

RESOLUTION NUMBER R- 292369

ADOPTED ON OCT 26 1999

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO IMPLEMENTING GENERAL REDEVELOPMENT BY CERTIFYING THE FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT TO THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE CENTRE CITY REDEVELOPMENT PROJECT (AND ADDRESSING THE CENTRE CITY COMMUNITY PLAN AND RELATED DOCUMENTS) FOR THE PROPOSED BALLPARK AND ANCILLARY DEVELOPMENT PROJECTS, AND ASSOCIATED PLAN AMENDMENTS, AS IT PERTAINS TO THE PROPOSED SECOND HOTEL AMENDMENTS TO THE CENTRE CITY COMMUNITY PLAN AND PLANNED DISTRICT ORDINANCE, AND INCLUDING CENTRE CITY DEVELOPMENT PERMIT NO. 99-0491 REFERRED TO THEREIN, MAKING CERTAIN FINDINGS REGARDING THE ENVIRONMENTAL IMPACTS OF THE PROPOSED HOTEL DEVELOPMENT AND RELATED ACTIONS, ADOPTING A MITIGATION, MONITORING AND REPORTING PROGRAM, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS.

WHEREAS, the Redevelopment Agency of the City of San Diego (the "Agency") is engaged in activities necessary and appropriate to carry out and implement the Redevelopment Plan for the Centre City Redevelopment Project (the "Redevelopment Project"); and

WHEREAS, the Agency has previously prepared, and the Agency by Resolution No. 2081 and the City Council of the City of San Diego (the "City Council") by Resolution No. R-279875 have certified the Final Master Environmental Impact Report for the Centre City Redevelopment Project (referred to herein as the "MEIR"); and

WHEREAS, in order to carry out the Redevelopment Project, the Agency is considering approving a specific hotel and residential mixed use development proposal within the Redevelopment Project Area, on the block bounded by Sixth and Seventh Avenues, L Street, and Harbor Drive, independent of any amendments made to establish the Sports/Entertainment District and Related Matters, or to approve a baseball park therein, if accomplished in accordance with a specific Centre City Development Permit approved by the Agency within the Redevelopment Project Area; and

WHEREAS, in order to implement the hotel and residential mixed use development and related activities, the City Council proposes to approve Second Hotel Amendments to the Centre City Community Plan and Planned District Ordinance, and the Agency proposes to approve Centre City Development Permit No. 99-0491 referred to therein (encompassed in this Resolution by references to the "Second Hotel Amendments to the Centre City Community Plan and Planned District Ordinance" respectively), and the City Council and Agency propose to approve other related activities implementing such hotel and residential mixed use development (including without limitation a disposition and development agreement pertaining thereto; and

WHEREAS, the Agency was designated as the lead agency to prepare a Subsequent Environmental Impact Report to the Final Master Environmental Impact Report for the Centre City Redevelopment Project (and Addressing the Centre City Community Plan and Related Documents) for the Proposed Ballpark and Ancillary Development Projects, and Associated Plan Amendments (referred to herein as the "Subsequent EIR") to assess, among other things, the environmental impacts which may result from the proposed hotel and residential mixed use development as an implementation activity within the Redevelopment Project, and including without limitation the activities referred to in the immediately preceding recital (collectively referred to herein as the "Proposed Development"); and

WHEREAS, the Centre City Development Corporation, acting on behalf of the Agency, prepared and circulated a Draft Subsequent EIR for review, comment and consultation with citizens, professional disciplines and public agencies pursuant to the California Environmental Quality Act of 1970 ("CEQA") and state and local guidelines and regulations adopted pursuant thereto; and

WHEREAS, duly noticed public hearings were held by the Agency and the Centre City Development Corporation with respect to the Draft Subsequent EIR, at which all interested persons and organizations were given an opportunity to be heard; and

WHEREAS, the Final Subsequent EIR relating to the Proposed Development (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities), and responding to the concerns raised during the review period and at the public hearings, has been prepared pursuant to CEQA and said guidelines and regulations; and

WHEREAS, the City Council, in connection with its consideration of the approval of the Proposed Development (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities), has reviewed and considered the information contained in the MEIR and the Final Subsequent EIR; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. The City Council hereby certifies that the Final Subsequent EIR for the Proposed Development within the Centre City Redevelopment Project (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing

activities) has been prepared and completed in compliance with CEQA and state and local guidelines and regulations adopted pursuant thereto, and that the Agency has certified thereto.

2. The City Council hereby further certifies that the MEIR and Final Subsequent EIR were presented to the members of the City Council, and that the information contained in the MEIR and Final Subsequent EIR has been reviewed and considered by the members of the City Council.

3. The City Council hereby further certifies that the Final Subsequent EIR (as with the MEIR) represents the City Council's independent judgment and analysis.

4. The City Council hereby finds and determines that:

a. The Proposed Development within the Redevelopment Project (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities), will not result in significant environmental effects in certain respects identified in the Final Subsequent EIR, as described in Attachment A (attached hereto and incorporated herein by this reference).

b. Changes or alterations have been required in, or incorporated into, the Proposed Development (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities) which avoid or substantially lessen certain significant environmental effects of the Proposed Development identified in the Final Subsequent EIR, as described in Attachment A.

c. Changes or alterations which avoid or substantially lessen certain significant environmental effects of the Proposed Development (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities) as identified in the Final Subsequent EIR, are within the responsibility and jurisdiction of another public agency and not the Agency or the City Council, and such changes have been adopted by such other agency, or can and should be adopted by such other agency, as described in Attachment A.

d. With respect to significant environmental effects of the Proposed Development (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities) which cannot be avoided or substantially lessened, specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or project alternatives identified in the Final Subsequent EIR, as described in Attachment A.

e. The significant environmental effects of the Proposed Development (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities) which cannot be avoided or substantially lessened are acceptable due to economic, legal, social, technological or other benefits of the Proposed Development which outweigh the unavoidable adverse environmental

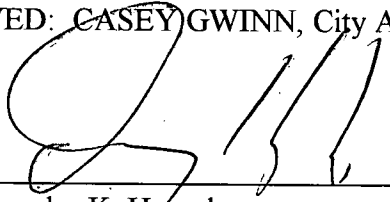
effects, as described in Attachment B (attached hereto and incorporated herein by this reference).

5. The Mitigation, Monitoring and Reporting Program for the Proposed Development (including the Second Hotel Amendments to the Community Plan and Planned District Ordinance, and related implementing activities) within the Redevelopment Project, as contained in Section 14.0 of the Final Subsequent EIR, as applicable to the mitigation measures identified in Attachment A, is hereby approved and adopted to monitor and ensure that the mitigation measures identified in Attachment A will be carried out.

6. The City Clerk (or his designee) is hereby authorized and directed to cause the filing of a Notice of Determination with respect to the Final Subsequent EIR upon adoption of the Second Hotel Amendments to the Community Plan and Planned District Ordinance.

APPROVED: CASEY GWINN, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

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Attachment A

[Findings to be added.]

Attachment B

[Statement of Overriding Considerations, to be added.]

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**ATTACHMENT A
TO RESOLUTION NO. R-2000-372
OF THE CITY OF SAN DIEGO**

**FINDINGS OF FACT AND
STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE
PROPOSED SECOND HOTEL DEVELOPMENT**

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**ATTACHMENT A
TO RESOLUTION NO. R-2000-372
OF THE CITY OF SAN DIEGO**

**FINDINGS OF FACT AND
STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE
PROPOSED SECOND HOTEL DEVELOPMENT**

I. INTRODUCTION

In accordance with the provisions of the California Environmental Quality Act, CEQA Sections 21000-21177 ("CEQA"), the State CEQA Guidelines, 14 Cal. Code Regs Sections 15000-15387, and the Procedures for Implementation of the California Environmental Quality Act and the State CEQA Guidelines of the Redevelopment Agency of the City of San Diego (June 1990) ("Agency Local CEQA Guidelines"), the Redevelopment Agency of the City of San Diego ("Agency") and the City Council of the City of San Diego ("Council") (collectively referred to herein as "Council/Agency") hereby adopt the following Findings of Fact ("Findings") and Statement of Overriding Considerations. These Findings are made relative to the conclusions of the final Subsequent Environmental Impact Report to the Final Master Environmental Impact Report for the Center City Redevelopment Project and Addressing the Centre City Community Plan and Related Documents for the Proposed Ballpark and Ancillary Development Projects and Associated Plan Amendments ("FSEIR"). The FSEIR, which is incorporated by reference as if fully set forth herein, identifies significant or potentially significant environmental impacts which may occur as a result of the Second Hotel Development (or "Proposed Development"). As used herein, the term Proposed Development includes: (1) the proposed hotel, residential and retail uses, (2) the Second Hotel Amendment to the Centre City Community Plan and Planned District Ordinance, (3) Center City Development Permit No. 99-0491, and (4) other activities needed to implement the hotel. Although certain specific design features associated with the Proposed Development were not available at the time the Draft SEIR was prepared, the Council/Agency has reviewed such design features and has determined that no potentially significant impacts exist that were not considered in the FSEIR. As prescribed by CEQA (Public Resources Code Section 21090 and 14 Cal. Code Regs. Section 15180), and Agency Local CEQA Guidelines (Section 103), all public and private activities and undertakings pursuant to or in furtherance of a redevelopment plan constitute a single project. Thus, the results and conclusions of the FSEIR, which included consideration of hotel and retail development activity as part of the redevelopment plan, are applicable to the Proposed Development and no additional CEQA review for the Proposed Development is required.

Although based on the FSEIR, the Second Hotel Amendment would allow the Proposed Development to occur independently of the proposed Ballpark and Ancillary Development Projects. Thus, approval of the Proposed Development is not dependent upon approval of the Ballpark and Ancillary Development Projects. In addition, should the Ballpark and Ancillary

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Development Projects not go forward, certain impacts identified in the FSEIR and these Findings as being associated with the Proposed Development would be reduced or would not occur.

The State CEQA Guidelines also require that the Council/Agency balance the benefits of the Proposed Development against the unavoidable environmental risks in determining whether to approve the Proposed Development (14 Cal. Code Regs. Section 15093(a)). The Council/Agency has carefully considered the benefits of the Proposed Development. The final SEIR identifies significant environmental effects which will not be mitigated to below a level of significance and which will be allowed to occur as a result of approval of the Proposed Development. Therefore, the Council/Agency hereby adopts the Statement of Overriding Considerations contained in this document, which state the specific reasons why the benefits of the Proposed Development, each of which standing alone, is sufficient to support approval of the Proposed Development, outweigh the unavoidable adverse environmental effects of the Proposed Development, and explains that the unavoidable environmental effects are considered acceptable.

A. DESCRIPTION OF PROPOSED DEVELOPMENT

The Proposed Development involves the construction of a major, high quality hotel on the south side of L Street between Sixth and Seventh Avenues in the East Village area. The hotel is comprised of a total of 627,500 square feet including hotel rooms, condominium units, meeting rooms, retail space and parking. A total of approximately 190 parking spaces would be provided within the hotel structure. The hotel would have three main elements: (1) a six-story component on Seventh Avenue, (2) a 21-story tower along L Street, and (3) a 32-story tower along Sixth Avenue. If a ballpark is developed adjacent to the hotel, two pedestrian bridges would span Seventh Avenue to connect the levels 4 and 6 of the hotel with the proposed ballpark.

The hotel portion would include approximately 500 guest rooms. The hotel would include approximately 19,750 square feet of meeting and banquet facilities. A 4,500-square-foot restaurant would be included in the hotel as well as a pool deli. The condominium portion of the development would be located on the upper floors and include approximately 125,000 gross square feet of floor area which could accommodate up to 37 units.

An offsite parking garage may be constructed directly north of the proposed hotel on the block bounded by Sixth and Seventh Avenues, and K and L Streets. This facility would provide approximately 230 parking spaces for hotel use. If constructed, the garage would include approximately 10,000 square feet of retail space along K and L Streets.

A Centre City Development Permit is proposed to be issued for the Proposed Development.

B. RECORD OF PROCEEDINGS

For purposes of CEQA and these Findings, the Record of Proceedings for the Proposed Development consists, at a minimum, of the following documents:

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- The Notice of Preparation and all other public notices issued by the Council/Agency in conjunction with the Ballpark and Ancillary Development Projects, and Associated Plan Amendments SEIR;
- The Final Master Environmental Impact Report for the Centre City Redevelopment Project (“MEIR”);
- The Draft SEIR;
- The Final SEIR (“FSEIR”);
- The Mitigated Negative Declaration for the East Village Hazardous Materials Remediations;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft SEIR;
- All written and verbal public testimony presented during a noticed public hearing for the Proposed Development at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program (“MMRP”) for the FSEIR;
- The reports included in Volumes II -V of the FSEIR;
- The Findings, Ordinances and Resolutions adopted by the Council/Agency in connection with the Proposed Development, and all documents incorporated by reference therein;
- Matters of common knowledge to the Council/Agency, including but not limited to federal, state and local laws and regulations;
- Any documents expressly cited in these Findings and Statement of Overriding Considerations; and
- Any other materials required to be in the record of proceedings by Section 21167.6(e) of CEQA.

The documents and other materials that constitute the record of proceedings upon which the Council/Agency’s decision are based are located at the City of San Diego (“City”), 202 C Street, San Diego, CA 92101, and at the Centre City Development Corporation (“CCDC”), 225 Broadway, Suite 1100, San Diego, CA 92101. The custodians for these documents are (1) CCDC, whose office is located at 225 Broadway, Suite 1100 (for copies of the Master Work Plan/Portion of the East Village Redevelopment Area Environmental Remediation, Final Version August 19, 1999 (Project Number 96E1456.8) (“Master Work Plan”); the Excavation Remedial Action Workplan (SDG&E); the Community Health and Safety Plan for Remedial Activities (SDG&E); the MEIR; the Mitigated Negative Declaration for the East Village Hazardous Materials Remediations; and the Final Environmental Impact Report for the San Diego

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Convention Center Expansion and Port Master Plan Amendment (South Embarcadero)); and (2) the City Clerk, whose office is located at 202 C Street, 2nd Floor (for all other documents). Copies of all these documents, which constitute the record of proceedings, are and at all relevant times have been available upon request at the offices of the Council/Agency at the above addresses. This information is provided in compliance with Public Resources Code § 21081.6(a)(2) and 14 Cal. Code Regs § 15091(e).

The Council/Agency has relied on all the documents listed above in reaching its decision on the Proposed Development, even if every document was not formally presented to the Council/Agency or Council/Agency staff as part of the Council/Agency files generated in connection with the Proposed Development. These documents are either in the Proposed Development files, reflect prior planning or legislative decisions of which the Council/Agency was aware in approving the Proposed Development, or influenced the expert advice provided to the Council/Agency staff or consultants, who then provided advice to Council/Agency. For that reason, these documents form part of the underlying factual basis for the Council/Agency's decisions relating to the adoption of the Proposed Development.

II. GENERAL FINDINGS

The Council/Agency hereby finds as follows:

- The foregoing statements are true and correct;
- The FSEIR was completed in compliance with CEQA;
- The FSEIR reflects the Council/Agency's independent judgment;
- Applicable measures contained in the MMRP included in the FSEIR have been made conditions of approval of the Proposed Development. That the MMRP has been incorporated herein by reference and is considered part of the record of proceedings for the Proposed Development;
- The MMRP designates responsibility and anticipated timing for the implementation of mitigation;
- In determining whether the Proposed Development has a significant impact on the environment, and in adopting Findings pursuant to Section 21081 of CEQA, the Council/Agency has complied with CEQA Sections 21081.5 and 21082.2;
- Copies of all the documents incorporated by reference in the FSEIR are and have been available upon request at all times at the offices of the City Clerk, custodians of record for such documents or other materials;

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- The impacts of the Proposed Development have been analyzed to the extent feasible at the time of certification of the FSEIR; and
- Having received reviewed and considered the above-described information, as well as all other information and documents in the record, the Council/Agency hereby conditions the Proposed Development and finds as stated in these Findings.

III. SUMMARY OF DIRECT IMPACTS

The Council/Agency, having independently reviewed and considered the information contained in the FSEIR, its appendices, and the record of proceedings finds, pursuant to CEQA, the State CEQA guidelines, and the Agency Local CEQA Guidelines, that conditions, changes or alterations have been required in or incorporated into the Proposed Development which avoid or substantially reduce the significant environmental effects, to the extent feasible, identified in the FSEIR. Direct impacts to cultural resources (historic), transportation, circulation, access, parking (partially), biology, mineral resources, agricultural resources, public services/facilities (gas & electricity, libraries, parks, public restrooms, courts and jails, senior services, and educational facilities/services), and energy were found not to be significant.

The Proposed Development will not have any impact on historic resources because none of the fourteen sites identified on the Historic Resources Inventory of the Centre City Redevelopment Project Expansion Area are located on the site of the Proposed Development.

The Proposed Development will not have a significant traffic impact due to construction-related traffic because consistent with existing City regulations and policies, separate traffic control and detour plans would be developed to minimize potential conflicts between construction-related traffic and normal daily traffic. The impacts to traffic operations during construction would be temporary and could be managed in duration and location. Any work in the public right-of-way requires a permit from the City. San Diego Municipal Code § 62.0306. The City has developed design guidelines and operational procedures to ensure that construction activities minimize disruptions to traffic. The City uses the Caltrans Traffic Manual standards as well as a manual compiled for use by the City concerning Traffic Control in Construction Zones. These procedures would be applied to the Proposed Development. Detailed traffic control plans for roadway facilities that are affected by construction would be developed during the engineering and design phase of specific developments, as required by the City. The control plans would fully outline the requirements of the contractor to maintain traffic operations including staging, signing, marking, and advisory notices. The *Caltrans' Traffic Manual of Uniform Traffic Control Devices* is used by the City to establish traffic control and maintenance in construction zones.

The direct impacts to land use/planning (partially), cultural resources (prehistoric), aesthetics/visual quality (aesthetics), noise (except fireworks), light/glare, air quality (partially), geology/soils, paleontological resources, hydrology/water quality, and hazardous materials have been mitigated to below a level of significance. Direct impacts associated with land use/planning

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(partially), transportation, circulation, access, parking, aesthetics/visual quality (views), noise (fireworks in the event the ballpark is constructed), air quality (partially), public services/facilities (landfill space), and population/housing have been reduced but not to below a level of significance.

Implementation of the following recommended mitigation measures would occur via the imposition of the MMRP and other conditions of approval to be adopted for the Proposed Development.

IV. FINDINGS REGARDING DIRECT IMPACTS

A. LAND USE/PLANNING

SIGNIFICANT DIRECT IMPACT: Reflection of ballpark lights off building façades of the Proposed Development could increase the glare rating on surrounding roadways by more than the 20% significance threshold. (FSEIR page 5.6-7.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Mitigation Measure 5.6-7 requiring a study of glare and resulting implementation of glare control measures would mitigate potential impacts from glare to below a level of significance by, for example, requiring light attenuation at the reflective surface. (FSEIR page 5.6-11.)

Mitigation Measures: The following mitigation measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.6-7: Prior to issuance of a building permit for any building which could reflect ballpark field lights, a detailed lighting study shall be conducted to assess the glare impacts from field light reflection off building facades onto surrounding roadways and intersections. Any mitigation measures identified in the lighting study shall be implemented before issuance of a certificate of occupancy for the Ancillary Development Projects. Preparation of the lighting study and implementation of required attenuation of glare from Ancillary Development Projects shall be the responsibility of the Ancillary Development Projects proponent. The lighting study shall, at a minimum, include the following components:

- Comprehensive field measurements of ambient light levels within the potentially impacted areas;
- Calculate glare rating increase based on final lighting design, and existing conditions which may limit the dispersal of light into surrounding areas (e.g., topography and buildings);

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- Identify roadways and intersections where the glare rating would increase by more than 20%; and
- Define appropriate light attenuation techniques at the reflective surface to reduce the glare increase to less than 20% over the pre-existing ambient condition. (MMRP 8.3-1.)

SIGNIFICANT DIRECT IMPACT: The Proposed Development could displace the homeless population who currently stay in the Ancillary Development Projects Area and on the Proposed Development site. (FSEIR page 5.1-22.) The combination of the Proposed Development in conjunction with the Ballpark and Ancillary Development Projects could displace up to 100 homeless who rely on the area for unauthorized evening shelter, and this displacement would be expected to result in a significant land use compatibility impact on surrounding areas. (FSEIR page 5.1-22.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would substantially reduce the significant environmental effect identified in the FSEIR. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Therefore, a finding pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411 is being made as well, and the Council/Agency hereby also finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: Mitigation Measure 5.12-3 may reduce the impact by establishing an advisory committee to monitor the response of the homeless to the Ancillary Development Projects and would make recommendations to resolve potential physical impacts resulting from displacement of the homeless. (FSEIR page 5.12-21.) In addition, Mitigation Measure 5.12-4 may reduce the impact by expanding the operations of the City's Homeless Outreach Team ("HOT Team") program in the area of the Ancillary Development Projects. (FSEIR page 5.12-21.) The effectiveness of this HOT Team program or the advisory Committee cannot be determined at this time; therefore, land use impacts from homeless displacement are conservatively considered to remain significant even with this mitigation. (FSEIR page 5.12-21.)

Mitigation Measures: The following mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.12-3: An advisory group shall be formed to identify the specific physical impacts of homeless displacement caused by Proposed Activities on East Village and surrounding communities and work with identified representatives of local government agencies

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and social services representatives to develop and recommend remedies for those physical impacts. As outlined below, this group will have a continuous connection with the individuals and entities who can implement remedies for the identified problems.

The East Village Redevelopment Homeless Advisory Committee (the “Committee”) would be formed by the City Manager pursuant to San Diego City Charter section 43(b), as a “temporary” citizens’ committee, consisting of representatives from the following groups:

- Community groups representing Barrio Logan, Golden Hill, Hillcrest, North Park, and Sherman Heights;
- East Village Association;
- Gaslamp Quarter Association;
- Downtown Partnership;
- Social service agencies dealing with the homeless, as deemed appropriate by the City Manager;
- CCDC;
- City of San Diego;
- San Diego Convention Center Corporation;
- County of San Diego;
- Regional Task Force on the Homeless;
- San Diego Housing Commission; and
- The San Diego Padres and their development partners.

It will be formed within 30 days after the issuance of the first grading permit for the proposed ballpark, and will continue for a period of three years from the date of the first event at the ballpark. The Committee’s activities will be coordinated by the City Manager’s Office. The City’s Homeless Coordinator and/or any other staff designated by the City Manager will be the Program Manager for the Committee and liaison to the City Manager for conveying the recommendations from the Committee to the City. The Committee will set its own rules for operation, including the designation of officers or representatives of the Committee as a whole, a procedure for taking minutes and recording any votes or other business of the Committee, and any other rules — consistent with the law — that will help them function more efficiently and effectively. The Committee shall also decide how frequently it should meet.

The Committee will be large enough to be inclusive, but small enough to be able to function effectively. Accordingly, any individual or entity that is already represented by one of these groups would not separately participate as a member of the Committee. This would not prevent an individual or entity from bringing an issue or problem to the Committee’s attention, either through one of the member entities or through the City. If a group not identified on this list believes it should be included, it would be able to petition the City Manager for inclusion.

The goals of each Committee meeting would include: a review and evaluation of the effectiveness of current methods for dealing with the physical impacts of homeless displacement

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in the surrounding neighborhood; identification of any additional problems and issues; and discussion and formation of solutions to recommend to the City Manager. It will be the City Manager's responsibility to present the Committee's recommendations to the City Council. The City Council will be responsible for allocating funds to implement those recommendations that are adopted by the City Council.

At each meeting of the Committee, the Program Manager shall report on the status of specific complaints and issues, and shall receive any new complaints or issues raised by members of the Committee. On an annual or semi-annual basis, the Committee shall report to the City and CCDC on the operations of the Committee and its effectiveness in responding to the physical impacts of homeless displacement in the East Village and surrounding communities.

Within 90 days of the start of grading under the ballpark grading permit, the Committee shall submit a report to the Public Safety and Neighborhood Services Committee of the City Council regarding the physical impacts of construction on homeless migration into surrounding neighborhoods and make recommendations for addressing those problems which may include but not be limited to expansion of the HOT Team or expansion of the area targeted by the HOT Team. A second report shall be submitted within 90 days after the first ballpark event to assess any continuing impacts of development and operations of the Ballpark and Ancillary Development Projects on the homeless and make recommendations for addressing any problems identified in the study. Additional reports would be prepared, as impacts are identified.

The Committee shall continue in existence for a term of three years after the first ballpark event. At the end of the Committee's term, the Committee may be dissolved or, at the option of the City and CCDC, be continued for a specified temporary time period in order to meet the Committee's objectives of identifying physical impacts of homeless displacement.

Independent funding of the Committee would not help implement measures because any such measures such as increased lighting, HOT Team expansion would still have to go through City processes (increased lighting, HOT Team expansion) and cannot be unilaterally implemented by a citizens' group. (MMRP 11.2-1.)

Mitigation Measure 5.12-4: The operation of the HOT Team shall be expanded in the fields of social service or law enforcement, or otherwise modified, to meet identified needs in the surrounding communities. The East Village Redevelopment Homeless Advisory Committee will make suggestions to the HOT Team about how the HOT Team can use its resources to address the homeless displacement issues arising from the proposed ballpark and ancillary redevelopment activities. No changes, however, will actually be implemented until the City evaluates the needs and identifies any areas of operation that should be modified or expanded. The exact scope of the Homeless Outreach Team operations shall be determined by the City based on recommendations from the East Village Redevelopment Homeless Advisory Committee. Currently, the HOT Team does not respond to specific complaints of crimes or problems caused by homeless persons; regular San Diego Police Department patrols are dispatched when a citizen calls to report an incident. This practice will continue. The HOT Team

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is a proactive unit composed of professionals from various disciplines who meet, as needed, to evaluate larger problems and develop and implement long-term solutions. For example, if a particular location becomes increasingly attractive to large numbers of homeless persons, the HOT Team, in conjunction with patrol officers, will use its resources to identify the cause of the attraction and respond as appropriate. (MMRP 11.2-2.)

SIGNIFICANT DIRECT IMPACT: The Proposed Development would depart from the residential emphasis placed on the Ancillary Development Projects Area by the Centre City Redevelopment Plan, Community Plan and Planned District Ordinance. (FSEIR pages 5.1-22 through 5.1-23.) Although residential development could occur within the Ancillary Development Projects Area, the Proposed Development would reduce housing opportunities in the downtown area. (FSEIR pages 5.1-22 through 5.1-23.)

Finding: Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency hereby finds that there are no feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological, or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: The loss of land zoned for housing which would result from committing the Primary Plan Amendment Area to primarily non-residential uses would have a significant impact on the goal of promoting housing in the Centre City Redevelopment Plan and Community Plan areas. (FSEIR page 5.1-28.) There are no measures which would avoid this impact; therefore, the impact of the Proposed Development, as well as all Ancillary Development Projects, on housing resulting from loss of land zoned for housing opportunities would be significant and unmitigated. (FSEIR page 5.1-28.)

B. TRANSPORTATION, CIRCULATION, ACCESS AND PARKING

SIGNIFICANT DIRECT IMPACT: The addition of traffic resulting from the Proposed Development and Ancillary Development in 2002 (without event) would cause the volume to capacity (V/C) ratio to increase more than 0.02 on the following CMP freeway segments:

- SR-163 from Washington Street to I-5; and
- SR-94 (MLK Jr.) between 17th and I-15.

(FSEIR pages 5.2-36 and 5.2-74.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which avoid

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or substantially reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if those improvements and/or measures are not timely implemented, however, the impact would remain significant. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency hereby finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that other conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: Pursuant to Mitigation Measure 5.2-2, the City, working with the State Department of Transportation (“Caltrans”), SANDAG, CCDC, the San Diego Unified Port District, MTDB and a number of other agencies and corporations, including the city of National City, the city of Chula Vista, the U.S. Department of Defense, the San Diego Padres, the California Trucking Association, the Burlington Northern Santa Fe Railroad, San Diego and Imperial Valley Railroad, North County Transit District and Amtrak, would analyze the impacted freeways to determine the freeway and related improvements required to allow the freeway to operate at an acceptable Level of Service (“LOS”), devise a plan to implement those improvements and/or measures and discuss the feasibility of such improvements and/or measures as well as funding sources for the construction of the identified improvements and/or measures determined to be feasible. *See* October 18, 1999 letter from Gary L. Gallegos, District Director of Caltrans to Walter Rask of CCDC (M-5 to List of Technical Memorandums) (“Caltrans Letter”); *see also* October 13, 1999 letter from Kenneth E. Sulzer, Executive Director of SANDAG, to Peter Hall, President of CCDC (M-8 to List of Technical Memorandums) (“SANDAG Letter”). The Freeway Deficiency Plan is a necessary prerequisite to identifying and implementing any meaningful freeway improvements in the geographic area analyzed in the SEIR. In fact, absent the preparation of the Freeway Deficiency Plan, it is impossible to identify which freeway improvements or transportation strategies would actually reduce freeway traffic congestion. Meaningful analysis and improvement must include a comprehensive assessment of needs. *See* Caltrans Letter. Improvements could be abstractly identified, including widening freeway onramps, widening freeways, creating HOV lanes, and other multimillion dollar regional capital improvements. However, such measures must be evaluated as part of a multi-jurisdictional and comprehensive analysis; indeed, until there is such a comprehensive analysis, it would be an unproductive use of public funds to invest in such programs or capital improvements without knowing whether they would, on balance, make the situations better or

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worse. There are significant pros and cons which are better evaluated in a comprehensive study before actual implementation of any such measures. Thus, committing to engage in that study, and to develop a Freeway Deficiency Plan, is the best and most logical mitigation for addressing the direct and cumulative freeway impacts resulting from the Proposed Development.

Preparation of the Freeway Deficiency Plan will involve multiple agencies and jurisdictions, as is suggested by the applicable Congestion Management Program ("CMP") guidelines. The City, acting alone, cannot undertake freeway improvements to any freeway segments impacted by the Proposed Development, as construction of new freeway lanes or other significant improvements to the freeways requires actions by a number of agencies. *See* Caltrans Letter. SANDAG has agreed to take the lead in preparing the Plan, with assistance from Caltrans, the City, and other jurisdictions described above in which the involved freeways are located. Preparation of the Freeway Deficiency Plan would not be required for most of the freeway segments in the Ballpark and Ancillary Development Project's primary traffic study area because they were exempted from such requirements under the terms of the CMP Guidelines given that they already were operating at an unacceptable LOS. By going above and beyond the CMP Guideline requirements to create a comprehensive freeway plan would be an important first step in developing a comprehensive strategy for addressing deficient levels of service with or without the Proposed Development. This plan preparation would include data gathering, data analysis, and the identification of alternatives and recommendations.

Preparation of the Freeway Deficiency Plan would take approximately 18 months. Consequently, it is not feasible to complete its preparation concurrent with the preparation of the SEIR. Because the transportation demand management strategies and freeway improvements to be included in the Freeway Deficiency Plan address regional traffic problems and systems, one of the significant components of the Plan would be the identification of regional funding sources and mechanisms to fund any identified programs and improvements. The Freeway Deficiency Plan would include four elements: (1) the cause of the deficiency; (2) a list of improvements needed to meet the LOS standards; (3) an alternative list of improvements to measurably improve LOS and air quality; and (4) an action plan for implementing the improvements. *See* Caltrans Letter.

With timely implementation of the recommendations of the Freeway Deficiency Plan contained in Mitigation Measure 5.2-2, the impacts of non-event traffic on the freeway system would be reduced to below a level of significance. (FSEIR page 5.2-101.) However, if the necessary improvements and/or measures identified in the Freeway Deficiency Plan are infeasible, or are not funded when needed, impacts would remain significant. (FSEIR page 5.2-101.)

The impact to freeways also would be mitigated by implementation of Mitigation Measures 5.2-1, 5.2-5 and 5.7-2. Mitigation Measure 5.2-1 implements downtown area road improvements on an as-needed basis, while Mitigation Measures 5.2-5 and 5.7-2 encourage the use of mass transit, with a corresponding reduction in the number of vehicles using the freeways.

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The mitigation provided for freeway impacts by the Proposed Development constitutes appropriate and proportionate level of mitigation based on the Proposed Development's contribution of traffic to the regional freeway system that will, with or without the Proposed Development, continue to operate at unacceptable levels of service absent preparation and implementation of the Freeway Deficiency Plan. See October 19, 1999 Memo from Mark Peterson of BRW, Inc. to Bruce McIntyre of Lettieri-McIntyre and Associates (M-7 to the List of Technical Memorandums) ("Peterson CMP Memo") at 5. This is particularly true in light of the fact that traffic volumes from all of the Proposed Activities including the Proposed Development on the regional freeway system as a percentage of overall daily volumes will tend to be relatively low under both near-term and cumulative buildout conditions, ranging from 1.5% on I-5 north of downtown, 1.2% on I-5 south of downtown, and 2.0% on SR-163, to 4.8% on SR-94. In all cases, compared to a without the Proposed Development condition, the resulting volume increases on these segments of the freeway system will be less than a 1% increase due to the Proposed Development. *Id.* at 3. In addition to constituting appropriate and proportionate mitigation based on the Proposed Development's contribution of traffic, the mitigation also is appropriate given the fact that the Proposed Development is located within a redevelopment area. If a redevelopment activity, like the Proposed Development, is overly burdened with having to mitigate for regional freeway congestion, which will occur with or without the redevelopment activity, the goal of redevelopment, which is to encourage investment in redevelopment areas, would be defeated.

Mitigation Measures: Preparation of the Freeway Deficiency Plan called for in Mitigation Measure 5.2-2 set forth below is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP. In addition, Mitigation Measures 5.2-1 and 5.7-2 set forth below are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP. Further, Mitigation Measure 5.2-5 set forth below is feasible and should be implemented by MTDB:

Mitigation Measure 5.2-1: Roadway improvements identified in Table 5.2-13 of the SEIR shall be implemented on an as-needed basis. An evaluation to determine the timing for these roadway improvements shall be conducted annually, with the first evaluation completed before the first ballpark event. Based on this evaluation, any of the identified roadway improvements shall be implemented within one year of the determination that the improvements are necessary. (MMRP 13.1-2.)

Mitigation Measure 5.2-2: Prior to the first ballpark event or certificate of occupancy for the first of the Ancillary Development Projects, Caltrans, the City of San Diego and SANDAG shall prepare a Freeway Deficiency Plan which identifies both near-term and long-term capacity improvements and programs to improve the freeway system serving Centre City.

Possible improvements may include:

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- Enhanced alternate mode service and facilities (e.g., trolley, express bus, bicycle, and pedestrian);
- Enhanced Transportation Demand Management (“TDM”) measures to reduce peak hour congestion, such as carpooling, vanpooling, parking restrictions, staggered work hours, and telecommuting;
- Increased carrying capacity on I-5, SR-94 (MLK Jr.), and I-15;
- Improved/reconfigured freeway onramps and offramps; and
- Modifying peak hour flow rates at freeway ramp meters, in conjunction with increased mainline capacity, to maximize egress from surface streets connecting to freeway onramps.

The improvements and programs contained in the Freeway Deficiency Plan shall be carried out in accordance with an implementation program included as part of the Plan. (MMRP 13.1-5.)

Mitigation Measure 5.2-5: MTDB shall provide additional transit services as required to meet the increased demand for such services generated by the Ballpark and Ancillary Development Projects.

Mitigation Measure 5.7-2: As part of the conditions of approval for certain activities (employers with 15 employees and developments of 25,000 sq. ft. or more), carpools, vanpools, staggered work hours, and the provision of bike storage facilities shall be encouraged through employer-sponsored participation and the implementation of the Centre City Parking Ordinance and the Centre City Transit Ordinance, as required by the City of San Diego. (MMRP 2.1-2.)

SIGNIFICANT DIRECT IMPACT: The addition of traffic resulting from the Proposed Development and other Ancillary Development in 2002 (without event) would cause delay on the following freeway on-ramps, which already would be experiencing delays of more than five minutes even without the Proposed Development, to increase by more than one minute:

- E Street to Southbound I-5 (p.m. peak hour);
- J Street to southbound I-5 (a.m./p.m. peak hours); and
- Imperial Avenue to northbound I-5 (a.m./p.m. peak hours). (FSEIR page 5.2-37.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if those improvements and/or measures are not timely implemented, however, or if Caltrans fails to make

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necessary adjustments to the applicable ramp meter rates, the impact would remain significant. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: Mitigation Measure 5.2-1 ensures that certain road improvements in the downtown area are made as needed. Further, Mitigation Measures 5.2-5 and 5.7-2 encourage the use of mass transit and thereby reduce the number of vehicles attempted to access the impacted ramps. As discussed on pages 11-14 of these Findings, Mitigation Measures 5.2-2 and 5.2-4 may reduce the impact to the listed freeway on-ramps to below a level of significance, but only if the necessary improvements and/or measures identified in the Freeway Deficiency Plan are feasible, and are funded and implemented when needed. Mitigating impacts on these onramps requires not only implementation of the recommendations of the Freeway Deficiency Plan but also implementation of Mitigation Measure 5.2-4. That measure calls for Caltrans to evaluate the flow rates at metered ramps serving Centre City and, if feasible, adjust the rates to minimize congestion and queuing on connected surface streets. This adjustment in the ramp meter flow rates would be made consistent with need and freeway mainline capacity. Caltrans' current assumptions for meter flow rates in the Ballpark Project Area are based on existing demand at unmetered locations for an area of the City which is underdeveloped and has correspondingly low flow rates, making them unreliable for future development. The current meter flow rate assumptions also fail to account for adjustment to flow rates to equalize delays at adjacent interchanges throughout the downtown area. Periodically adjusting flow rates where feasible to reduce wait times based on available freeway capacity would minimize freeway access delays. Caltrans' adjustment of the flow rates will help mitigate impacts to delay at freeway on-ramps by allowing more vehicles to flow through the ramp and hence alleviate backup from the ramp onto the connected surface street and therefore avoid the otherwise significant traffic impacts. (FSEIR page 5.2-101.) Thus, fully mitigating this impact requires not only timely implementation of the recommendations of the Freeway Deficiency Plan but also Caltrans' adjustment of the meter flow rates.

It is impossible to determine the exact amount of freeway on-ramp delays where such delays are greater than 30 minutes because in practice such lengthy delays simply will not occur. Instead of waiting more than 30 minutes simply to enter the freeway, motorists will instead modify their

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behavior by leaving at a different time, adjusting their travel routes, or changing travel modes. See October 14, 1999 memorandum from Mark Peterson of BRW, Inc. to Bruce McIntyre of Lettieri-McIntyre and Associates (“Peterson Ramp Wait Memo”).

Mitigation Measures: Mitigation Measures 5.2-1, 5.2-2, 5.2-5, and 5.7-2 are discussed and set forth in full above and on pages 5.2-95 through 5.2-97 and 5.7-11 of the FSEIR, and are incorporated by reference as if fully set forth herein. Preparation of the Freeway Deficiency Plan called for in Mitigation Measure 5.2-2 is feasible and is made binding through the Proposed Development’s conditions of approval and through the MMRP. Mitigation Measure 5.2-4, set forth below, is feasible and should be implemented by Caltrans. Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB. Mitigation Measures 5.2-1 and 5.7-2 are feasible and are made binding through the development’s conditions of approval and through the MMRP.

Mitigation Measure 5.2-4: Caltrans shall evaluate the flow rates at all metered ramps serving Centre City on an annual basis, with the first evaluation completed before the first ballpark event. On the basis of these evaluations, Caltrans shall adjust meter flow rates if feasible in order to minimize congestion and queuing on surface streets connecting to freeway ramps.

SIGNIFICANT DIRECT IMPACT: There are no significant intersection impacts related to the Proposed Development (without event) under 2002 conditions assuming freeways and associated on-ramps have sufficient capacity to accommodate peak hour demand, and meter flow rates are balanced. (FSEIR page 5.2-45.) If these assumed improvements do not occur, however, the queue of vehicles waiting on the on-ramp would spill back through downstream intersections in the vicinity of freeway interchanges during p.m. peak hour (5 p.m. to 6 p.m.) conditions, as described below:

- E Street to southbound I-5. Traffic queues under the 2002 Ballpark (without event) and Ancillary Development Projects condition would extend west along E Street, possibly to 15th Street, and north and south along a number of the intersecting streets.
- J Street/I-5 southbound on-ramp. Traffic queues would extend west along J Street possibly to 15th Street and north and south along intersecting roadways.
- Imperial Avenue/I-5 northbound on-ramp. Traffic queues would extend along Imperial Avenue west toward 14th Street and east past 19th Street, and would build on the north/south intersecting roadways, including 16th and 17th Streets.

(FSEIR page 5.2-45.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if the improvements and/or measures identified are not timely implemented, however, or if Caltrans

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fails to make necessary adjustments to the applicable ramp meter rates, the impact would remain significant. As a result, pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency hereby finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2), and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: Mitigation Measure 5.2-1 would help reduce the impact to the downtown intersections by assuring that identified improvements to downtown roads are provided as needed. Encouraging the use of mass transits through implementation of Mitigation Measures 5.2-5 and 5.7-2 also would mitigate this impact by shifting traffic off of the freeways and onto the trolley, bus, train or a carpool. In addition, as discussed above on pages 11-16 of these Findings, Mitigation Measures 5.2-2 and 5.2-4 would mitigate this impact by improving freeway capacity and making appropriate adjustments to meter flow rates on associated on-ramps, but only if the necessary improvements and/or measures identified in the Freeway Deficiency Plan are feasible, funded and implemented when needed, and that Caltrans adjusts the meter flow rates, as described above. (FSEIR page 5.2-101.) If freeways operate at an acceptable LOS, there should be no backup of traffic or traffic diversion that would impact local streets and/or intersections, especially with the necessary local improvements constructed on an as-needed basis pursuant to Mitigation Measure 5.2-1 and the incentives to use mass transit provided by Mitigation Measure 5.7-2.

Mitigation Measures: Mitigation Measures 5.2-1, 5.2-2, 5.2-4, 5.2-5, and 5.7-2 are discussed and set forth in full above and on pages 5.2-95 through 5.2-97 and 5.7-11 of the FSEIR, and are incorporated by reference as if fully set forth herein. Mitigation Measures 5.2-1, 5.2-2, and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP. Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans; Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB.

SIGNIFICANT DIRECT IMPACT: The FSEIR conducted a secondary analysis of CMP routes outside the primary traffic study area (I-5, SR-94 (MLK Jr.), SR-163 and portions of Harbor Drive) to ensure all potential impacts to CMP freeways and arterials were identified. SANDAG provided a supplemental listing of all freeway segments to which the Proposed Activities contribute more than 2400 vehicles per day without an event. The following CMP

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freeway segments outside of the primary traffic study area would exceed CMP significance thresholds in 2002:

- I-5 between I-8 and Sea World Drive;
- I-5 between 28th Street and SR-54;
- SR-163 between I-8 and Genesee Avenue;
- SR-94 (MLK Jr.) between I-15 and Massachusetts Avenue; and
- I-15 between I-805 and SR-94 (MLK Jr.).

(FSEIR pages 5.2-74 and 5.2-75)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological, or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: It is infeasible for the Freeway Deficiency Plan to mitigate impacts to the CMP roadways outside the primary traffic study area or for the Proposed Development to mitigate for freeway impacts outside the primary traffic study area. (FSEIR page 5.2-101.) However, because of the decision to prepare a Freeway Deficiency Plan as mitigation for the Proposed Development, Caltrans and SANDAG have undertaken an even broader analysis of freeway segments, in a Central I-5 Corridor Study, which would look at the area from SR-54 to Sea World Drive and would extend from the Pacific Ocean to I-15. See Caltrans Letter. Nonetheless, impacts on freeway CMP segments outside of the primary traffic study area would be significant and not mitigated. (FSEIR page 5.2-101.)

SIGNIFICANT DIRECT IMPACT: Roadway segment volumes would increase within the adjacent residential neighborhoods and, if sufficient capacity on freeways and associated on-ramps is not provided, motorists could seek routes around the freeways, including routes through neighborhood streets. (FSEIR pages 5.2-47 and 5.2-51.) The actual magnitude of such trip diversion through adjacent neighborhoods in response to freeway and on-ramp congestion is indeterminable using available analytical capacities.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which would

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reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if the improvements and/or measures are not timely implemented, or if Caltrans fails to make necessary adjustments to the applicable ramp meter rates, however, the impact would remain significant. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: It is infeasible to accurately measure the location and/or magnitude of traffic diversion in response to congested freeway conditions. To the extent general estimates are possible, and based on a review of SANDAG travel forecasts, the FSEIR concludes that there would not be a significant level of traffic diversion in response to congested freeway conditions, but acknowledges that the difficulties in attempting to accurately estimate whether or not such diversion would occur. Diverting from one route to another typically is based on the motorist's perception of time savings allowed by an alternative route. SANDAG's state-of-the-art model assumes that motorists will act in a manner which minimizes travel time and cost; however, in reality all motorists do not have the same knowledge of alternative routes and associated travel time savings and often may perceive travel time savings differently. As a result, a motorist's responses to congested conditions vary and cannot be accurately estimated. The FSEIR addresses this issue by requiring the ETMP, which is designed to preclude ballpark event traffic from diverting into the surrounding neighborhoods. See October 18, 1999 memo from Mark Peterson of BRW, Inc. to Bruce McIntyre of Lettieri-McIntyre and Associates ("Peterson Diversion Memo").

Mitigation Measures 5.2-1 and 5.2-3 provide for enumerated improvements to be made to downtown roadways, including restriping as well as construction of new lanes. In addition, Mitigation Measures 5.2-5 and 5.7-2 encourage the use of mass transit and hence help lessen congestion on freeways as well as neighborhood streets. Those, in addition to the timely implementation of the improvements detailed in Mitigation Measure 5.2-2 and the ramp meter flow rate adjustments called for in Mitigation Measure 5.2-4, as discussed on pages 11-16 of these Findings, would provide capacity on freeways and associated ramps that should remove any incentive for motorists to divert along alternative routes such as neighborhood streets.

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(FSEIR page 5.2-101.) If the necessary improvements and/or measures identified in the Freeway Deficiency Plan are infeasible, or are not funded or timely implemented, or if Caltrans fails to adjust the meter flow rates, the non-event traffic impacts on the neighborhood streets would be significant and not mitigated. (FSEIR page 5.2-101.)

Mitigation Measures: The text of Mitigation Measures 5.2-1, 5.2-2, 5.2-4, 5.2-5, and 5.7-2 are discussed and set forth in full above and on pages 5.2-95 through 5.2-97 and 5.7-11 of the FSEIR, and are incorporated by reference as if fully set forth herein. Mitigation Measure 5.2-3 is set forth below. Mitigation Measures 5.2-1 through 5.2-3 and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP. Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans; Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB.

Mitigation Measure 5.2-3: The following improvements shall also be completed on an as-needed basis, subject to an evaluation of need conducted annually, with the first evaluation completed before the first ballpark event. Based on this evaluation, any of the identified roadway improvements which are deemed necessary shall be implemented within one year of the determination that the improvements are necessary.

- Add a new eastbound lane on A Street from east of Tenth Avenue to Eleventh Avenue; and
- Provide dual left-turn lanes on all approaches to the Harbor Drive/Park Boulevard intersection.

C. CULTURAL RESOURCES

SIGNIFICANT DIRECT IMPACT: The Proposed Development would not impact any known archaeological sites; however, the potential exists for significant archaeological resources to be encountered during construction. Thus, the Proposed Development could have a significant impact on any important archaeological resources encountered during development.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411(a), conditions, changes or alterations have been required in or incorporated into the Proposed Development which avoid or substantially reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Impacts to known and subsequently identified significant archaeological resources would be reduced to below a level of significance through implementation of Mitigation Measures 5.3-10 and 5.3-11, as stated below, which would require monitoring during construction. Any significant prehistoric resources which are discovered would be tested, recovered and curated, as appropriate.

Mitigation Measures: The following mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.3-10: A qualified archaeologist shall carefully monitor all excavation and grading activities while an activity is underway. If resources are encountered in the course of ground disturbance, the archaeological monitor shall be empowered to halt grading and to initiate an archaeological testing program. Every effort shall be made to preserve in place any archaeological resource that is found after commencement of the activity. If preservation in place is infeasible, a data recovery testing program shall be prepared. This testing program shall include the recordation of artifacts, controlled removal of the materials, an assessment, (i.e., interpretation) of their importance under CEQA and local guidelines, and curation of a representative sample of recovered resources within a qualified curation facility. A testing report shall be deposited with the California Historical Resources Regional Information Center. All resources found to meet the definition of a unique archaeological resource as defined in Public Resources Code §21083.2 shall be treated in accordance with that Code section. (SEIR MMRP E.2)

Mitigation Measure 5.3-11: For areas identified in the 1992 MEIR as possessing a high potential for archaeological resources, the developer shall have a qualified archaeologist conduct an in-depth study of the particular block or portion thereof where the activity is located and carry out all mitigation measures identified in the study. This study shall include a detailed review of Sanborn fire insurance maps, a directory search, and, if warranted, limited testing of the zones within the area to be impacted. Mitigation of the activity also requires both obtaining cultural resources records searches and a review of aerial photographs. Testing shall include removal of asphalt, backhoe excavation, limited controlled excavation, and a preliminary review of cultural materials recovered from the excavation. The testing data would be used to formulate a more specific mitigation plan. This plan, which would be activity specific, may include data recovery excavation and monitoring if important resources are encountered. Data recovery may include relatively large-scale excavation, cataloging, analysis, and interpretation. (MMRP 3.1-3.)

D. AESTHETICS/VISUAL QUALITY

a) Views

SIGNIFICANT DIRECT IMPACT: If the ballpark is developed adjacent to the hotel, two pedestrian bridges which are part of the Proposed Development would cross over Seventh Avenue, impacting a designated view corridor by interfering with views of the San Diego-Coronado Bay Bridge at the end of Seventh Avenue. (FSEIR page 5.4-52.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of

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significance and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: Mitigation Measure 5.4-3 requires, prior to issuance of a development permit, that building elevations for the Proposed Development be reviewed and approved by CCDC pursuant to adopted design guidelines, thereby reducing view impacts. In addition, the bridges have been designed to be as transparent as possible. Nonetheless, regardless of their design, the bridges would block some portion of a view of the San Diego-Coronado Bay Bridge. It would be infeasible to eliminate the view blockage by eliminating the bridges altogether, because the bridges serve as an integral part of the synergy planned between the ballpark and the Proposed Development. The Proposed Development is designed to take advantage of its proximity to the ballpark by heavily relying on use of the common spaces, skyboxes and concourse areas of the ballpark as break-out rooms and meeting spaces for meeting attendees staying at the hotel. Similarly, the baseball park plans to take advantage of the location of the Proposed Development by holding pre-baseball game events at the hotel. These pre-game special events, like the seminars and meetings that would use spaces at the ballpark as well as the hotel for their attendees, acquire the requisite atmosphere in part by the ability of attendees to make a seamless transition from the hotel to the ballpark. The atmosphere upon which such an event or meeting would rely would be impossible to achieve if attendees were required to exit the Proposed Development, walk through downtown streets for two blocks to access the nearest ballpark entrance, then make their way through the crowds to the designated portion of the ballpark. A bridge connection is essential to the ambience, cross-marketing and synergy planned between the two uses.

The Proposed Development will not have a significant view impact related to views from existing private development in Centre City East. The Centre City Community Plan and related ordinances and plans do not protect views from private development. In fact, in an urban downtown area, with multiple high rise buildings, protection of such private views would be impracticable and infeasible. As a result, the Proposed Development's potential impacts on private views from existing development (as opposed to public view corridors) are not considered significant. Moreover, even if private views were protected, the Proposed Development would not have a significant impact on views from existing development, including the Clarion Bay View Hotel.

Mitigation Measure: The following mitigation measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.4-3: Prior to issuance of a development permit, building elevations for each ancillary development shall be reviewed and approved by the CCDC Board of Directors to assure conformity with the guidelines established in the Centre City PDO for the J Street Corridor and Sixth/Seventh Avenues Transition Zone as well as the following general design criteria:

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- Modulate facades with bays that recall traditional parcel and building dimensions.
- Define bays by changes in the rhythmic pattern of openings, architectural features, materials and colors.
- Articulate major entrances, corners of buildings and street corners.
- Use transparent glass in eye-level entries and windows.
- Minimize the length of blank walls. Provide architectural detailing, ornamentation, or art work where blank walls cannot be avoided. (MMRP 1.3-1.)

b) Aesthetics

SIGNIFICANT DIRECT IMPACT: Architecture and site design associated with the Proposed Development could impact the visual appearance of the area in which the development would be located. (FSEIR page 5.4-52.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: The variety of architecture and building types found in the surrounding area, along with the design review process contained in the Community Plan and Planned District Ordinance reduce this impact, as does the design criteria set forth in attachment 4 of Volume V of the FSEIR. In addition, Mitigation Measure 5.4-3 lessens potential impacts by requiring design review pursuant to adopted guidelines prior to issuance of a development permit.

Mitigation Measure: Mitigation Measure 5.4-3 is discussed and set forth in full above and on page 5.4-55 of the FSEIR. This mitigation measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP.

SIGNIFICANT DIRECT IMPACT: The intensity requirements of the Proposed Development likely would conflict with the building bulk criteria contained in the existing Community Plan and Planned District Ordinance, as well as with the principals established with street level design standards and, as a result, the street levels of the building may not be pedestrian-friendly. (FSEIR page 5.4-53.) Thus, significant impacts with respect to design standards could occur with the Proposed Development. The Proposed Development may not meet the setback standards established by the existing Community Plan and Planned District Ordinance, and would therefore impact street level views. (FSEIR page 5.4-53.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would

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reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Design review required by Mitigation Measure 5.4-3 would reduce potential building bulk impacts by assuring conformity of design standards prior to issuance of a development permit. (FSEIR page 5.4-56.) In addition, amending the Community Plan and Planned District Ordinance to remove street level development standards within the Primary Plan Amendment Area would avoid the potential conflict between street levels of future Ancillary Development Projects buildings and the existing standards established by the Community Plan and Planned District Ordinance by specifically authorizing the uses proposed under the Ancillary Development Projects. (FSEIR page 5.4-57.)

Mitigation Measure: Mitigation Measure 5.4-3 is discussed and set forth in full above and on pages 5.4-54 and 5.4-55 of the FSEIR, and is incorporated by reference as if fully set forth herein. This mitigation measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP.

E. NOISE

SIGNIFICANT DIRECT IMPACT: If a ballpark is developed within two blocks of the Proposed Development, noise from activities associated with this facility (e.g., crowd noise, public address system, concerts and fireworks) would generate noise levels which would disrupt sleep in hotel rooms facing this facility.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411(a), conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which reduce the significant environmental effect identified in the FSEIR to below a level of significance, with the exception of post-10:00 p.m. concussion-type fireworks displays.

Facts in Support of Finding: With the exception of concussion-type fireworks after 10:00 p.m., noise impacts from ballpark activities would be reduced to below a level of significance by Mitigation Measures 5.5-1 and 5.5-2. These measures require the design of hotel rooms which may be exposed to certain noise levels to have interior acoustical analysis to ensure that the building design limited interior noise levels to below a level of significance, with specific noise mitigation measures incorporated into the development design as part of the conditions of approval on an activity-specific basis. (FSEIR pages 5.5-16 through 5.5-17.)

Mitigation Measures: Should the project be impacted by ballpark noise, the following mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.5-1: As required by the City of San Diego Noise Ordinance and California Administrative Code (CAC) Title 24, all proposed residential units, hotels, and motels exposed to

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an exterior noise level of 60 dBA CNEL or greater, are required to have an interior acoustical analysis and implement appropriate mitigation measures to ensure that the building design would limit interior noise to 45 dBA CNEL or below. Similar measures may be necessary to provide professional office and commercial business land uses with exterior and interior noise levels at or below 70 and 50 dBA CNEL, respectively. Site-specific acoustical analyses would be required to identify exact mitigation measures. Residential development within the 60 CNEL noise contour of Lindbergh Field will be required to do a site-specific noise study and implement appropriate mitigation measures to ensure that state and local exterior and interior noise standards are met. (MMRP 9.1-1.)

Mitigation Measure 5.5-2: Specific noise mitigation measures, as required by City Ordinances, shall be incorporated into the development design as part of the conditions of approval on an activity-specific basis. These measures may include the construction of attenuation walls and/or landscaped berms, the positioning of buildings so that outdoor open space areas are buffered from excessive noise sources, physical setbacks from noise sources, and building design measures to reduce interior noise levels. All activities shall comply with existing City noise ordinances. (MMRP 9.1-2.)

SIGNIFICANT DIRECT IMPACT: If a ballpark is developed, post-game concussion-type fireworks after 10:00 p.m. would impact the ability of guests of the Proposed Development to fall/stay asleep.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411(a), conditions, changes or alterations have been required in or incorporated into the Proposed Development which substantially reduce the significant environmental effect identified in the FSEIR. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: Mitigation Measures 5.5-1 and 5.5-2 require the design of hotel rooms which may be exposed to ballpark noise to include sufficient noise attenuation to achieve interior noise levels required by state and local regulations. However, even with these mitigation measures, noise from fireworks will still be above interior noise levels required by state and local regulations. Because the fireworks noise is caused by the Ballpark Project and cannot be controlled by the Proposed Development, no further mitigation is available to mitigate this impact.

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To minimize noise impacts from fireworks displays, however, the ballpark is conditioned to limit fireworks displays to no more than three 30-minute displays and no more than ten 10-minute displays per year. In addition, noise impacts will be minimized by limiting the allowed number of concussion fireworks displays to Friday and Saturday nights except for specific enumerated special occasions, with all remaining fireworks to be non-concussion, theatrical displays.

Mitigation Measures: Should the Proposed Development be impacted by ballpark fireworks noise, Mitigation Measures 5.5-1 and 5.5-2 discussed and set forth above and incorporated herein by reference as if full set forth herein, are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

F. LIGHT/GLARE

SIGNIFICANT DIRECT IMPACT: If a ballpark is built within four blocks of the Proposed Development, reflection of ballpark field lights off the facade of the Proposed Development could increase the glare rating on surrounding roadways to a level which could result in a significant impact. (FSEIR page 5.6-7.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: The glare impacts on surrounding roadways resulting from the reflection of field lights off the facade of the Proposed Development would be mitigated to below a level of significance by implementation of Mitigation Measure 5.6-7 by requiring a detailed lighting study to assess glare impacts from field lighting reflection off building facades onto surrounding roadways. It also would require implementation of glare control measures to ensure that glare ratings did not increase more than 20% over existing ambient levels. (FSEIR page 5.6-11.)

Mitigation Measure: Mitigation Measure 5.6-7 set forth in full below and on page 5.6-10 of the FSEIR is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP.

Mitigation Measure 5.6-7: Prior to issuance of a building permit for any building which could reflect ballpark field lights, a detailed lighting study shall be conducted to assess the glare impacts from field light reflection off building facades onto surrounding roadways and intersections. Any mitigation measures identified in the lighting study shall be implemented before issuance of a certificate of occupancy for the Ancillary Development Projects. Preparation of the lighting study and implementation of required attenuation of glare from Ancillary Development Projects shall be the responsibility of the Ancillary Development Projects proponent. The lighting study shall, at a minimum, include the following components:

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- Comprehensive field measurements of ambient light levels within the potentially impacted areas;
- Calculate glare rating increase based on final lighting design, and existing conditions which may limit the dispersal of light into surrounding areas (e.g., topography and buildings);
- Identify roadways and intersections where the glare rating would increase by more than 20%; and
- Define appropriate light attenuation techniques at the reflective surface to reduce the glare increase to less than 20% over the pre-existing ambient condition. (MMRP 8.3-1.)

SIGNIFICANT DIRECT IMPACT: If a ballpark is developed within four blocks of the Proposed Development, the sleep of hotel guests in rooms facing the ballpark could be disturbed by field lights associated with the ballpark.

Findings: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411(a), conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which avoid or substantially reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: In the event a ballpark is developed within four-blocks of the Proposed Development, light attenuation measures (e.g. “black out” curtains) would be installed in all hotel rooms which would experience light levels in excess of 2.5 foot-candles as defined by lighting studies.

Mitigation Measures: Should the Proposed Development be impacted by ballpark lighting, the following mitigation measure is feasible and is made binding through the Proposed Development’s conditions of approval and through the MMRP:

Mitigation Measure E-32: Prior to certificate of occupancy for any development involving light sensitive uses within the area depicted on Figure 5.6-1 of the SEIR, a detailed lighting study shall be conducted to determine the anticipated light levels which may occur within light-sensitive areas exposed to light from ballpark activities. The study shall define light attenuation techniques (e.g., black-out curtains) which will reduce overall maximum spill light levels to 2.5 foot-candles. These measures shall be incorporated into the light-sensitive use areas.

G. AIR QUALITY

SIGNIFICANT DIRECT IMPACT: Short-term significant air quality impacts would occur during construction of the Proposed Development. (FSEIR page 5.7-9.) Air quality impacts associated with construction would be derived from dust, fumes, equipment exhaust, and other air contaminants during demolition of existing paving, the excavation of utilities, the preparation of foundations and footings, and building assembly and would be significant. (FSEIR page 5.7-10.) In general, the most significant source of air pollution would be dust generated during demolition, excavation, and site preparation. (FSEIR page 5.7-10.)

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Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Impacts to air quality from construction emissions such as dust, fumes, and equipment exhaust would be mitigated below a level of significance through implementation of Mitigation Measures 5.7-1 and 5.7-3 through 5.7-5. These measures would reduce the impacts through the use of construction techniques designed to minimize emissions such as application of water to control dust, minimization of simultaneous use of equipment, limiting equipment running time and encouraging the use of low emissions equipment. (FSEIR page 5.7-16.) The pollution control achieved through implementation of the air quality mitigation measures is anticipated to be as high as 95% for dust control, a much higher percentage than is achieved using typical construction procedures in the San Diego area. Moreover, equipment exhaust emissions would be reduced by as much as 95% for some pollutants of concern as a result of the post-combustion controls required by Mitigation Measure 5.7-5, including catalytic converters and soot filters. Based on studies of the effectiveness of such emission control technologies, a reduction of up to 95% of the diesel emissions would be achieved using the catalytic converters (Emissions Control for Material Handling, Englehard Corporation, Diesel Oxidation Catalyst Test Results, Cinco Group, 1999 and Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered, Heavy-Duty Engines Achieve Low Emission Levels. Chapter 3, Diesel Oxidation Catalysts, MECA, 1999). The mitigation measure requirements for the Proposed Development are much more stringent than those typically required by the San Diego Air Pollution Control District.

Moreover, the best estimate of a simultaneous disturbance area during construction of the Ballpark and Ancillary Development Projects is 13.85 acres. At dust control efficiency of 95%, PM₁₀ emissions would be estimated at only 32.6 pounds per day, well below the 100 pounds per day significance threshold. Specific mitigation measures reaching a 95% control efficiency are more thoroughly discussed and described in response to comment 18.A.11 in Volume IV of the FSEIR. The 95% efficiency estimate was derived by applying published dust control efficiency data from the South Coast Air Quality Management District ("SCAQMO") CEQA Air Quality Handbook (1993). In addition, impacts to air quality from construction also would be minimized by the fact that such impacts would be short-term in nature. (FSEIR page 5.7-16.)

In addition, Mitigation Measures E-1 through E-6 would help mitigate impacts to air quality through a variety of means, including monitoring of VOC levels through any remediation, requiring site remediation to be done sequentially rather than simultaneously to the extent Feasible, except for the area beneath the ballpark itself, minimizing the stockpiling of soils and ensuring that stockpiles of contaminated soil have a concrete or visquene base and cover.

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Mitigation Measures: Mitigation Measures 5.7-1, 5.7-3 through 5.7-5, and E-1 through E-6, set forth in full below, are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.7-1: Air quality impacts during construction would be mitigated through the use of the following techniques, as practical:

- Minimize simultaneous operation of multiple construction equipment units;
- Use low pollutant-emitting construction equipment;
- Use electrical construction equipment;
- Use catalytic reduction for gasoline-powered equipment;
- Use injection timing retard for diesel-powered equipment;
- Water the construction area to minimize fugitive dust; and
- Minimize idling time by construction vehicles. (MMRP 2.1-1.)

Mitigation Measure 5.7-3: Any site remediation procedures shall comply with all applicable rules and regulations of appropriate regulatory agencies and any necessary permits shall be obtained by remediation contractors. (MMRP 2.1-3.)

Mitigation Measure 5.7-4: Air quality impacts from fugitive dust potentially occurring during construction would be mitigated through the use of the following techniques:

1. All disturbed areas, including storage piles, which are not being actively used for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizers/suppressant, polyethylene film or vegetative ground cover.
2. All on-site, unpaved roads and off-site, unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
3. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions by applying water or by presoaking.
4. When materials are transported off-site, all material shall be covered or effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container of material shall be maintained.
5. All operations shall expeditiously remove the accumulation of mud or dirt from adjacent public streets 1) once a day during earth-moving activities which occur adjacent to a public street or 2) on an as needed basis when land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill or demolition activities operations are occurring in an area that is not adjacent to a public street. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied

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by sufficient wetting to limit the visible dust emissions, and use of blower devices on public streets is expressly forbidden.

6. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions through the use of sufficient water or chemical stabilizer/suppressant.
7. Traffic speeds on unpaved roads shall be limited to 15 miles per hour.
8. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope of greater than 1%.
9. Wheel washers shall be installed for all trucks, or all trucks and equipment leaving the site shall be washed off.
10. All active construction sites shall be watered on an as needed basis.
11. Inactive storage piles shall be covered.
12. During initial grading, earth moving, or site preparation, activities of 5 acres or greater shall be required to construct a paved (or dust palliative treated) apron at least 100 feet long onto the site from the adjacent site if applicable, unless such an apron already exists, in which case it shall be retained. A wheel washdown area may be provided in lieu of a paved or dust palliative treated apron.
13. A publicly visible sign shall be posted with the telephone number and person to contact regarding dust complaints. This contact person shall respond and take corrective action within 24 hours after such call is received.
14. Prior to final occupancy, the developer shall demonstrate that all landscaped ground surfaces are covered or treated sufficiently to minimize fugitive dust emissions.
15. Gravel pads must be installed at all access points to prevent tracking of mud on to public roads.
16. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
17. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite.
18. Prior to land use clearance, the developer shall include dust control requirements as a note on a separate informational sheet to be recorded with the final map, and all requirements also shall be shown on grading and building plans.

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19. Appropriate safety equipment in accordance with OSHA requirements should be used by all employees involved in grading or excavation operations during dry periods to reduce the potential for inhalation of toxic dusts. (MMRP 2.2-2.)

Mitigation Measure 5.7-5: Air quality impacts from engine exhaust potentially occurring during construction would be mitigated through the use of the following techniques:

1. Alternative fueled construction equipment will be used where such equipment is readily available and appropriate for the collective tasks assigned to the particular equipment.
2. The minimum practical engine size that is readily available and appropriate for the collective tasks assigned to the particular equipment shall be used.
3. Post-combustion controls shall be implemented for construction equipment as follows:
 - a) Oxidation or three way catalysts shall be installed on all off-road construction equipment that will be onsite for longer than five working days.
 - b) Diesel particulate filters (soot filters) shall be installed on all excavation and grading equipment and generators larger than 100 hp which will be on site for longer than five working days.
 - c) When available, any off-road construction equipment purchased, or any equipment requiring an engine replacement, for use on the development site shall be equipped with a "Blue Sky" series engine.
 - d) Notwithstanding the above requirements, the following equipment is excluded from the requirements for post-combustion controls:
 - All cranes are excluded from the requirements for post-combustion controls. Practice has demonstrated that post-combustion controls are not effective since operating engine temperatures do not get hot enough for the post-combustion controls to work. In addition, there is a concern that such equipment could affect the engines operation thus creating a safety concern if the engine caused unstable operation while hoisting materials.
 - All on-road mobile sources including delivery and hauling equipment and equipment used to transport employees and visitors to and from the job-site.
 - All equipment which is deemed to be inappropriate for post combustion control retrofit by the post combustion control equipment vendor or the manufacturer of the equipment to be retrofitted due to 1) physical limitations

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caused by size, orientation or incompatibility of equipment parts, 2) reduction in the safe operation of the equipment to be retrofitted, or 3) little or no anticipated abatement of carbon monoxide, hydrocarbons or particulate in exhaust gas if retrofitted.

4. Construction workers should be encouraged to carpool and eat lunch on site.
5. Construction activities should use new technologies to control emissions, as they become readily available and feasible. (MMRP 2.2-1.)

Mitigation Measure E-1: The Environmental Health Coalition (“EHC”) will be given the opportunity to comment upon the monitoring plan developed for purposes of Mitigation Measure E-2.

Mitigation Measure E-2: VOC levels will be monitored with a PID throughout the course of the remediation, as specified in the Health and Safety Plan. Dust and particulate matter monitoring will be performed in various locations at the perimeter of the Ballpark footprint area during clean-ups, and may performed for specific contaminants if directed by the San Diego County Department of Health, as indicated in the Master Work Plan.

Mitigation Measure E-3: The timing and remediation to minimize fugitive dust and VOC levels will be coordinated, including:

- With the exception of the area beneath the Ballpark, site remediation will be done sequentially rather than simultaneously to the extent determined feasible, defined as capable of being done, effected or accomplished in a successful manner, as reasonably determined by the Padres with respect to the Ballpark and Ancillary Development Projects, and CCDC, with respect to remediation of Hazardous Substances, in light of the project objectives, available technology, cost and other factors (“Feasible”),
- Trucks transporting contaminated soil will be covered and, to the extent determined Feasible, staged to minimize idling and exhaust;
- If, upon receipt of complaints from any party, the Site Safety Manager determines that the contaminated soil from ongoing remediation is particularly odorous, the Site Safety Manager will have the discretion to direct that remediation will be performed at night; and

Remediation will be slowed or stopped during unfavorable weather conditions.

Mitigation Measure E-4: EHC will have an opportunity to comment on the routes through the surrounding neighborhoods to be taken by trucks removing contaminated soil.

Mitigation Measure E-5: Stockpiling of contaminated soil will be minimized.

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Mitigation Measure E-6: All stockpiles of contaminated soil must have a concrete or visquene base, and a visquene cover.

SIGNIFICANT DIRECT IMPACT: Vehicular emissions associated with the Proposed Development would create significant long-term air quality impacts as they would substantially exceed the significance thresholds for CO, ROG, NO_x, and PM₁₀ for near-term 2002 conditions. (FSEIR page 5.7-10.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Finding: Traffic associated with the Proposed Development would produce significant levels of air pollutants that would result in significant impacts by contributing to existing air quality problems. (FSEIR page 5.7-15.) Mitigation Measures 5.7-2 as well as Mitigation Measures 5.2-1 through 5.2-3, 5.2-6 and 5.2-7 would reduce vehicular emissions by implementation of roadway improvements and reduction of traffic volumes through strategies such as mass transit, carpools and bike storage. (FSEIR page 5.7-15.)

Mitigation Measures: Mitigation Measures 5.2-1 through 5.2-3 and 5.7-2 are discussed and set forth in full above, and are incorporated by reference as if fully set forth herein. Mitigation Measures 5.2-6 through 5.2-7 are set forth below. Mitigation Measures 5.2-1, 5.2-3, 5.2-6, 5.2-7, and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP. Preparation of the Freeway Deficiency Plan called for in Mitigation Measure 5.2-2 is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP. Mitigation Measure 5.2-4 and 5.2-5 are feasible and should be implemented by Caltrans and MTDB, respectively.

Mitigation Measure 5.2-6: Prior to the first ballpark event, the following roadway improvements shall be completed:

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- Signalize intersection of 17th Street and Imperial Avenue;
- Widen 17th Street, south of the southbound I-5 off-ramp, to provide one left-turn lane, one left/through lane and two right-turn lanes; and
- Signalize intersection of J Street and 17th Street. (MMRP 13.2-2.)

Mitigation Measure 5.2-6: The following roadway improvements shall be completed on an as needed basis, subject to evaluation of need conducted annually, with the first evaluation completed during the initial season of ballgames:

- Restripe eastbound approach of Imperial Avenue at 19th Street to allow double left turns, and widen I-5 northbound on-ramp to accommodate the incoming lanes.

H. GEOLOGY/SOILS

SIGNIFICANT DIRECT IMPACT: Major seismic events in the region could significantly impact the Proposed Development. The Proposed Development is located within a mile of the Rose Canyon Fault, which is considered a significant seismic hazard to the San Diego metropolitan area. The estimated magnitude of a credible earthquake along the Rose Canyon Fault Zone ranges from M6.4 to M7.2.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411(a), conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Findings: Impacts to the Proposed Development from seismic activity such as shaking and rupture from faults would be mitigated to below a level of significance through implementation of Mitigation Measures 5.8-1 through 5.8-5. These mitigation measures require that specific geotechnical studies and investigations be performed to identify possible seismic safety hazards and to incorporate specific mitigation, such as adherence to the Uniform Building Code or state-of-the-art design parameters, to alleviate any significant risks.

Mitigation Measures: The following mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.8-1: As required by the City of San Diego, a detailed geotechnical field study shall be required per the Seismic Safety Plan for San Diego prior to the issuance of a grading permit. Specific mitigation measures shall be selected after this study has been completed. Mitigation measures shall be incorporated into the grading plans and may include: removal of artificial fills, recompaction of artificial fills, or support structures sunk below the artificial fills. (MMRP 4.1-1.)

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Mitigation Measure 5.8-2: As required by the City of San Diego, a geotechnical investigation for each individual development site shall be identified through consultation with the City Engineering and Development Department and be conducted prior to construction. Following the proper geotechnical investigations, development approvals shall be contingent on the suitability of the proposed land use to the risk zone or modified risk zone of the proposed development. Effects of seismic shaking may be mitigated by adhering to the Uniform Building Code (UBC) or state-of-the-art seismic design parameters of the Engineering Association of California. (MMRP 4.4-1.)

Mitigation Measure 5.8-3: Site-specific geotechnical studies shall be prepared, as required by the City Building Department, to support structural design and obtain a building permit, to identify and require any necessary mitigation for any identified specific soil problems. (MMRP 4.1-1.)

Mitigation Measure 5.8-4: Dewatering of the main water table and perched zones during construction would mitigate impacts of high groundwater levels in construction. However, the dewatering necessary to complete construction may cause a temporary localized lowering of the groundwater table and could result in land subsidence and/or the movement of contaminants in the groundwater. Therefore, the developer shall conduct site-specific groundwater investigations in areas identified as problematic by the hazardous materials assessment in conformance with applicable regulations. Any necessary site-specific studies shall include groundwater level monitoring and aquifer characterization by aquifer testing. Dewatering near any plume of hydrocarbon contamination shall be kept to a minimum and of short duration to prevent potential movement of the plume. (MMRP 4.1-2.)

Mitigation Measure 5.8-5: As required by applicable regulations, structures shall be designed to withstand hydrostatic pressures. (MMRP 4.1-3.)

I. PALEONTOLOGICAL RESOURCES

SIGNIFICANT DIRECT IMPACT: All portions of the Proposed Development that involve grading or excavation beyond the one to three foot depth of surficial fills for foundations, subterranean parking, or below grade features including utility trenches would have the potential to expose fossil-containing geologic formations. Whenever geologic formations containing fossils are excavated, there is the potential for adverse impacts to the region's paleontological resources. The geologic formations underlying the Proposed Development are considered to have a low to moderate potential for fossils. All portions of the Proposed Development that involve excavation have the potential for significant impacts to paleontological resources.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411(a), conditions, changes or alterations have been required in or incorporated into the Proposed Development which avoid or substantially reduce the significant environmental effect identified in the FSEIR to below a level of significance.

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Facts in Support of Finding: Grading or excavation below depths of surficial fill has the potential to disturb geologic formations containing fossils resulting in a significant paleontological impact. This impact would be mitigated to below a level of significance through implementation of Mitigation Measure 5.9-1 which would require the monitoring of grading, recovery and curation of any discovered fossils, and a report summarizing the mitigation monitoring. (FSEIR 5.9-4).

Mitigation Measures: The following mitigation measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.9-1: The developer shall retain a qualified paleontologist or paleontological monitor to monitor excavation activities when they would occur within an area rated moderate or high for paleontological resources. Monitoring is not required in moderate areas when the excavation would be less than 2,000 cubic yards and ten feet in depth. In areas with a high potential for paleontological resources, monitoring is not required when excavation would be less than 1,000 cubic yards and ten feet in depth. Monitoring is not required in areas rated zero to low. If significant paleontological resources are observed, an appropriate mitigation program will be carried out. The developer shall certify that the required mitigation or monitoring personnel will be given adequate advance notice of the start of the subject activities and adequate coordination with the contractor will be guaranteed by the developer.

When fossils are discovered, the paleontologist or paleontological monitor (an individual who has experience in the collection and salvage of fossil materials who works under the direction of a qualified paleontologist) shall recover them. In most cases this fossil salvage can be completed in a short time. However, some fossil specimens may require extended salvage time. In these instances the paleontologist (or paleontological monitor) shall be allowed to temporarily direct, or divert, or halt excavation work to allow recovery of fossil remains in a timely manner.

When monitoring is required, a paleontologist or paleontological monitor shall be present onsite at all times during the original cutting of previously undisturbed sediments within the San Diego Formation which is known to have a high resource sensitivity, to inspect the excavation and spoils for the presence of fossil remains. A paleontologist or paleontological monitor shall be onsite at least half-time during the original cutting or previously undisturbed sediments in the Bay Point Formation which is known to have a moderate resource sensitivity, except if a representative initial sample of the site reveals no significant fossil remains to the satisfaction of the paleontological monitor, then such monitoring may be terminated.

Fossil remains collected during the monitoring and salvage portion of the mitigation program shall be cleaned, sorted, and cataloged and then with the owner's permission, deposited in a scientific institution with paleontological collections.

A final summary report shall be prepared outlining the methods followed and summarizing the results of the mitigation program. This report shall also include a list of the kinds of fossils recovered, and a summary of the stratigraphic context of all collecting localities. This report shall

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be submitted to the Redevelopment Agency, the San Diego Natural History Museum and any scientific institution that received salvaged fossils from the activity (MMRP 10.1-1).

J. HYDROLOGY/WATER QUALITY

SIGNIFICANT DIRECT IMPACT: Significant short-term impacts to water quality would occur during construction of the Proposed Development. (FSEIR page 5.10-9.) High periods of rainfall during the grading and/or clearing of the acreage to accommodate the Proposed Development could result in the transport of large amounts of sediment into San Diego Bay. Excessive erosion and sedimentation would affect marine organisms in the Bay by increasing levels of turbidity and total dissolved solids. (FSEIR page 5.10-6.) Rainfall coming in contact with construction materials being used to construct the Proposed Development also could adversely impact San Diego Bay as a result of hydrocarbon products related to operation and servicing of construction equipment as well as hazardous materials associated with building construction and demolition including paint, asbestos, concrete wash, and asphalt. Hydrocarbon products (e.g., fuel, oil, and grease) would reduce oxygen levels in San Diego Bay and increase eutrophication. Construction materials could be toxic to marine organisms. (FSEIR page 5.10-6.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Drainage from the Proposed Development is anticipated to be the same as it exists today since the site is already developed. Mitigation Measure 5.10-7 would ensure that any impacts are reduced to below a level of significance by implementing Best Management Practices (“BMPs”) which will limit or reduce discharge of contamination into the Bay. (FSEIR page 5.10-11 and 5.10-14.) The steps undertaken would be chosen according to the specific needs and functions of each development, but would include public education programs and storm drain stenciling or tiling. In addition, recycling and waste disposal areas will be covered, temporary erosion control measures shall be used when necessary, and if polluted water is encountered during construction dewatering, it shall be discharged into the sanitary sewer. The City also would analyze and implement, as appropriate and effective to address contaminated runoff problems, measures such as the use of vegetative swales or other buffer mechanisms with appropriate grading around the parking lots, and/or installation of filters in surrounding storm drains to intercept and filter water before it reaches the main storm drains. The combined use of regular street and parking are a sweeping, cleanup measures which absorb pollutants, and the buffers chosen by the City would be implemented to reduce potential water quality impacts to a less than significant level. See responses to comments 6.20 and 6.25, Volume IV of the FSEIR.

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Impacts from petroleum products or anti-freeze from vehicular traffic being washed from public roadways into the San Diego Bay are not significant, in part because this simply is not the source of the vast majority of the contaminants in the Bay. Studies evaluating the sources of copper – a constituent found in automobile brake linings – have been undertaken. These reports have indicated that non-point source wet weather flows contributed 7.8% of the total annual load of copper which enters San Diego Bay. The study did not attempt to determine the percentage of this figure which is attributable to traffic. Nonetheless, the data suggests that the amount of copper from automobile brake linings which reaches the Bay is relatively insignificant in comparison with overall copper impacts on the Bay. Another report, from 1998, indicates that stormwater runoff has an even lower impact on the annual load of copper to the San Diego Bay. See Opper letter.

Mitigation Measure: The following mitigation measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.10-7: BMPs included in the City of San Diego Stormwater and Urban Runoff Management program shall be implemented as appropriate. These measures would include: public education programs along with the distribution of brochures, and storm drain stenciling or tiling. Covered solid waste recycling and disposal areas shall be maintained. The use of water to clean sidewalks and patio areas shall be minimized. Temporary erosion control measures (e.g., sand bags, detention basins, brow ditches and temporary landscaping) shall be implemented to control construction impacts on water quality. Polluted water encountered during construction dewatering would be discharged into the sanitary sewer. If onsite vehicle washing is conducted, wash water shall be collected and routed to the sanitary sewer. (MMRP 6.2-1.)

SIGNIFICANT DIRECT IMPACT: Post-construction impacts from landscape maintenance (litter, fertilizers, and pesticides) and improper storage of hazardous materials associated with the Proposed Development could significantly affect water quality. (FSEIR page 5.10-9.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Controls imposed by Mitigation Measures 5.10-3 through 5.10-5 and 5.10-9 and the Integrated Pest Management Plan required by Mitigation Measure 5.10-11 and set forth as Exhibit 1 to the Pollution Prevention Plan attached to the Errata, would reduce impacts from improper storage of fertilizers, herbicides, pesticides, landscape waste, hydrocarbons and hazardous materials to below a level of significance by requiring proper storage of hazardous materials, proper storage of greenwaste, and proper maintenance of landscaped areas. (FSEIR page 5.10-14.) In addition, the Pollution Prevention Plan and the

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Integrated Pest Management Plan would minimize application of potentially harmful chemicals thus lessening the impacts from runoff. Mitigation Measures 5.10-3 through 5.10-5 and 5.10-9 and 5.10-11 would reduce these impacts to below a level of significance through proper storage of pesticides and other hazardous materials, storage of greenwaste and adoption of the Pollution Prevention Plan and its Integrated Pest Management Plan.

Mitigation Measures: Mitigation Measure 5.10-7, discussed and set forth above, is incorporated herein by reference as though fully set forth herein. This mitigation measure as well as those set forth below are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.10-3: Fertilizers, herbicides, and pesticides shall be stored in dedicated, covered storage containers in accordance with City Fire Code requirements. (MMRP 6.2-4.)

Mitigation Measure 5.10-4: Landscape waste shall be collected and placed in dedicated greenwaste storage containers and transported to a local landfill for greenwaste composting. (MMRP 6.2-5.)

Mitigation Measure 5.10-5: Vehicle fuels, lubricants, and waste oils shall be stored, used and disposed in accordance with city and county requirements. (MMRP 6.2-6.)

Mitigation Measure 5.10-9: Landscaped areas shall be maintained to minimize dry weather runoff from irrigation systems. Systems shall be regularly monitored and maintained. Irrigation rates shall be adjusted to meet soil infiltration capacity and sprinkler heads locations designed and adjusted to minimize irrigation of impervious surfaces.

Landscape design will incorporate several fundamentals of xeriscape landscaping, as defined by the San Diego Xeriscape Council, including:

- Design and planning to minimize water use;
- Limiting turf areas to active play and landscaped areas subject to pedestrian traffic;
- Use of efficient irrigation practice including computerized control systems to monitor rain and flow sensors, and root zone moisture content;
- Making soil improvements and using mulch to maximize water retention;
- Use of low water use plants, particularly lowest water use plants (succulents and natives) in areas with south and west exposures with the exception of small areas of annual flowering plants; and
- Maintenance by professionals with a working knowledge of xeriscape landscaping. (MMRP 6.2-9.)

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Mitigation Measure 5.10-11: Prior to issuance of a building permit, an Integrated Pest Management (IPM) Plan will be adopted consistent with the outline contained in Attachment 6 in Volume V of the SEIR to minimize the use of pesticides, fertilizers, and other chemicals which have been shown to have a toxic impact on humans, plants, and animals. (MMRP 6.2-11.)

Mitigation Measure E-14: No permanent dewatering shall be conducted.

Mitigation Measure E-15: Runoff protection will be provided for clean-up sites through the uses of berms and sumps to hold runoff water through use of grading.

Mitigation Measure E-16: As a condition to the Retail at the Park and the Ancillary Development Projects, and to the maximum extent Feasible, the Padres, or its designated master developer, will cause all ancillary development to incorporate Passive Infiltration or Retention Systems and incorporate these systems into design standards. The foregoing obligations shall be subject to the following:

- Incorporation of Passive Infiltration or Retention Systems will not be required for development which has insufficient landscaped areas within which to locate such systems.
- Streetscape design standards will require turf strips of varying width between sidewalks and curbs to facilitate infiltration of runoff with appropriate breaks for a pedestrian traffic.

Mitigation Measure E-17: As a condition to the Retail at the Park and the Ancillary Development Projects, during the planning stages of the Ancillary Development Projects and the Retail at the Park, and from time to time during the development of the Ancillary Development Projects and the Retail at the Park, the Padres, or its designated master developer, will meet and confer with EHC to discuss additional opportunities for incorporation of Passive Infiltration or Retention Systems into the Ancillary Development and Retail at the Park.

Mitigation Measure E-18: As a condition to the Retail at the Park and the Ancillary Development Projects, all parking areas in the Retail at the Park and the Ancillary Development Projects will incorporate the Passive Infiltration or Retention Systems illustrated in Exhibit 1 of the Errata.

Mitigation Measure E-19: As a condition to the Retail at the Park and the Ancillary Development Projects, with respect to City-owned parking lots the City will incorporate maintenance requirements for Passive Infiltration or Retention Systems into its contracts with parking lot operators. EHC will have the right to monitor compliance with such maintenance obligations.

Mitigation Measure E-20: As a condition to the Retail at the Park and the Ancillary Development Projects, all parking lots will be regularly swept. A spill and leak control program

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will be implemented to remove major grease, oil and fuel spills from the parking lots prior to sweeping.

Mitigation Measure E-21: As a condition to the Retail at the Park and the Ancillary Development Projects, no related, pollution-producing activities (such as car washing, use of cleaners not meeting specifications of Pollution Prevention Plan, etc.) shall be conducted on parking lots.

Mitigation Measure E-22: As a condition of the Retail at the Park and the Ancillary Development Projects, a Pollution Prevention Plan analogous to Exhibit 2 to the FSEIR shall be implemented.

K. PUBLIC SERVICES/FACILITIES

SIGNIFICANT DIRECT IMPACT: The Proposed Development would contribute to the more than the 52 tons per year of waste generated by all the Ancillary Development Projects combined, thus constituting a significant impact on solid waste. (FSEIR page 5.11-8.) This increase in waste generation also would result in an increase in the number of trucks accessing the Miramar landfill entrance facility. (FSEIR page 5.11-8.) The additional traffic at this facility also would be considered a significant impact, since the current entrance facility is adequate only for the amount of traffic it currently is experiencing. (FSEIR page 5.11-8.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: The amount of trash generated by the Proposed Development would contribute to a significant impact on the capacity and local access of the Miramar Landfill. The impact would be reduced by implementation of Mitigation Measures 5.11-3 through 5.11-4 which would provide funding for public services, and would implement programs to reduce the amount of waste generated by the Proposed Development, but not to below a level of significance. (FSEIR page 5.11-11.) In addition, Mitigation Measure E-33 will help mitigate the impact of the Ancillary Development Projects on the access to Miramar Landfill.

Mitigation Measures: The mitigation measures set forth below are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

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Mitigation Measure 5.11-3: As required by the City of San Diego, the developer shall provide areas in which to store recyclable materials. The Agency shall also encourage the City of San Diego Waste Management Department to increase its promotion of effective recycling programs in the Planning Area. (MMRP 12.1-3.)

Mitigation Measure 5.11-4: A waste management plan would be implemented to reduce waste transported to local landfills. Components shall include but not be limited to:

- Type of materials expected to enter the waste stream;
- Quantity of materials;
- Source reduction techniques to be used;
- Recycling and/or composting programs; and
- Buy-recycled programs. (MMRP 12.2-1.)

Mitigation Measure E-33: City will ensure that improvements will be made to the Miramar Landfill entrance facility, if access to the facility becomes inadequate, consistent with the City's *Guide to Mitigating Impacts to Solid Waste Services*.

L. POPULATION/HOUSING

SIGNIFICANT DIRECT IMPACT: Implementation of the Proposed Development would eliminate the potential for future residential units to be built on the Proposed Development site. (FSEIR page 5.12-14.) The maximum reduction in potential residential units from all of the Ancillary Development Projects would equate to a residential population of 3,632 persons. (FSEIR page 5.12-14.) The loss of residentially zoned land which could support up to 1,340 housing units within the Ancillary Development Projects Area would represent a 7% reduction in the potential residential units yet to be developed within the Redevelopment Project Area and a 9% reduction in units yet to be developed within Centre City East. (FSEIR page 5.12-14.) This would be a significant impact. (FSEIR page 5.12-14.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: Although no mitigation measures associated with increasing residential density in other parts of the Redevelopment Project Area are available to replace the

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housing opportunities which would be lost with implementation of the Proposed Development, the 1999 General Design and Public and Semi-Public uses amendments to the Centre City Community Plan and the Centre City Planned District Ordinance do delete the Sun Access criteria south of Market Street. This deletion would allow residential development in the East Village area to occur to its maximum potential density, thus mitigating some of the loss in residentially zoned property in that same area. So, while no additional residential intensity can be accommodated to make up for the loss of housing opportunities resulting from implementation of the Proposed Development, the sun access criteria deletion will help alleviate the impacts. (FSEIR page 5.12-20.) While some housing will occur within the Ancillary Development Projects, achieving the full amount of housing displaced by the Proposed Development and other Ancillary Development Projects would conflict with the MOU goals for Ancillary Development Projects to provide sufficient transient occupancy tax and tax-increment revenues through other development to help fund the Ballpark Project. (FSEIR page 5.12-20.) Therefore, the housing impact of the Proposed Development is considered significant and unmitigated. (FSEIR page 5.12-20.)

Nonetheless, the development of the Proposed Development, like the Ballpark and Ancillary Development Projects, would generate tax increment revenue that could be used to assist in further development of low- and moderate-income and other housing in the East Village – housing that would not be built for many years, if ever, without the Proposed Activities. A Deloitte & Touche study concluded that tax increment generated by the Proposed Activities would potentially contribute toward the investment by CCDC of approximately \$47.4 million in fiscal year 2002 dollars in low- and moderate-income housing development in the downtown San Diego redevelopment area.

SIGNIFICANT DIRECT IMPACT: The Proposed Development could displace a number of homeless activities currently taking place on the project site. The displacement of homeless activities into surrounding areas would have a significant impact on the physical conditions of affected areas. (FSEIR page 5.12-15.)

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

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Facts in Support of Finding: The Ballpark and Ancillary Development Projects could displace approximately 100 homeless persons whom are currently using the area for unauthorized shelter at night as well as a place to spend daylight hours. (FSEIR page 5.12-4 and 5.12-15.) The loss of the Proposed Development site for such unauthorized activities could cause these people to seek unauthorized shelter in surrounding areas. (FSEIR page 5.12-15.) Intrusion of the homeless would have a significant impact on these areas. Mitigation Measure 5.12-3 would reduce the impact by establishment of an advisory committee to monitor and provide recommendations on how to respond to homeless impacts on the surrounding community. (FSEIR page 5.12-17 through 5.12-19.) In addition, Mitigation Measure 5.12-4 would reduce the impact because the services provided by the HOT Team would be expanded in areas affected by homeless which are displaced by the Ancillary Development Projects. The HOT Team's operations to date have been successful in reducing the number of chronically homeless in the downtown area, as reported to both CCDC's Board of Directors and the City Council. The HOT Team's approach is to contact homeless individuals and assist them in solving their issues that led to their homelessness. Each individual whose issues are resolved reduces by one the number of people living on the streets. The HOT Team provides short-term solutions and continued case management for homeless individuals. By continuing to offer services to homeless individuals in this way, a rapport is built, which provides a path out of homelessness. People who are homeless can avail themselves of services to solve their issues. There is no means to determine if implementation of the advisory committee's recommendations or HOT Team's actions would be effective. (FSEIR page 5.12-21.)

Mitigation Measures: Mitigation Measures 5.12-3 and 5.12-4 are discussed and set forth in full above and on pages 5.12-17 through 5.12-19 of the FSEIR, and are incorporated by reference as if fully set forth herein. These mitigation measures are feasible and are made binding through the Proposed Development's condition of approval and through the MMRP.

M. HAZARDOUS MATERIALS

SIGNIFICANT DIRECT IMPACT: Hazardous materials which could occur within the site of the Proposed Development pose potentially significant public health and safety risks during construction or long-term use of the Proposed Development if they occur in concentrations which exceed state and/or federal standards. During construction, workers may come in contact with hazardous or potentially hazardous materials during demolition of buildings or excavation activities. Such activities may expose workers to asbestos and lead paint or chemicals stored in or leaking from underground storage tanks ("USTs"). Excavation would disturb soils and could cause contaminants to become airborne. Excavation below the groundwater table or dewatering also could bring construction workers in contact with contaminants. Construction workers could encounter hazardous materials which were not identified during the Phase I Environmental Assessment, especially from contents of buried drums and underground storage tanks. Remedial measures which disturb contaminated buildings, soils or groundwater can expose construction workers to hazardous material as can trucks transporting materials offsite which could potentially impact residents, employees, and

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motor vehicle operators on the route traveled. Residual soil and groundwater contaminants could pose a health and safety risks to hotel guests. The Proposed Development may also involve the use or storage of materials which may be considered hazardous if not properly managed.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411(a), conditions, changes or alterations have been required in or incorporated into the Proposed Development which avoid or substantially reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Impacts from hazardous materials in unsafe concentrations would be mitigated to below a level of significance through implementation of Mitigation Measures 5.13-1 through 5.13-9, E-15 and E-24 through 30. These mitigation measures reduce the impact by requiring existing hazardous materials be delineated and removed, precautions for safe removal of hazardous materials, surveys and remediation for underground storage tanks, asbestos, and other hazards, and the incorporation of specific measures into project design to assure that hazardous materials associated with hotel operations are stored properly. The general approach to remediation is described in the Master Work Plan, as described in response to comment 10.54, Volume IV of the FSEIR. *See also* responses to comments 11.5, 11.10 and 18.A.104 through 18.A.139, Volume IV of the FSEIR, and as supplemented by Mitigation Measure E-15 and E-24 through 30.

Mitigation Measures: Mitigation Measure E-15 is discussed and set forth in full above and in the Errata, and is incorporated by reference as if fully set forth herein. This mitigation measure and the following mitigation measures set forth below are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP:

Mitigation Measure 5.13-1: Hazardous waste release sites within the Planning Area shall be delineated by the appropriate responsible party and remediated to the satisfaction of the designated lead agency. This may include the preparation of a report such as a Phase I assessment (MMRP 5.1-1).

In addition to Phase I site assessments, Phase II assessments will be performed to confirm and/or assess potentially significant releases and suspected environmental conditions. Further assessment will be performed where it is determined, in consultation with the County DEH, that it is necessary or appropriate.

Mitigation Measure 5.13-2: As required by appropriate governmental authorities, any contaminated or hazardous soil and/or water conditions on the site shall be removed and/or otherwise remedied by the developer if, and as, encountered during construction as provided by law and implementing rules and regulations. Such mitigation may include without limitation the following:

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- a. Remove (and dispose of) and/or treat any contaminated soil and/or water and/or building conditions on the Site as necessary to comply with applicable governmental standards and requirements.
- b. Design and construct all improvements on the Site in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor, particulate, or other form, and/or from the direct and indirect effects thereof.
- c. Prepare a site-safety plan, if required by any governmental entity, and submit it to such authorities for approval in connection with obtaining a building permit for the construction or improvements on the site. Such Site safety plan shall assure workers and other visitors to the Site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and particulates and/or the effect thereof.
- d. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water and/or building contamination, in connection with the development and construction on the Site.

The developer agrees that the Agency, and its consultants and agents, shall have the right (but not the obligation) to enter upon the site at any time to monitor the excavation and construction on the Site, to test the soils and/or water on the Site, and to take such other actions as may be reasonably necessary.

Some contaminated or hazardous soil and/or water conditions on the site may be addressed prior to construction, as in the manner described for Mitigation Measure 5.13-1. In addition, all significant identified releases of hazardous materials will be remedied to the satisfaction of the County DEH on a voluntary basis, pursuant to Health and Safety Code, Section 25264, whether or not such a remedy is legally required.

Special precautions will be taken during remediation of the SDG&E gas manufacturing site to minimize the escape of offensive odors, and the release of potentially hazardous vapors. Those precautions may include the use of temporary structures and ventilation systems to capture and treat vapors, and/or use of vapor-suppressing sprays or coatings during excavation.

Care will be taken to avoid the creation of nuisance conditions when contaminated soils are stockpiled. Precautions may include the use of coverings, water sprays, or other coatings to minimize dusts, monitoring of site conditions on a frequent basis, and provisions for the community to promptly alert the CCDC to the need for action to correct any potential nuisance condition. (MMRP 5.1-2.)

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Mitigation Measure 5.13-3: In conformance with applicable requirements, an assessment of the significance of underground storage tanks shall be conducted, (MMRP 5.1-3). First, on a site-specific basis, a review of underground tank information provided in the Hazardous Materials Contamination Technical Report shall be supplemented by a review of permits recorded at the City of San Diego Fire Department and other historic documents of the specific property to identify locations of underground hazardous materials storage structures. In addition, geophysical methods may be utilized to identify suspected locations of underground hazardous materials storage structures as oftentimes record searches will not indicate their presence.

Second, permits to close (or operate if a tank is to remain in use) shall be obtained by the tank owner or operator. Closure permits for hazardous materials storage structures shall be filed if a tank will no longer be used. Requirements of the closure permit include the pumping and purging of the structure to eliminate all residual hazardous substances, the collection of confirmatory soil samples, and the proper disposal of the storage tank and any associated piping and dispensing equipment. Permits to operate underground hazardous materials storage tanks shall be obtained for those that will remain in operation in the Planning Area. If the tanks do not meet operation and construction requirements such as leak detection monitoring, and corrosion and overflow protection, the existing tanks shall be closed and replaced. Lastly, remediation of environmental contamination due to underground storage tanks shall be conducted as required by the local oversight agency.

Mitigation Measure 5.13-4: In conformance with applicable requirements, a thorough asbestos survey of buildings to be demolished or renovated shall be undertaken on a case-by-case basis as specific development plans are submitted to the Agency, (MMRP 5.1-4). Existing buildings that are to be demolished or renovated shall be thoroughly inspected for the presence of asbestos-containing building materials (ACBM). The inspector must be qualified to identify building materials that may contain asbestos. Samples of suspect building materials must be collected, and submitted to an analytical laboratory that is certified by the State Department of Health Services for asbestos analysis. Results of the inspection shall reveal locations, types, and amounts of friable and non-friable ACBM.

Should the inspection reveal friable and/or non-friable ACBM, proper notification shall be made prior to demolition or renovation activities. Public health may be protected by performing proper abatement of the ACBM prior to building demolition or renovation, altering demolition or renovation techniques to prevent non-friable ACBM from becoming friable, and/or by complying with National Emission Standards for Hazardous Air Pollutants (NESHAPS) procedures for asbestos emission control, and standards for waste disposal. Only a California Licensed Contractor, certified in asbestos abatement, shall be used for any ACBM removal activities. The abatement program shall be monitored by an independent third party to insure that the work is performed properly and in compliance with all regulatory standards, to insure a safe and healthful environment prior to reoccupancy, and to document all of the abatement activities. Abatement activities shall comply with all federal and state occupational safety and health requirements. (MMRP 5.1-4.)

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Mitigation Measure 5.13-5: Specific measures for potential safety impacts shall be incorporated into the development design as part of the conditions of approval on an activity-specific basis. All activities shall comply with existing state and local health and safety regulations. (MMRP 5.1-5).

Mitigation Measure 5.13-6: Buildings constructed above any areas of hydrocarbon contamination may require active or passive vapor barriers to prevent migration of toxic and explosive vapors into building foundations. (MMRP 5.1-6).

Mitigation Measure 5.13-7: Special precautions, such as draining, collection, and/or capping, will be taken during the removal of underground petroleum product pipelines to prevent releases of hazardous substances from pipeline sections that are removed or left in place. Precautions, such as the use of safe cutting techniques, will be taken to prevent fires or explosions during pipeline removal. (MMRP 5.2-1.)

Mitigation Measure 5.13-8: To minimize worker exposure to lead paint residues, loose residues and painted debris will be removed and properly disposed before structures are demolished. (MMRP 5.2-2.)

Mitigation Measure 5.13-9: All remediation activities shall comply with the Master Workplan dated July 30, 1999. (MMRP 5.2-3.)

Mitigation Measure E-24: Remediation of hazardous substances performed or caused to be performed will not utilize on-site thermal desorption or any other form of on-site incineration.

Mitigation Measure E-25: The Site Safety Manager will have the authority to stop work, if necessary, as a result of any serious nuisance impacts that may be related to remediation of known (or discovery of unknown) contamination.

Mitigation Measure E-26: The Safety Manager will refer complaints to the appropriate oversight agency.

Mitigation Measure E-27: No contaminated soils will be shipped to treatment facilities operated by licensees with adverse compliance histories.

Mitigation Measure E-28: The City will prepare a flier (notice document) that will:

- Describe the possible impacts that might result from the remediation effort;
- Describe the safety plan for dealing with those impacts;
- Outline the schedule for proposed activities; and

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- Provide a hotline number and a contact person for any member of the public with questions or complaints.

The flier shall be distributed two weeks prior to the beginning of demolition by hand-delivery to all residences and businesses within the area bounded by Fourth Avenue, I-5, Commercial Street and Market Street. The flier shall also be distributed to the media and certain downtown resident groups and associations to be agreed upon by EHC and CCDC. The information will also be posted on the CCDC's web page. A community meeting shall be organized to describe and discuss the issues addressed in the flier prior to the onset of the remediation activities. The meeting time and place will be widely advertised.

Mitigation Measure E-29: A process for community complaints, including work cessation, additional monitoring and evaluation, and implementation of control equipment, as needed, shall be established. EHC will be given an opportunity to comment on the process for response to community complaints prior to the start of clean-ups. A log will be kept of all comments, questions or complaints received on the hotline or in the mail.

Mitigation Measure E-30: A monthly report will be prepared and distributed. The report will summarize comments or complaints which are received in a generic form indicating the basis of the complaint, the date the complaint was received, and an identification of the source of the complaint (a resident individual, an organization, or a government entity). This report will be mailed to the EHC, as well as to any other appropriate organization. Copies of the comments, questions and complaints log will be provided to EHC upon request.

V. SUMMARY OF CUMULATIVE IMPACTS

The Council/Agency, having independently reviewed and considered the information contained in the FSEIR, its appendices, and the record of proceedings finds, pursuant to CEQA, the State CEQA guidelines, and the Agency Local CEQA Guidelines, that conditions, changes or alterations have been required in or incorporated into the Proposed Development which avoid or substantially lessen the significant cumulative environmental effects, to the extent feasible, identified in the FSEIR. Cumulative impacts to land use/planning, cultural resources, aesthetics/visual quality, geology/soils, public services/facilities (partially), population/housing (housing), hazardous materials and paleontological resources were found not to be significant. Cumulative impacts to transportation, circulation, access and parking (partially) to Congestion Management Plan ("CMP") freeways and arterials within the primary traffic study area were found to be significant and not mitigated to below a level of significance unless the Freeway Deficiency Plan identifies feasible freeway improvements and measures to reduce the freeway impacts to below a level of significance and identifies funds available to accomplish such mitigation and those improvements are timely implemented. Cumulative impacts to transportation, circulation, access and parking (partially) to CMP freeways and arterials outside the primary traffic study area, noise, light/glare, air quality, hydrology/water quality, public

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services/facilities (landfill space) and population/housing (homeless displacement) would be significant and not mitigated to below a level of significance.

Implementation of the following recommended mitigation measures would occur via the imposition of the MMRP and other conditions of approval to be adopted for the Proposed Development.

VI. FINDINGS REGARDING CUMULATIVE IMPACTS

A. TRANSPORTATION, CIRCULATION, ACCESS, PARKING

SIGNIFICANT CUMULATIVE IMPACT: At buildout, the trips generated by the Ballpark and Ancillary Development Projects, including the Proposed Development, would increase the V/C ratio to 0.04 and therefore create a significant cumulative impact to the section of SR-94 (MLK Jr.) between 17th Street and 28th Street, which already would be operating at LOS F even without the Proposed Development.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which avoid or substantially reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if those improvements and/or measures are not timely implemented, however, the impact would remain significant. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency hereby finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological or other considerations make infeasible the alternatives to the Proposed Development, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: Mitigation Measure 5.2-1 ensures that certain road improvements in the downtown area are made as needed. Further, Mitigation Measures 5.2-5 and 5.7-2 encourage the use of mass transit and thereby reduce the number of vehicles attempted to access the impacted ramps. As discussed on pages 11-16 of these Findings, Mitigation Measures 5.2-2 and 5.2-4 may reduce the impact to the listed freeway on-ramps to below a level of significance, but only if the necessary improvements and/or measures identified in the

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Freeway Deficiency Plan are feasible, and are funded and implemented when needed, and only if Caltrans adjusts the applicable meter flow rates, as described above. (FSEIR page 5.2-101.)

Mitigation Measures: Mitigation Measures 5.2-1, 5.2-2, 5.2-4, 5.2-5 and 5.7-2 are discussed and set forth in full above, and are incorporated by reference as if fully set forth herein. Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans; Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB. Mitigation Measures 5.2-1, 5.2-2 and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

SIGNIFICANT CUMULATIVE IMPACT: The traffic generated by the Ballpark (without event) and Ancillary Development Projects, including the Proposed Development, would cause an additional one minute or more of delay on the following freeway on-ramps, which already would be experiencing delays of more than five minutes:

- E Street to southbound I-5 (weekday PM Peak Hour)
- G Street to eastbound SR-94 (MLK Jr.) (weekday PM Peak Hour)
- J Street to southbound I-5 (weekday AM/PM Peak Hours)
- Imperial Avenue to northbound I-5 (weekday AM/PM Peak Hours).

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if the improvements and/or measures identified are not timely implemented, however, or if Caltrans fails to make necessary adjustments to the applicable ramp meter rates, the impact would remain significant. As a result, pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency hereby finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological or other considerations make infeasible the alternatives to the Proposed Development, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2), and Local Agency Guidelines Section 411, the Council/Agency finds that other conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

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Facts in Support of Findings: There should be no backup of traffic or traffic diversion that would impact local streets and/or intersections unless the freeways and associated ramps are significantly congested. Traffic congestion would be mitigated through providing the necessary local improvements constructed on an as-needed basis pursuant to Mitigation Measure 5.2-1, as well as through the incentives to use mass transit provided by Mitigation Measure 5.7-2. In addition, as discussed above on pages 11-16 of these Findings, Mitigation Measures 5.2-2 and 5.2-4 would mitigate this impact from occurring by improving freeway capacity and adjusting meter flow rates on associated on-ramps, assuming the necessary improvements and/or measures identified in the Freeway Deficiency Plan are feasible, funded and implemented when needed, and that Caltrans adjusts the meter flow rates, as described above. (FSEIR page 5.2-101.)

Mitigation Measures: Mitigation Measures 5.2-1, 5.2-2, 5.2-4, 5.2-5, and 5.7-2 are discussed and set forth in full above, and are incorporated by reference as if fully set forth herein. Mitigation Measures 5.2-1, 5.2-2 and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP. Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans; Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB.

SIGNIFICANT CUMULATIVE IMPACT: Non-event traffic from the Ballpark and Ancillary Development Projects, including the Proposed Development, added to cumulative traffic in the area would result in p.m. peak hour traffic queues that exceed the available storage capacity of the I-5 southbound off-ramp to Imperial Avenue due to increased traffic on Imperial Avenue. The increased traffic on Imperial Avenue would decrease the number of available gaps available to allow southbound 17th Street traffic to enter the intersection. This would cause traffic exiting the I-5 southbound ramp to experience long delays while waiting for gaps in traffic on Imperial Avenue to appear, and these long delays would result in queuing that extends back to the I-5 mainline lanes.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Implementation of Mitigation Measure 5.2-6 would reduce significant cumulative impacts on the I-5 southbound freeway off-ramp to Imperial Avenue to below a level of significance. Mitigation Measure 5.2-6 would assure that specific roadway improvements to Imperial Avenue needed to handle traffic generated by the Ballpark and Ancillary Development Projects are made, which would eliminate the delays to traffic exiting the I-5 southbound off-ramp at that location.

Mitigation Measure: Mitigation Measure 5.2-6 is discussed and set forth in full above and on page 5.2-97 of the FSEIR and is incorporated by reference as if fully set forth herein. This mitigation

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measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP.

SIGNIFICANT CUMULATIVE IMPACT: Under cumulative buildout conditions, the addition of non-event Ballpark and Ancillary Development Projects, including the Proposed Development, would cause the segment of Harbor Drive from First Avenue to Fifth Avenue to degrade from LOS E to LOS F, and would cause an increase in V/C ratio of more than 0.02 on Harbor Drive between Fifth Avenue to Eighth Avenue (Park Boulevard), which already is operating at LOS F.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance.

Facts in Support of Finding: Intersection improvements included as part of the proposed Park Boulevard and Harbor Drive intersection, along with the improvements completed as part of Mitigation Measure 5.2-3, would reduce cumulative traffic impacts on Harbor Drive between First and Eighth Avenue (Park Boulevard) to below a level of significance.

Mitigation Measure: Mitigation Measure 5.2-3 is discussed and set forth in full above is incorporated by reference as if fully set forth herein. This mitigation measure is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP.

SIGNIFICANT CUMULATIVE IMPACT: The addition of traffic from the Ballpark (non-event) and Ancillary Development Projects, including the Proposed Development, to cumulative traffic in the buildout condition would cause the intersection of 17th Street at Imperial Avenue to degrade to an unacceptable LOS F in the PM Peak Hour. Also, it would cause additional delay at two intersections already operating at LOS F; namely, the intersections of A Street and 10th Avenue and Harbor Boulevard and 8th Avenue (Park Boulevard).

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if the improvements and/or measures identified are not timely implemented, however, or if Caltrans fails to make necessary adjustments to the applicable ramp meter rates, the impact would remain significant. As a result, pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency hereby finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological or other considerations make

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infeasible the alternatives to the Proposed Development, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2), and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: Mitigation Measures 5.2-1 and 5.2-3 would help reduce the impact to the downtown intersections by assuring that identified improvements to downtown roads are provided as needed. Encouraging the use of mass transit through implementation of Mitigation Measures 5.2-5 and 5.7-2 also would mitigate this impact by shifting traffic off of the freeways and onto the trolley, bus, train or a carpool. In addition, as discussed above on pages 11-16 of these Findings, Mitigation Measures 5.2-2 and 5.2-4 would help mitigate this impact by improving freeway capacity and adjusting meter flow rates on associated on-ramps, assuming the necessary improvements and/or measures identified in the Freeway Deficiency Plan are feasible, funded and implemented when needed, and that Caltrans adjusts the meter flow rates, as described above. (FSEIR page 5.2-101.)

Mitigation Measures: Mitigation Measures 5.2-1 through 5.2-5, and 5.7-2 are discussed and set forth in full above, and are incorporated by reference as if fully set forth herein. There should be no backup of traffic or traffic diversion that would impact local streets and/or intersections unless the freeways and associated ramps are significantly congested. Traffic congestion would be mitigated through providing the necessary local improvements constructed on an as-needed basis pursuant to Mitigation Measure 5.2-1, as well as through the incentives to use mass transit provided by Mitigation Measure 5.7-2. Mitigation Measures 5.2-1 through 5.2-3 and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP. Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans; Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB.

SIGNIFICANT CUMULATIVE IMPACT: There could be a cumulative traffic impact on local streets from traffic from the non-event Ballpark and Ancillary Development Projects, including the Proposed Development, when combined with cumulative traffic in the area if freeway and on-ramp congestion result in drivers diverting from the freeways onto adjacent neighborhood streets. The actual magnitude of such trip diversion through neighborhoods in response to freeway and ramp congestion is indeterminable using available analytical capabilities, and is speculative given the numerous uncertainties involved.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which would

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reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if the improvements and/or measures are not timely implemented, or if Caltrans fails to make necessary adjustments to the applicable ramp meter rates, however, the impact would remain significant. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make infeasible the alternatives to the Proposed Development, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that other conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: It is infeasible to accurately measure the location and/or magnitude of traffic diversion in response to congested freeway conditions. To the extent general estimates are possible, and based on a review of SANDAG travel forecasts, the FSEIR concludes that there would not be a significant level of traffic diversion in response to congested freeway conditions, but acknowledges that the difficulties in attempting to accurately estimate whether or not such diversion would occur. Diverting from one route to another typically is based on the motorist's perception of time savings allowed by an alternative route. SANDAG's state-of-the-art model assumes that motorists will act in a manner which minimizes travel time and cost; however, in reality all motorists do not have the same knowledge of alternative routes and associated travel time savings and often may perceive travel time savings differently. As a result, a motorist's responses to congested conditions vary and cannot be accurately estimated.

Mitigation Measures 5.2-1 and 5.2-3 provide for enumerated improvements to be made to downtown roadways, including restriping as well as construction of new lanes. In addition, Mitigation Measures 5.2-5 and 5.7-2 encourage the use of mass transit and hence help lessen congestion on freeways as well as neighborhood streets. Those, in addition to the timely implementation of the improvements and/or measures detailed in Mitigation Measure 5.2-2 and the ramp meter flow rate adjustments called for in Mitigation Measure 5.2-4, as discussed on pages 11-16 of these Findings, would provide capacity on freeways and associated ramps that should remove any incentive for motorists to divert along alternative routes such as neighborhood streets assuming the necessary improvements and/or measures identified in the Freeway Deficiency Plan are feasible, funded, and timely implemented, and that Caltrans adjusts the meter flow rates.

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Mitigation Measures: The text of Mitigation Measures 5.2-1, 5.2-2, 5.2-3, 5.2-4, 5.2-5 and 5.7-2 are discussed and set forth in full above, and are incorporated by reference as if fully set forth herein. Mitigation Measures 5.2-1, 5.2-2, 5.2-3, and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP. Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans; Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB.

SIGNIFICANT CUMULATIVE IMPACT: The FSEIR conducted a secondary analysis of CMP impacts on Harbor Drive and determined that non-event traffic generated by the Ballpark (non-event) and Ancillary Development Projects, including the Proposed Development, would result in a cumulatively significant impact on Harbor Drive between Crosby Street and Sampson Street.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological, or other considerations make infeasible the alternatives to the Proposed Development, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: It is infeasible for the Freeway Deficiency Plan to mitigate impacts to the CMP roadways outside the primary traffic study area or for the Proposed Activities to mitigate for freeway impacts outside the primary traffic study area. (FSEIR page 5.2-101.) However, because of the decision to prepare a Freeway Deficiency Plan as mitigation for the Proposed Activities, Caltrans and SANDAG have undertaken an even broader analysis of freeway segments, in a Central I-5 Corridor Study, which would look at the area from SR-54 to Sea World Drive and would extend from the Pacific Ocean to I-15. See Caltrans Letter. Nonetheless, impacts on CMP segments outside of the primary traffic study area would be significant and not mitigated. (FSEIR page 5.2-101.) In addition, impacts to Harbor Drive between Crosby Street and Sampson Street would be unmitigated because there is not sufficient right-of-way available to accomplish the widening that would be required. To acquire the right-of-way would have severe and substantial adverse consequences given the existing development that would be affected by the widening. Spot widening would not be consistent with the roadway character.

SIGNIFICANT CUMULATIVE IMPACT: The FSEIR conducted a secondary analysis of CMP impacts on freeway segments outside of the primary traffic study area and determined that non-event Ballpark and Ancillary Development Projects, including the Proposed

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Development, when added to cumulative traffic in the area, would have a significant impact on the following CMP freeway segments:

- SR-94 (MLK Jr.) between I-15 and College Avenue, and
- I-15 between I-805 and SR-94 (MLK Jr.).

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which avoid or substantially reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if those improvements and/or measures are not timely implemented, however, the impact would remain significant. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency hereby finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance and that specific economic, legal, social, technological or other considerations make infeasible the alternatives to the Proposed Development, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Findings: Mitigation Measures 5.2-1 and 5.2-3 ensure that certain road improvements in the downtown area are made as needed. Further, Mitigation Measures 5.2-5 and 5.7-2 encourage the use of mass transit and thereby reduce the number of vehicles attempted to access the impacted ramps. As discussed on pages 11-16 of these Findings, Mitigation Measures 5.2-2 and 5.2-4 may reduce the impact to the listed freeway on-ramps to below a level of significance; but only if the necessary improvements and/or measures identified in the Freeway Deficiency Plan are feasible, and are funded and implemented when needed, and only if Caltrans adjusts the applicable meter flow rates, as described above. (FSEIR page 5.2-101.)

Mitigation Measures: Mitigation Measures 5.2-1 through 5.2-5, and 5.7-2 are discussed and set forth in full above, and are incorporated by reference as if fully set forth herein. Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans; Mitigation Measure 5.2-5 is feasible and should be implemented by MTDB. Mitigation Measures 5.2-1 through 5.2-3 and 5.7-2 are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

B. NOISE

SIGNIFICANT CUMULATIVE IMPACT: Traffic generated by the Proposed Development in combination with the Ballpark Project and Ancillary Developments would combine with cumulative growth to increase long-term traffic noise levels on major surface streets to the point where traffic noise would exceed the 3 dB threshold with the nocturnal penalty assigned to noise after 10:00 p.m.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: Application of Mitigation Measures 5.5-1 and 5.5-2 and 5.7-2 would reduce cumulative traffic noise impacts, but not to below a level of significance. Encouraging the use of mass transit would decrease the number of vehicles on the roadways and hence reduce noise impacts from vehicular traffic. In addition, future noise-sensitive development would be required to include adequate traffic noise attenuation in accordance with existing City plans and ordinances. However, retrofitting existing noise-sensitive receptors along impacted roadways may not be required by City plans or ordinances. Thus, long-term cumulative traffic noise impacts on existing noise-sensitive development would likely be significant and not mitigated.

Mitigation Measures: Mitigation Measures 5.5-1, 5.5-2, and 5.7-2 are discussed and set forth in full above and on pages 5.5-16 and 5.5-17 and 5.7-11 of the FSEIR, and are incorporated by reference as if fully set forth herein. The mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

C. LIGHT/GLARE

SIGNIFICANT CUMULATIVE IMPACT: The lighting from the Proposed Development could combine with other lighting sources within the region including that from the Ballpark and Ancillary Development Projects. The combined effect of lighting from development in the region could have significant cumulative impacts on astronomical activities at the Palomar and Mt. Laguna observatories.

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Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: Mitigation Measure 5.6-1 would provide mitigation for potential spill lighting impacts associated with the Proposed Development by requiring lighting sources to be directed downwards or otherwise shielded to confine the light within the development boundary. Application of Mitigation Measure 5.6-1 would reduce but not fully mitigate light and glare impacts on astronomical activities as control of lighting associated with lighting from cumulative development is beyond the control of the Proposed Development.

Mitigation Measures: Mitigation Measure 5.6-1 set forth below and on page 5.6-8 of the FSEIR is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP.

Mitigation Measure 5.6-1: Specific measures shall be incorporated into the design as part of the conditions of approval. A lighting plan shall be required for all new activities that propose night lighting as part of their development. All lighting sources shall be directed downwards or otherwise shielded so as to keep all light and glare confined within the development boundary unless the City (i.e., Agency) determines that additional lighting would have benefits to the general public in terms of added security. (MMRP 8.1-1).

D. AIR QUALITY

SIGNIFICANT CUMULATIVE IMPACT: Air emissions generated by new activities, including the Proposed Development, would contribute to poor air quality conditions which currently exist in the San Diego Air Basin. Due to the public risks associated with air pollution, the incremental increase in air emissions resulting from the Proposed Development would be cumulatively considerable and, therefore, significant on both a short- and long-term basis. In addition to representing a major air emissions source, the Ballpark and Ancillary Development Projects, of which the Proposed Development is a part, would have a significant cumulative air quality impact by hampering the ability of the Regional Air Quality Strategies ("RAQS") to achieve air quality goals. The intensity of development within the area of the Proposed Development would be greater than the existing plans for the area upon which the RAQS were based.

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Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: Mitigation Measures 5.7-1 through 5.7-5 and E-1 through E-6 would reduce cumulative impacts; however, air emission impacts associated with the Proposed Activities would remain significant and unmitigated. Although the proximity of the Ballpark and Ancillary Development Projects to mass transit would serve to reduce air emissions related to the proposed development, full mitigation of cumulative air quality impacts would require implementation of a variety of controls set forth in the RAQS. Implementation of these measures is beyond the control of the Proposed Activities.

Mitigation Measures: Mitigation Measure 5.7-1 through 5.7-5 and E-1 through E-6 are discussed and set forth in full above, and are incorporated by reference as if fully set forth herein. These mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

SIGNIFICANT CUMULATIVE IMPACT: Increased traffic associated with the Proposed Development in combination with the Ballpark Project and Ancillary Developments and other future downtown development would contribute to existing afternoon congestion at freeway on-ramps. Longer delays could result in potentially significant carbon monoxide (CO) hotspots in the areas surrounding the freeway off-ramps.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in, or incorporated into, the Proposed Development which would reduce the significant environmental effect identified in the FSEIR to below a level of significance. If the Freeway Deficiency Plan fails to identify feasible improvements and/or measures or the funding to implement the necessary improvements and/or measures, or if the improvements and/or measures are not timely implemented, or if Caltrans fails to make necessary adjustments to the applicable ramp meter rates, however, the impact would remain significant. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make

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alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations. In addition, pursuant to CEQA Section 21081(a)(2), State CEQA Guidelines Section 15091(a)(2) and Local Agency Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations that would avoid or substantially reduce the significant environmental effect as identified in the FSEIR are within the responsibility and jurisdiction of another public agency and not the Council/Agency. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Facts in Support of Finding: As discussed above on pages 11-16 of these Findings, the Freeway Deficiency Plan being prepared pursuant to Mitigation Measure 5.2-2 is to identify freeway improvements and/or measures which, if feasible, funded and implemented, along with adjustment of ramp meter flow rates as described in Mitigation Measure 5.2-4 could reduce congestion at local freeway on-ramps, thus reducing or eliminating potential CO hotspots. Because there is no guarantee that all freeway improvements and/or measures or ramp meter flow rate adjustments could be timely implemented, however, potential local CO hotspot impacts are considered significant and not mitigated.

Mitigation Measures: Mitigation Measures 5.2-2 and 5.2-4 are discussed and set forth fully above and are incorporated herein by reference as though fully set forth. Preparation of the Freeway Deficiency Plan called for in Mitigation Measure 5.2-2 is feasible and is made binding through the Proposed Development's conditions of approval and through the MMRP. In addition, Mitigation Measure 5.2-4 is feasible and should be implemented by Caltrans.

E. HYDROLOGY/WATER QUALITY

SIGNIFICANT CUMULATIVE IMPACT: San Diego Bay already experiences significant water quality problems caused by urban development within its watershed. Although the Proposed Development, as well as the Ballpark and Ancillary Development Projects, would include measures to reduce the urban runoff generated from these activities, these activities would still represent a major source of urban pollutants which in combination with future short- and long-term development within the watershed of the Bay would create significant, unmitigated short- and long-term cumulative water quality impacts.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations may not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these

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Findings. As described the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: As discussed above, implementation of Mitigation Measures 5.10-3 through 5.10-5, 5.10-7, 5.10-9, 5.10-11 and E-14 through E-22 would reduce direct water quality impacts associated with the Proposed Development to below a level of significance. These mitigation measures, including incorporation of Passive Infiltration or Retention Systems, regular sweeping and cleaning with approved cleaners detailed in the IPM, diversion of water flow from washdown of the ballpark seating bowl and implementation of the Pollution Prevention Plan also would help mitigate cumulative water quality impacts, but would not mitigate them to below a level of significance. Since the existing urban runoff has had such a negative impact on the water quality in San Diego Bay, the addition of any runoff into the Bay would result in an incremental impact to the water quality. It is out of the scope of the Proposed Development to control runoff from the surrounding neighborhoods and businesses. Therefore, short- and long-term cumulative water quality impacts would be significant and unmitigated. See also responses to comments 18.A140 through 18.A.165.

Mitigation Measures: Mitigation Measures 5.10-3 through 5.10-5, 5.10-7, 5.10-9, 5.10-11 and E-14 through E-22 are discussed and set forth in full above and on pages 5.10-10 through 5.10-12 of the FSEIR and in the Errata, and are incorporated by reference as if fully set forth herein. These mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

F. PUBLIC SERVICES/FACILITIES

SIGNIFICANT CUMULATIVE IMPACT: The amount of trash generated by the Proposed Development in conjunction with Ballpark and Ancillary Development Projects represents a significant amount. In light of the overall shortage of landfill space in the region, the addition of significant sources of solid waste would have significant long-term cumulative impacts. The capacity of the Miramar Landfill is expected to be reached in the year 2015 and no specific replacement facility has been identified as yet.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: The recycling requirements required by Mitigation Measure 5.11-3, along with the waste management plan required by Mitigation Measure 5.11-4, would reduce impacts of the Proposed Development on landfill capacity. Under the City's 52 tons-per-year significance threshold, however, the impacts would not be reduced to a level below significance. While a reduction in the amount of solid waste may extend the life of a landfill, the only way to reduce the cumulative solid waste impacts to below a level of significance would be to expand existing landfills or create a new landfill. As the provision of new landfills, or expansion of existing landfills, is beyond the control of the Ballpark and Ancillary Development Projects, the long-term cumulative impact on solid waste is considered significant and not mitigated.

Mitigation Measures: Mitigation Measures 5.11-3 and 5.11-4 are discussed and set forth in full above and on page 5.11-10 of the FSEIR, and are incorporated by reference as if fully set forth herein. These mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

G. POPULATION/HOUSING

SIGNIFICANT CUMULATIVE IMPACT: The Proposed Development would combine with redevelopment of the rest of the Centre City Redevelopment Project Area to displace the homeless population by taking away unauthorized shelter and loitering opportunities. Some activities of displaced homeless could significantly impact the physical environment in the areas surrounding the Proposed Development.

Finding: Pursuant to CEQA Section 21081(a)(1), State CEQA Guidelines Section 15091(a)(1) and Agency Local Guidelines Section 411, the Council/Agency finds that conditions, changes or alterations have been required in or incorporated into the Proposed Development. These conditions, changes or alterations would not, however, reduce this impact to below a level of significance. Pursuant to CEQA Section 21081(a)(3), State CEQA Guidelines Section 15091(a)(3) and Agency Local Guidelines Section 411, the Council/Agency finds that there are no other feasible mitigation measures that would mitigate the impact to below a level of significance, and that specific economic, social, technological or other considerations make alternatives to the Proposed Development infeasible, as discussed in Section VII of these Findings. As described in the Statement of Overriding Considerations, the Council/Agency has determined that this impact is acceptable because of specific overriding considerations.

Facts in Support of Finding: As discussed above on pages 7-10 and 44 of these Findings, impacts of displaced homeless on surrounding areas would be reduced but not to below a level of significance by the advisory group established by Mitigation Measure 5.12-3 and by expansion of the HOT Team Program through Mitigation Measure 5.12-4.

Mitigation Measures: Mitigation Measures 5.12-3 and 5.12-4 are discussed and set forth in full above and on pages 5.12-17 through 5.12-19 of the FSEIR, and are incorporated by reference as if fully set forth herein. These mitigation measures are feasible and are made binding through the Proposed Development's conditions of approval and through the MMRP.

VII. FINDINGS REGARDING ALTERNATIVES

Because the Proposed Development will cause unavoidable significant environmental effects, the Council/Agency must consider the feasibility of any alternatives to the Proposed Development, evaluating whether these alternatives could avoid or substantially lessen the unavoidable significant environmental effects while achieving most of the objectives of the Proposed Development.

The Proposed Development would have potentially significant impacts in the following areas:

- Land Use/Planning (Direct)
- Transportation, Circulation, Access, Parking (Direct and Cumulative)
- Cultural Resources (Direct)
- Aesthetics/Visual Quality (Direct)
- Noise (Direct and Cumulative)
- Light/Glare (Direct and Cumulative)
- Air Quality (Direct and Cumulative)
- Geology/Soils (Direct)
- Paleontological Resources (Direct)
- Hydrology/Water Quality (Direct and Cumulative)
- Public Services/Facilities (Direct and Cumulative)
- Population/Housing (Direct and Cumulative)
- Hazardous Materials (Direct)

The primary objectives of the Proposed Development are as follows:

- Develop a major, high quality hotel near the Gaslamp Quarter and the San Diego Convention Center to serve these and other visitor-serving uses (including the proposed ballpark);
- Comply with the Memorandum of Understanding (MOU) and help meet the ancillary development commitments contained in the MOU if the proposed ballpark is constructed. The MOU requires that 850 hotel rooms be developed as part of the ancillary development. The Proposed Development would provide over 50% of this commitment;

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- Develop a hotel that will take advantage of the proximity to the proposed ballpark by creating a seamless transition from the hotel to the ballpark in order to best utilize the ballpark's common spaces, skyboxes and concourse areas as break-out rooms and meeting spaces for meeting attendees staying at the hotel, and which creates an atmosphere conducive for holding pre-baseball game events at the hotel; and
- Redevelop an underutilized property.

The No Project: No Development and No Project: Development According to Current Centre City Redevelopment Plan, Community Plan and Planned District Ordinance alternatives are discussed below. A reduced density alternative involving fewer hotel rooms is not analyzed in the FSEIR or discussed below because it would not achieve one of the primary objectives of the Proposed Development, which is to comply with the MOU and achieve development of a certain number of hotel rooms in the Centre City East area. Moreover, a reduction in the number of hotel rooms would not eliminate or substantially reduce any of the significant impacts identified in the FSEIR, particularly since most, if not all, are the result of not just the Proposed Development, but also the Ballpark Project and/or the other Ancillary Developments. Finally, a reduction in the number of hotel rooms in the Proposed Development would require additional land within the Centre City East area to be dedicated to hotel uses, which would further reduce the already limited amount of land available for residential development. In rejecting the alternatives, the Council/Agency have examined the finally approved Proposed Development objectives and weighed the ability of the various alternatives to meet those objectives. The decisionmakers believe that the Proposed Development best meets these objectives with the least environmental impact.

No Project: No Development Alternative

Description: Under this alternative, the Proposed Development would not be built and no text changes would be made to the Centre City Redevelopment Plan, Community Plan and PDO to allow the hotel on the proposed site. This alternative maintains the status quo, with no further development in the area of the Proposed Development and the area's current land uses of warehouses, produce operations, residential lofts, art galleries, offices, and commercial buildings and current street grid pattern.

Finding: Specific economic, legal, social, technological, or other considerations make infeasible the No Project: No Development alternative, as more fully described in the Statement of Overriding Considerations.

Facts in Support of Finding: Because this alternative would leave the area in its present state, it would avoid all of the significant and unavoidable direct impacts associated with the Proposed Activities. Most of the significant congestion on the freeway system still would occur at buildout due to growth in other parts of downtown, and the J Street southbound on-ramp and Imperial Avenue northbound on-ramp to I-5 still would operate at an unacceptable LOS at buildout. Because this alternative proposes "no development," it would not result in any other potentially

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significant environmental impacts distinct from those identified for the Proposed Development. Because all other impacts of the Proposed Development would be avoided or lessened, however, this is the environmentally superior alternative.

While elimination of the proposed hotel would avoid the significant direct and cumulative impacts identified in these Findings, this alternative is infeasible because it fails to achieve any of the objectives of the Proposed Development. It would adversely affect the redevelopment of an underutilized portion of East Village and would not provide additional hotel rooms to benefit the Convention Center and the tourist industry, in general. In addition, it would not help to meet the ancillary development commitment of providing 850 hotel rooms contained in the MOU if the proposed ballpark is constructed.

No Project: Development According to Current Centre City Redevelopment Plan, Community Plan and Planned District Ordinance Alternative

Description: This alternative evaluates the potential impacts of redevelopment in accordance with the current Centre City Planned District Ordinance, Community Plan, Redevelopment Plan and related planning policy documents. It would retain the original land use plans for the area, which would allow hotel or residential development on this site. As hotels are an allowed use of the proposed site under the original land use plans for the area, even without the Proposed Development, another hotel could be constructed on the subject property.

Finding: Specific economic, legal, social, technological, or other considerations make infeasible the No Project: Development According to Current Centre City Redevelopment Plan, Community Plan and Planned District Ordinance alternative, as more fully described in the Statement of Overriding Considerations.

Facts in Support of Finding: This alternative would eliminate significant view impacts caused by the pedestrian bridges that would connect the Proposed Development to the ballpark. However, if another hotel were developed on the site, the other direct or cumulative impacts associated with the Proposed Development would not be avoided or substantially reduced because any hotel development would have similar direct and cumulative impacts. A different hotel project could accomplish some of the objectives of the Proposed Development. However, without the pedestrian bridges that would connect the hotel to the ballpark, the objective of taking advantage of the proximity of the ballpark to create a seamless transition from the hotel to the ballpark in order to best utilize the ballpark's common spaces, skyboxes and concourse areas as break-out rooms and meeting spaces for meeting attendees staying at the hotel, and creating an atmosphere conducive for holding pre-baseball game events at the hotel would not be achieved. These pre-game special events, like the seminars and meetings that would use spaces at the ballpark as well as the hotel for their attendees, acquire the requisite atmosphere in part by the ability of attendees to make a seamless transition from the hotel to the ballpark. The atmosphere upon which such an event or meeting would rely would be impossible to achieve if attendees were required to exit the hotel, walk through downtown streets for two blocks to access the nearest ballpark entrance, then make their way through the crowds to the designated portion of

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the ballpark. A bridge connection is essential to the ambience, cross-marketing and synergy planned between the two uses.

Residential development under this alternative would reduce traffic and air quality impacts, though not to a level below significance. Residential development would have the same geologic, paleontological and potential water quality impacts as the Proposed Development and would pose similar impacts related to prehistoric cultural resources and hazardous materials. If a ballpark is developed, residential development would have the same sensitivity to ballpark noise and light as the proposed hotel. In fact, the impacts could be greater as guests in the hotel rooms would not experience the prolonged exposure permanent residents would experience. Also, residential development generally is considered to require more police and fire protection services than commercial development. In the long-term, displacement of the homeless population also would occur with this alternative. Moreover, residential uses under this alternative would fail to achieve any of the objectives of the Proposed Development. It would not provide additional hotel rooms to benefit the Convention Center and the tourist industry, in general, or help meet the ancillary development commitment of providing 850 hotel rooms contained in the MOU if the proposed ballpark is constructed. Nor would it provide a hotel that takes advantage of the proximity to the proposed ballpark by creating a seamless transition from the hotel to the ballpark in order to best utilize the ballpark's common spaces, skyboxes and concourse areas as break-out rooms and meeting spaces for meeting attendees staying at the hotel, and which creates an atmosphere conducive for holding pre-baseball game events at the hotel.

VIII. FINDINGS REGARDING GROWTH INDUCING IMPACTS

CEQA Guidelines Section 15126.2(d) requires that an EIR:

“Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.”

The Proposed Development, as a part of the implementation activities of the overall Redevelopment Project, would contribute to the growth inducement generated by the overall Redevelopment Project. One of the primary goals of the Proposed Development is to induce growth in East Village, consistent with the objectives of the Centre City Redevelopment Plan, which, along with other redevelopment activities in the area, is intended to bring about redevelopment and revitalization of the downtown area. Growth in the Centre City Redevelopment Project Area is a positive impact because it generates tax revenues which can be used to further enhance the Redevelopment Project Area by allowing upgrades in infrastructure, development of affordable housing and other benefits. Growth in the downtown area would potentially benefit the region by promoting infill development and maximizing the use of existing infrastructure, including the opportunities for mass transit. The influence of the Proposed Development on growth outside of the downtown area would not be significant. There will not be enough employment opportunities to result in a significant influx of new residents

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into the region to fill the jobs. The Proposed Development would not bring about any regional improvements to infrastructure which would remove an impediment to growth.

IX. FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA Guidelines Section 15126.2(c) indicates that “uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely.” The State CEQA Guidelines also indicate that that “irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.” As referenced in the Final SEIR, the Proposed Development would not have any significant irreversible impacts on biological, agricultural or mineral resources. The property is developed and has no agricultural soils, nor is its downtown location conducive to agriculture. Further, no significant mineral deposits underlie the subject property. No water bodies occur on the property, although cumulative impacts from runoff pollutants would represent a cumulatively significant irreversible impact to San Diego Bay. Energy resources would be used while the Proposed Development is being constructed; however, the amount of energy consumed would not be any high. Similarly, energy consumed to provide lighting, heating and cooling to the Proposed Development would not be substantial. Construction would require commitment of other nonrenewable resources associated with construction and long-term operation. Use of such resources would represent an incremental effect on the regional consumption of these commodities. Impacts to important paleontological resources would be irreversible even though a salvage operation would mitigate the impact to below a level of significance.

X. FINDINGS REGARDING OTHER CEQA CONSIDERATIONS

- The Council/Agency are the “Lead Agency” for the Proposed Activities evaluated in the FSEIR. The Council/Agency finds that the Draft SEIR and the FSEIR were prepared in compliance with CEQA and the CEQA Guidelines. The Council/Agency finds that it has independently reviewed and analyzed the Draft SEIR and FSEIR for the Proposed Activities, that the Draft SEIR which was circulated for public review reflected its independent judgment, and that the FSEIR reflects the independent judgment of the Council/Agency.
- The Notice of Preparation of the Draft SEIR was issued on December 1, 1998. It requested that responsible agencies respond as to the scope and content of the environmental information germane to that agency’s specific responsibilities.
- The public review period for the Draft SEIR began on May 12, 1999 and the Draft SEIR and appendices were available for public review on that date. A Notice of Availability of Draft SEIR was filed with the County Recorder/County Clerk on May 12, 1999. The 45-day public review and comment period ended on June 25, 1999.

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- The Draft SEIR and appendices were available for public review at that time. On September 13, 1999 CCDC distributed the FSEIR and provided proposed written responses to the responsible agencies. A variety of workshops and public and community hearings were held during September and October and, on October 5, October 22 and October 26, 1999, public hearings were held before the Council/Agency to consider approval of the Proposed Activities and certification of the FSEIR.
- The Council/Agency finds that the FSEIR provides objective information to assist the decision-makers and the public at large in their consideration of the environmental consequences of the Proposed Activities. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft SEIR. The FSEIR was prepared after the review period and responds to comments made during the public review period.
- The Council/Agency evaluated comments on environmental issues received from persons who reviewed the Draft SEIR. In accordance with CEQA, the Council/Agency prepared written responses describing the disposition of significant environmental issues raised. The FSEIR provides adequate, good faith and reasoned responses to the comments. The Council/Agency reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Draft SEIR. The lead agency has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the FSEIR.
- The FSEIR evaluated the following direct and cumulative impacts: Land Use; Transportation, Circulation, Access and Parking; Cultural Resources; Aesthetics/Visual Quality; Noise, Light/Glare; Air Quality; Geology/Soils; Paleontological Resources; Hydrology/Water Quality; Public Services/Facilities; Population/Housing; and Hazardous Materials. Additionally, the FSEIR considered, in separate sections, Significant Irreversible Environmental Changes and Growth Inducing Impacts of the Project. All of the significant environmental impacts of the Proposed Activities were identified in the FSEIR.
- The mitigation measures other than those measures which can and should be the responsibility of another agency other than the Council/Agency are described in the MMRP and the Errata (which will be incorporated into the FSEIR). Each of these mitigation measures identified in the MMRP and Errata is incorporated into the Proposed Activities. The Council/Agency finds that the impacts of the Proposed Activities have been mitigated to the extent feasible by the Mitigation Measures identified in the MMRP and Errata.
- Textual refinements and errata were compiled and presented to the decision-makers for review and consideration in the Errata. The Council/Agency staff has made every effort to notify the decision-makers and the interested public/agencies of each textual change in the

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various documents associated with the review of the Proposed Activities. These textual refinements arose for a variety of reasons. First, it is inevitable that draft documents will contain errors and will require clarifications and corrections. Second, textual clarifications were necessitated in order to describe refinements suggested as part of the public participation process.

- Additionally, the responses to the comments on the Draft SEIR, which are contained in the FSEIR, clarify and amplify the analysis in the Draft SEIR.
- Having reviewed the information contained in the Draft SEIR and FSEIR and in the administrative record as well as the requirements of CEQA, the State CEQA Guidelines and the Local Agency Guidelines regarding recirculation of Draft EIRs, and having analyzed the changes in the Draft SEIR which have occurred since the close of the public review period, the Council/Agency finds that there is no new significant information in the FSEIR and finds that recirculation of the Draft SEIR is not required.
- The Council/Agency finds that the FSEIR was presented to the City Planning Commission, and that the City Planning Commission reviewed and considered the information contained in the FSEIR prior to taking action to recommend approval of the Proposed Activities and certification of the FSEIR.
- CEQA requires the lead agency approving a project to adopt a MMRP for the changes to the project which it has adopted or made a condition of project approval in order to ensure compliance with project implementation. The MMRP included in the FSEIR as certified by the Council/Agency serves that function. The mitigation monitoring and reporting program includes all of the mitigation measures identified in the FSEIR and has been designed to ensure compliance during implementation of the Proposed Activities. In accordance with CEQA, the mitigation monitoring and reporting program provides the measures to ensure that the mitigation measures are fully enforceable.
- The Council/Agency is certifying a FSEIR for, and is approving and adopting findings for, the entirety of the actions described in these Findings. There may be a variety of actions undertaken by other State and local agencies (who might be referred to as “responsible agencies” under CEQA). Because the Council/Agency is the lead agency for the Proposed Activities, the FSEIR is intended to be the basis for compliance with CEQA for each of the possible discretionary actions by other State and local agencies to carry out the Ballpark and Ancillary Development Projects.

XI. STATEMENT OF OVERRIDING CONSIDERATIONS

The California Environmental Quality Act (CEQA) and the State CEQA Guidelines provide:

“(a) CEQA requires the decisions-making agency to balance, as applicable, the economic, legal, social technological, or other benefits of a proposed project against its

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unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

"(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record."

"(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091."

The Council/Agency pursuant to State CEQA Guidelines Section 15093, has balanced the benefits of the proposed Second Hotel Development against the following unavoidable impacts for which no feasible mitigation measures exist to reduce the impact to below a level of insignificance:

- Land Use/Planning (reduced opportunities for residential development and homeless displacement);
- Traffic (Freeway congestion, increased ramp duration, and impacts to neighborhood streets, if Ballpark Project and Ancillary Developments are developed);
- Aesthetics/Visual Quality (Disruption of views of the San Diego-Coronado Bridge by proposed pedestrian bridges);
- Noise (Disruption of sleep from fireworks if Ballpark Project is developed and along specific major roadways if Ballpark Project and Ancillary Developments are developed);
- Light/Glare (Disruption of astronomical observatory activities in combination with outdoor lighting from other developments in the region);
- Air Quality (Decrease in regional air quality from mobile source emissions in combination with other developments in the San Diego Air Basin);
- Air Quality (Potential CO hotspots at downtown freeway ramps from mobile source emissions in combination with other downtown developments);
- Hydrology/Water Quality (Decrease in water quality in San Diego Bay in combination with urban runoff from other developments in the watershed);

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- Public Services/Facilities (Impacts to landfill space and access);
- Population/Housing (Displacement of homeless in combination with other developments downtown).

The Council/Agency has adopted all feasible mitigation measures with respect to these impacts. The Council/Agency also has examined a range of alternatives, none of which both meet the development objectives and is environmentally preferable to the Proposed Development.

The Council/Agency, after balancing the specific economic, legal, social, technological, and other benefits of the Proposed Development, determines that the unavoidable adverse environmental effects may be considered “acceptable” due to the following specific considerations, each of which individually is sufficient to outweigh the unavoidable, adverse environmental impacts of the Proposed Development.

A. ADDITIONAL HOTEL ROOMS

Increasing the number and type of hotel accommodations available to serve the San Diego Convention Center as well as the tourist industry, in general, is vital to the continued success of these activities. The Proposed Development would provide 500 high quality, new hotel rooms in the downtown area. The proposed hotel would be particularly well-suited to serve the needs of the San Diego Convention Center and the Gaslamp Quarter as it would be located within easy walking distance.

B. ADDITIONAL HOUSING

The Proposed Development would provide additional housing opportunities by developing 37 new condominium, residential units. This housing will help meet the increasing demand for housing which is occurring downtown as well as throughout San Diego. It would also help to reduce the loss of potential housing which would occur with the Ballpark Project and Ancillary Developments, should they be implemented.

C. INCREASED EMPLOYMENT OPPORTUNITIES

The proposed hotel would generate 350 new jobs.

D. INCREASED TAX REVENUES

The Proposed Development would increase the tax revenues available to help promote further redevelopment of the Centre City Redevelopment Project Area. These tax revenues would be derived from tax-increment revenues generated by higher property values and transient occupancy tax revenues generated by hotel guests.

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The Proposed Development would generate approximately \$2,300,000 in transient occupancy tax revenues and approximately \$1,200,000 in tax-increment revenues to the City of San Diego in fiscal year 2003. The total value of these tax revenues is expected to increase annually thereafter.

E. ECONOMIC BENEFIT TO GASLAMP QUARTER

Due to its proximity, hotel guests as well as the approximately 80 residents would frequent the restaurant and retail businesses located in the Gaslamp Quarter. This increased business will translate into increased revenues for Gaslamp Quarter businesses.

F. BALLPARK FINANCING

If the proposed ballpark is constructed, the Proposed Development would help meet the ancillary development commitments contained in the Memorandum of Understanding (MOU) which establishes the fundamental aspects of the development and financing of the ballpark. More specifically, the MOU requires that 850 hotel rooms be developed as part of the ancillary development. The Proposed Development would provide over 50% of this commitment.

G. PARK MAINTENANCE

The Proposed Development would assume responsibility for the design, installation and maintenance of the Linear Park adjacent to the subject property.

H. REDEVELOPMENT STIMULATION

The Proposed Development would convert underutilized property to a high quality use which would be compatible with the surrounding area. The development will stimulate development of surrounding underutilized parcels as well.

I. INCREASED PROPERTY VALUES

The Proposed Development would enhance property values in a section of the City that has been underutilized for years, attracting new investment and increasing demand for a wide variety of uses including retail, restaurant, entertainment and small businesses.

J. LOW- AND MODERATE-INCOME HOUSING

As 20% of the tax-increment revenues are required by California Community Redevelopment Law to be allocated toward low- and moderate-income housing, the Proposed Development would provide approximately \$240,000 annually to increase the supply of low- and moderate-income housing within the Centre City Redevelopment Project Area.