectives of 1) developing a state-of-the-art stadium with approximately 68,500 seats and 2) designing the stadium so that it is expandable to 75,000 seats for hosting NFL Super Bowls. While the reduction in traffic and air quality impacts makes this alternative environmentally superior to the proposed project, it is not a feasible alternative.

3. ***Enclosed Stadium Design***, under this alternative the new stadium would be constructed as an enclosed stadium, having most of the same impacts as the proposed Project except for lighting, noise and energy. With the enclosed stadium the Project would still incrementally increase ambient light levels in the area but to a substantially lesser degree than

the proposed Project since all high voltage field lighting would be interior to the stadium. The Enclosed Stadium alternative would meet all of the project proponent's objectives. The enclosed stadium would not reduce noise impacts from tailgating but would reduce crowd noises to levels comparable to the average ambient noise levels in the surrounding neighborhoods. Thus the addition of a roof would eliminate the significant unavoidable impacts of crowd noise. Energy use would increase to some extent with the enclosed stadium because it would require more of the stadium area to be climate controlled. An enclosed stadium would, however, allow for a variety of design features that would at least partially offset increased energy consumption. On balance, this alternative is considered environmentally superior to the proposed project due to the reduction in crowd noise levels. However, the construction of an enclosed stadium would not be economically feasible as the increased construction costs would be prohibitive. The additional energy consumption costs associated with an enclosed stadium would also increase costs of operations of the stadium, further impairing the economic feasibility of this alternative. While enclosure of the stadium could generate some incremental revenues, these additional revenues would not be nearly sufficient to cover the additional costs. The enclosure of the stadium would provide very little economic benefit to an NFL team playing its home games in the stadium and in fact, the 49ers have indicated that they believe their fans would prefer the experience of an outdoor facility. It is infeasible for the private tenant, the City or its redevelopment agency to invest the additional funds, projected to exceed $90 million (based upon net present value of the increased revenues from an enclosed stadium) that would be required to enclose the stadium.

4. ***Great America Main Lot Design***, under this alternative the new stadium would be built on the main parking lot for Great America theme park. The size, seating capacity and uses of the stadium would be the same as that for the proposed project. The main differences between the Main Lot alternative and the proposed project is that a larger parking garage would be built adjacent to the stadium site, Centennial Boulevard would not be vacated or altered and the existing 49ers training facility would not be modified.

The proposed parking garage would provide approximately 1,708 parking stalls and the surface parking around the stadium would provide an additional 2,434 parking spaces. The overflow lot east of San Tomas Aquino Creek (Sub-Area C) would remain as is with the 1,823 parking stalls. The available parking in the main lot under this alternative would be reduced to 4,142 spaces which is 2, 092 spaces less than the theme park currently has available and is less than the number of spaces required to be provided pursuant to the Redevelopment Agency's lease with the theme park operator. During construction of the parking structure, even fewer spaces would be available. There are no locations available for additional parking that would meet the requirements of the theme park lease.

The Great America Main Lot alternative would avoid noise impacts to the residential neighborhood to the east and reduce noise impacts to some residences to the south. The southern neighborhood would still experience significant impacts from crowd noise. The stadium would still be clearly visible but would appear farther away from the residential land uses and less prominent. All other impacts would be comparable to the proposed project. The avoidance in noise impacts to one residential area and the reduction of noise impacts in another residential area makes this alternative environmentally superior to the proposed project. However, this alternative would require amendments to the Redevelopment Agency's lease with the theme park to reduce the parking currently required.

IX. STATEMENT OF OVERRIDING CONSIDERATIONS

The City finds that each of the specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh the significant, adverse impact and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of the benefits of the Project.

The Project will revitalize a currently underutilized site along the southwest corner of the intersection of Tasman Drive and Centennial Boulevard in the City of Santa Clara. The Project will play a significant role in the redevelopment of this corridor and promote the Bayshore North Entertainment District with projects and activities that create vitality and economic benefits for the City beyond normal business enterprises.

The Project will promote activities that support the Convention Center and the hotels and restaurants in the City and encourage new restaurant and retail services that support the daily business activity in the area. (See City Analysis of Economic Impact Report dated June 1, 2007)

The Project will provide a high-quality architecture and development design that will improve the streetscape and visual quality of the project area. The Project is designed to be LEED certified.

The Project will provide a significant number of construction jobs as well as other long-term employment opportunities for residents of the City of Santa Clara and the surrounding area.

The Project will develop entertainment and sports facilities on public lands that provide a return to the City's General Fund and/or provide civic, cultural, and sporting amenities that serve a wide range of public interests in the City and the region.

The Project will encourage uses that are compatible with both the corporate/business character of the Bayshore North Area and the entertainment and cultural uses in the area by supporting uses that are compatible with or complementary to normal business activities, parking, and traffic in the area.

The Project will promote activities that take advantage of mass transit infrastructure by creating uses that can be served by transit both during the regular business week and on weekends.

The Project will encourage shared parking throughout the Convention Center area to minimize excess costs associated with development of parking and promote creative parking arrangements that are compatible with activities on nearby properties.

The Project will foster job growth in an area served by mass transit.

The Project will require that a fee be added to the price of tickets for certain stadium events to secure additional funding for libraries, senior activities, and youth sports programs serving Santa Clara residents.

The Project will also provide substantial new revenue for the Santa Clara Unified School District.