

**THE CITY OF NEWARK'S FINDINGS FOR THE
NEWARK AREAS 3 & 4 SPECIFIC PLAN PROJECT
ENVIRONMENTAL IMPACT REPORT
REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, Section 21000 et seq.)**

I. Introduction

The City of Newark ("City") prepared a Draft and a Final Environmental Impact Report for the Newark Areas 3 & 4 Specific Plan Project (collectively, "EIR"), which involves the development of up to 1,260 housing units of various densities, an up to 600-student elementary school, a golf course, open space areas, and the retention of existing light industrial and institutional (Ohlone College, City fire station, park and community activity center) uses (the "Project") in Newark, California.

The EIR addresses the potential environmental effects associated with the Project. The Findings, recommendations, and a statement of overriding considerations set forth below ("Findings") are adopted by the City of Newark City Council ("City Council") as the City's findings under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of this City Council regarding the Project's environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations, which, in this City Council's view, justify approval of the Project, despite its environmental effects.

II. General Findings

A. Procedural Background

Pursuant to CEQA and the CEQA Guidelines, the City determined that an EIR would be required for the Project. On May 8, 2007, the City issued a Notice of Preparation for the EIR which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of this Notice is included in Appendix J of the Newark Areas 3 & 4 Specific Plan Project Draft Environmental Impact Report ("Draft EIR").

The Draft EIR was published for public review and comment on December 3, 2009 and was filed with the State Office of Planning & Research under State Clearinghouse No. 2007052065. The Draft EIR was made available for review and comment by interested persons and public agencies through January 19, 2010.

The City prepared written responses to the comments received during the comment period and included these responses in the Final Environmental Impact Report ("Final EIR"), which was made available for public review on [REDACTED], 2010.

B. Record of Proceedings and Custodian of Record

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

1. The EIR and all documents referenced in or relied upon by the EIR.
2. All information (including written evidence and testimony) provided by City staff to the City Council relating to the EIR, the approvals, and the Project.
3. All information (including written evidence and testimony) presented to the City Council by the environmental consultant and subconsultants who prepared the EIR or incorporated into reports presented to the City Council.
4. All information (including written evidence and testimony) presented to the City from other public agencies related to the Project or the EIR.
5. All applications, letters, testimony and presentations relating to the Project.
6. All information (including written evidence and testimony) presented at any City hearing or City workshop related to the Project and the EIR.
7. All City-adopted or City-prepared land use plans, ordinances, including without limitation general plans, specific plans, and ordinances, together with environmental review documents, findings, mitigation monitoring programs, and other documents relevant to planned growth within the area, including the General Plan EIR.
8. The Mitigation Monitoring and Reporting Program for the Project.
9. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is [Name], or his designee. Such documents and other material are located at [Address].

C. Consideration and Certification of the EIR

In accordance with CEQA, the City Council certifies that the EIR has been completed in compliance with CEQA. The City Council has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By these findings, the City Council confirms, ratifies, and adopts the findings and conclusions of the EIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the City Council. The City Council recognizes the EIR may contain clerical errors. The City Council reviewed the entirety of the EIR and bases its determination on the substance of the information it contains. The City Council certifies that the EIR is adequate to support the approval of the action that is the subject of the staff report to which these CEQA findings are attached. The City Council certifies that the EIR is adequate to support approval of

the Project described in the EIR, each component and phase of the Project described in the EIR, any variant of the Project described in the EIR, any minor modifications to the Project or variants of the Project described in the EIR and the components of the Project.

D. Absence of Significant New Information

The City Council recognizes the Final EIR incorporates information obtained and produced after the Draft EIR was completed, and that the EIR contains additions, clarifications, and modifications. The City Council has reviewed and considered the Final EIR and all of this information. The Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. Thus, recirculation of the EIR is not required. The City Council finds that the changes and modifications made to the EIR after the Draft EIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

E. Severability

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

III. Findings and Recommendations Regarding Significant and Unavoidable Impacts

A. Air Quality

1. Regional Air Quality

- a. Potential Impact.** The potential impacts of the Project related to the operational air pollutant emissions associated with the buildout of the proposed Specific Plan are discussed in the Draft EIR at pages 87 through 88.

Findings. Based on the EIR and the entire record before the City, the City finds that:

- (i) Effects of Impact.** Operational air pollutant emissions associated with buildout of the proposed Specific Plan will generate ozone precursors (ROG, NO_x and PM₁₀) that exceed both the current and proposed BAAQMD

significance thresholds resulting in a significant impact to regional air quality.

- (ii) As noted in the Draft EIR on page 84, although the above mitigation measures will reduce PM₁₀ emissions to less than significant levels, ROG and NO_x emissions, and operational ROG and NO_x emissions remain significant and unavoidable.
- (iii) **Overriding Considerations.** As more fully stated in the Statement of Overriding Considerations, the City has found that the environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project to Regional Air Quality.

2. Construction Emissions.

- a. **Potential Impact.** The potential impacts of the Project related to the daily emissions for NO_x and ROG resulting for the importing of fill material during construction are discussed in the Draft EIR at pages 91 through 93.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 93, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM AIR-3.1:** Implementation of MM AIR-1.1, which is expected to reduce PM₁₀ emissions from buildout to less than significant levels, but will not be able to reduce ROG or NO_x emissions below the significance threshold.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Impact.** ROG emissions from construction activity would be above the BAAQMD significance thresholds during three years of the eight year Specific Plan buildout. NO_x emissions would also be significant for seven years of this same eight-year period.
 - (ii) **Effects of Mitigation.** There are not any mitigation measures available to bring the effects of construction emissions to a less than significant level because neither the City nor the project proponent can control emissions from independent trucks used to haul material. However, the use of fill from nearby construction projects, such as the planned Warm Springs BART extension may reduce

emissions because it would provide a more convenient location for transporting fill and would reduce those planned truck trips.

- (iii) **Remaining Impacts.** As noted in the Draft EIR on page 93, there are no effective mitigation measures available to reduce emissions to less than significant levels. Therefore, ROG and NO_x emissions would remain significant and unavoidable.
- (iv) **Overriding Considerations.** As more fully stated in the Statement of Overriding Considerations, the City has found that the environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project resulting from emissions associated with the hauling of fill during construction activities.

B. Cultural Resources

1. Archaeological Resources

- a. **Potential Impact.** The potential impacts of the Project related to archaeological resources are discussed in the Draft EIR at pages 171 through 175.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 173 through 175, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM CUL-2.1:** Limited hand excavation by professional archaeologist to verify presence of midden soils.
 - (ii) **MM CUL-2.2:** Design plans to avoid impacting known cultural resources, have plans reviewed and approved by professional archaeologist.
 - (iii) **MM CUL-2.3:** Grading and/or construction activities shall, to the extent feasible, avoid areas identified as potentially containing archeological resources. Where avoidance is not possible, the materials shall be preserved in place; alternatively, hand excavation to retrieve the significant archeological data and/or material and human remains will be conducted to protect them from damage. Additional data retrieval may also be required.

(iv) **MM CUL-2.4:** Monitoring by professional archaeological monitor with authority to stop work if any unknown historic or prehistoric resources are discovered during grading, trenching or other on-site excavation. Adherence to Section 7050.5 (b) of the Health and Safety Code shall be required if Native American human remains or funerary objects are discovered.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

(i) **Effects of Impact.** The planned development envelope will effect all of the cultural resources in the specific plan area in some manner. Development of the Specific Plan will impact unique archaeological resources and disturb human remains through the compression and excavation of soils.

(ii) **Effects of Mitigation.** Based upon the current known extent of unique cultural materials on the site, it is unlikely that total avoidance of impacts is possible with implementation of the proposed Specific Plan. While incorporation of the above measures will partially reduce the cultural resources impact, the overall implementation of the Specific Plan will likely destroy archaeological deposits through placement of fill and soil compression and, therefore, result in a significant unavoidable impact.

(iii) **Remaining Impacts.** As noted in the Draft EIR on page 93, there are no effective mitigation measures available to reduce the impacts to archaeological resources to a less than significant level. Therefore, impacts to archaeological deposits through placement of fill and soil compression will remain significant and unavoidable.

(iv) **Overriding Considerations.** As more fully stated in the Statement of Overriding Considerations, the City has found that the environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project to archaeological resources.

C. Aesthetic and Visual Resources

1. Degradation of Existing Visual Character and Scenic Resources.

a. **Potential Impact.** The potential impacts related to degradation of existing visual character and scenic resources are discussed in the Draft EIR at pages 239 through 241.

- b. **Mitigation Measures.** There are no feasible mitigation measures to reduce this impact as discussed in the Draft EIR at page 241.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** There are no feasible mitigation measures that would mitigate for the significant change in visual character, which would result from the development of Area 4.
 - (ii) **Remaining Impacts.** Impacts to visual character and scenic resources would remain significant and unavoidable.

D. Cumulative Impacts

1. Cumulative Impacts to Air Quality.

- a. **Potential Impact.** The potential impacts of the Project related to regional air quality are discussed in the Draft EIR at page 281.
- b. **Mitigation Measures.** There are no feasible mitigation measures to reduce this impact as discussed in the Draft EIR at page 241.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** There are no feasible mitigation measures that would mitigate the combined contributions of the proposed project, and other cumulative projects' contributions to the exceedance of the BAAQMD thresholds for air pollutant emissions.
 - (ii) **Remaining Impacts.** Cumulative impacts to air quality would remain significant and unavoidable.
 - (iii) **Overriding Considerations.** As more fully stated in the Statement of Overriding Considerations, the City has found that the environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project resulting from the project's cumulative contributions to degradation in regional air quality.

2. Cumulative Global Climate Change

- a. **Potential Impact.** The potential impacts of the Project related to global climate change are discussed in the Draft EIR at pages 293 through 297.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at page 297, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM C-GCC-4.1:** Incorporation of as many green practices in the construction of residential subdivisions and commercial buildings as feasibly appropriate.
 - (ii) **MM C-GCC-4.2:** Follow the City of Newark’s Bay Friendly Landscape Guide for all landscaping and also encourage future homeowners associations to incorporate these practices where feasible.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Impact.** The Specific Plan would result in a net increase in greenhouse gas emissions, which would make a cumulatively significant contribution to global climate change impacts.
 - (ii) **Effects of Mitigation.** While incorporation of the above measures will partially reduce the global climate change impact, the overall implementation of the Specific Plan will make a cumulatively considerable contribution to global climate changes impacts.
 - (iii) **Remaining Impacts.** As noted in the Draft EIR on page 297, the implementation of the Specific Plan will result in a significant unavoidable impact by making a cumulatively considerable contribution to climate change. Therefore, cumulative impacts to global climate change will remain significant and unavoidable.
 - (iv) **Overriding Considerations.** As more fully stated in the Statement of Overriding Considerations, the City has found that the environmental, economic, social and other benefits of the Project override any remaining significant adverse cumulative impacts of the Project to global climate change.

3. Cumulative Noise Impacts

- a. **Potential Impact.** The potential impacts of the Project related to cumulative traffic noise are discussed in the Draft EIR at pages 303 through 305.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at pages 304 through 305, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM C-NOI-5:** Incorporation of a combination of mitigation measures that would help reduce impacts from project-generated cumulative traffic noise, including, but not limited to: new or larger noise barriers, sound insulation treatments, and consideration of alternative noise reduction techniques.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Impact.** The Specific Plan would result in an increase in cumulative traffic noise levels by three dBA Ldn as a result of cumulative plus project conditions along Stevenson Boulevard. This would result in a significant cumulative impact at receivers north of Stevenson Boulevard between Cherry Street and Cedar Boulevard.
 - (ii) **Effects of Mitigation.** Because the proposed mitigation measures involve other non-acoustical considerations, it may not be reasonable or feasible to reduce project-generated cumulative traffic noise at all affected receivers. If the City determines that the mitigation is feasible, then with implementation of the mitigation measures, the impact would be less than significant. However, if the City determines that the mitigation is not feasible, the impact would be considered significant and unavoidable. Due to the uncertainty regarding the feasibility of this mitigation, the impact would be considered significant and unavoidable.
 - (iii) **Remaining Impacts.** As noted in the Draft EIR on page 304, the implementation of the Specific Plan will result in a significant unavoidable cumulative impact to traffic noise levels. Therefore, cumulative impacts to noise will remain significant and unavoidable.
 - (iv) **Overriding Considerations.** As more fully stated in the Statement of Overriding Considerations, the City has

found that the environmental, economic, social and other benefits of the Project override any remaining significant adverse cumulative impacts of the Project to traffic noise levels.

4. Cumulative Visual Resources Impacts

- a. **Potential Impact.** The potential impacts of the Project related to cumulative visual resources impacts are discussed in the Draft EIR at page 307.
- b. **Mitigation Measures.** There are no feasible mitigation measures to reduce this impact as discussed in the Draft EIR at page 307.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** There are no feasible mitigation measures that would mitigate the proposed project's cumulative contribution to visual impacts.
 - (ii) **Remaining Impacts.** Cumulative impacts to visual resources would remain significant and unavoidable.
 - (iii) **Overriding Considerations.** As more fully stated in the Statement of Overriding Considerations, the City has found that the environmental, economic, social and other benefits of the Project override any remaining significant adverse cumulative impacts of the Project to visual resources.

IV. Findings and Recommendations Regarding Significant Impacts Which are Avoided or Mitigated to a Less Than Significant Level

A. Air Quality

1. Transportation Control Measures (TCM)

- a. **Potential Impact.** The potential impacts of the Project related to the incorporation of appropriate TCMs as outlined in the 2005 Bay Area Ozone Strategy are discussed in the Draft EIR at pages 84 through 85.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at pages 84 through 85, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

(i) **MM AIR-1.1:** Incorporation of the following Specific Plan measures designed to reduce transportation-related emissions-

- Improve existing or construct new bus pullouts and transit stops.
- Inclusion of bicycle amenities, e.g., bike lane connections throughout the project site.
- Explore and implement transit or shuttle service to Area 4.
- Provide sidewalks or paths throughout project site.
- Consider providing pedestrian signs and signals including convenient pedestrian crossing with count-down signals.
- Review landscape plans to provide shaded buildings and walkways during summer.
- Develop and implement energy efficient building practices that exceed State building code.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

(i) **Effects of Impact.** The project cannot individually implement the seven TCMs that require local action. There are additional TCMs features that should be included for a project of this size. As a result, the project would conflict with the 2005 Bay Area Ozone Strategy.

(ii) **Effects of Mitigation.** Implementation of mitigation measure AIR-1.1 is intended to reduce motor vehicle travel by encouraging use of other modes of transportation and therefore reduce transportation-related emissions. Construction of new or enhanced bus pullouts and transit stops will ensure that normal traffic flow on arterial roadways is not impeded when buses are pulled over to serve riders. Inclusion of bicycle amenities, as well as transit or shuttle service to Area 4 would encourage the use of alternate modes of transportation. Pedestrian friendly enhancements and amenities will enhance pedestrian use of the site, as well as access to transit or shuttle service. Proper shading of buildings and walkways in summer will

help reduce cooling loads on buildings and energy usage can be minimized by implementing energy efficient building practices. Together these measures will reduce transportation-related emissions and reduce the conflict with the 2005 Bay Area Ozone Strategy.

- (iii) **Remaining Impacts.** Any remaining impacts related to project consistency with the 2005 Bay Area Ozone Strategy and appropriate TCMs will be less than significant.

2. Sensitive Receptors

- a. **Potential Impact.** The potential impacts resulting from construction of the project and the effect on sensitive receptors are discussed in the Draft EIR at pages 93 through 95.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 94 through 95, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM AIR-4.1:** Implementation of measures designed to reduce air quality impacts associated with grading and new construction, e.g., watering of all active construction areas twice daily and limit traffic speeds on unpaved roads.
 - (ii) **MM AIR-4.2:** Implementation of measures to reduce diesel particulate matter and PM_{2.5} from construction activities, e.g., prohibit equipment with dirty emissions and reduce equipment and vehicle idle times.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures AIR-4.1 and AIR 4.2 will reduce air quality impacts associated with grading and new construction, as well as reducing diesel particulate matter and PM_{2.5} from construction to ensure that short-term health impacts to nearby sensitive receptors are avoided.
 - (ii) **Remaining Impacts.** Any remaining impacts related to sensitive receptors will be less than significant.

B. Transportation

1. Impacts to Intersection Levels of Service

- a. **Potential Impact.** The potential impacts related to traffic generated by the project are discussed in the Draft EIR at pages 57 through 58.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at 57 through 58, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM TRAN-1.1:** Construction of an additional left turn lane to the westbound Mowry Avenue approach.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the measures recommended by TRAN-1.1 would allow the intersection to operate at LOS C during the AM peak hour. This improvement would reduce this impact to a less than significant level.
 - (ii) **Remaining Impacts.** Any remaining impacts related to intersection levels of service will be less than significant.

2. Cumulative Transportation Impacts

- a. **Potential Impact.** The potential impacts related to cumulative transportation impacts are discussed in the Draft EIR at pages 278 through 280.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at page 278 through 279, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM C-TRAN-1:** Addition of a left turn lane on the northbound approach on Cherry Street.
 - (ii) **MM C-TRAN-2:** Addition of a left turn lane on the westbound approach of Cherry Street and Mowry Avenue.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures C-TRAN-1 and C-

TRAN-2 will ensure that the effects of cumulative transportation impacts are mitigated to a less than significant level.

- (ii) **Remaining Impacts.** Any remaining cumulative transportation impacts will be less than significant.

C. Noise

1. Interior Noise Environment

- a. **Potential Impact.** The potential impacts of the Project related to interior noise levels are discussed in the Draft EIR at pages 106 through 108.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 106 through 108, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM NOI-1.1:** Construction of noise barriers. In addition, a project-specific acoustical analyses shall be completed at the same time as the detailed development plans are being prepared.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure NOI-1.1 will ensure that the increase in interior noise levels are mitigated to a less than significant level.
 - (ii) **Remaining Impacts.** Any remaining impacts related to the affect of construction noise on interior noise levels will be less than significant.

2. Construction Noise

- a. **Potential Impact.** The potential impacts of the Project related to construction noise are discussed in the Draft EIR at pages 109 through 110.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 109 through 110, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

(i) **MM NOI-2.1:** Implement Best Management Practice for Construction Noise.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

(i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure NOI-2.1 will ensure that the noise impacts related to the Project's construction noise impacts are mitigated to a less than significant level.

(ii) **Remaining Impacts.** Any remaining impacts related to construction noise will be less than significant.

D. Biological Resources

1. Impacts to Wetland Habitats.

a. **Potential Impact.** The potential impacts related to wetland habitats are discussed in the Draft EIR at pages 134 through 136.

b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 135 through 136 and also in the Final EIR at pages 253 through 254, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

(i) **MM BIO-1.1:** Locate all temporary staging areas and construction access roads, if necessary, away from seasonal wetland and aquatic habitat abutting development areas. Clearly mark and fence these areas. Design grading plans to avoid permanent impacts to wetland and aquatic habitat.

(ii) **EITHER MM BIO-1.2A:** Utilize a combination of on-site wetland creation and enhancement, and/or acquisition of existing wetlands located off site.

(iii) **OR MM BIO-1.2B:** Alternatively, at the discretion of the project developer(s), and as approved by the City of Newark, all or a portion of the mitigation requirements for impacts to seasonal wetland habitats, may be satisfied through the acquisition and permanent preservation of existing wetlands at a ratio 1.5:1 (existing habitat: habitat impacted) at an approved wetland mitigation bank (i.e. off site) or other private lands.

(iv) **MM BIO-1.3:** Annual monitoring of the mitigation sites by a qualified biologist.

- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-1.1, BIO-1.2A or BIO-1.2B, and BIO-1.3 will ensure that the effects to wetland/marsh/aquatic habitats are mitigated to a less than significant level by avoiding permanent impacts to wetland and aquatic habitat, creating or enhancing wetland habitat, and/or preserving wetlands offsite.
 - (ii) **Remaining Impacts.** Any remaining impacts to wetland/marsh/aquatic habitats will be less than significant.

2. **Alteration of Site Hydrology on Avoided Wetlands**

- a. **Potential Impact.** The potential impacts related to hydrologic alterations within Area 4 and the related affect on wetland and marsh habitats are discussed in the Draft EIR at pages 136 through 139.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 136 through 139, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-2.1:** Design discharge of stormwater runoff to prevent erosion and channelization. Simulation of natural flow through a more dispersed discharge of collected runoff shall be designed for movement of water from hardscape within developed features into wetlands surrounded by or adjacent to development such that the existing hydrologic condition is not substantially changed.
 - (ii) **MM BIO-2.2:** All grading and culvert sizing and installation shall be designed to ensure adequate drainage without draining wetlands more quickly than currently occurs and to allow water to pond for durations similar to the current existing condition.
 - (iii) **MM BIO-2.3:** Planting of native grass species to prevent any significant decrease in the amount of water entering preserved wetland habitats in Area 4 during the winter months.
 - (iv) **MM BIO-2.4:** Various measures to minimize any perennial ponding within the existing seasonal wetlands, including

minimization and control of nuisance runoff and planting of drought tolerant plants.

- (v) **MM BIO-2.5:** Retention within the development footprint of any remaining dry-season nuisance flows.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-2.1, BIO-2.2, BIO-2.3, BIO-2.4, and BIO-2.5, will reduce impacts to seasonal wetland species and associated special status species due to altering the hydrology on the project site. These measures will reduce these impacts to a less than significant level.
- (ii) **Remaining Impacts.** Any remaining impacts related to alteration of site hydrology and associated species impacts will be less than significant.

3. **Impacts on Salt Marsh Habitat and Associated Species**

a. **Potential Impact.** The potential impacts related to freshwater inputs on salt marsh habitat and associated species are discussed in the Draft EIR at pages 139 through 140.

b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 140, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

- (i) **MM BIO-3.1:** Implementation of MM BIO-2.1 through 2.5.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure BIO-3.1, will reduce the Specific Plan's impacts associated with the discharge of freshwater runoff into salt marsh habitats to a less than significant level.
- (ii) **Remaining Impacts.** Any remaining impacts related to discharge of freshwater runoff into salt marsh habitats will be less than significant.

4. Impacts to Burrowing Owls

- a. **Potential Impact.** The potential impacts related to burrowing owls are discussed in the Draft EIR at pages 142 through 143.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 143 through 145, and in the Final EIR at pages 254 through 255, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-4.1:** Pre-construction surveys for burrowing owls shall be completed in areas planned for fill placement and construction areas in general conformance with the California Burrowing Owl Consortium's protocols.
 - (ii) **MM BIO-4.2:** Maintain a 150-ft buffer zone for burrowing owls located during the non-breeding season if practicable. If not practicable, then a buffer adequate to avoid injury or mortality of owls will be maintained, or the birds will be evicted as described for MM BIO-4.3 below. During the breeding season, a 250-ft buffer zone, within which no new activity will be permissible, will be maintained between project activities and occupied burrows.
 - (iii) **MM BIO-4.3:** Eviction of owls may occur outside the nesting season to prevent injury or mortality of individual owls if construction will directly impact occupied burrows.
 - (iv) **MM BIO-4.4:** Preserve and manage habitat for burrowing owls on and/or off-site if and when development occurs in Area 4.
 - (v) **EITHER MM BIO-4.5A:** If on-site habitat is to be preserved, a detailed mitigation and monitoring plan and adaptive management program shall be prepared by a qualified biologist and submitted to the City and the CDFG for review and approval. The mitigation area will be protected in perpetuity through a conservation easement, deed restriction, conveyance to a qualified land trust or the Refuge, or through equivalent means.
 - (vi) **OR MM BIO-4.5B:** If the project proponent elects to mitigate off-site, such mitigation may take the form of habitat preservation and management or the purchase of credits in an off-site mitigation bank. Furthermore, unless at least 13 acres of burrowing owl habitat mitigation occurs

on-site, some on-site enhancements shall also be made to reduce impacts of the project on the local (South Bay) burrowing owl population.

- (vii) **MM BIO-4.6:** Signage shall be placed throughout the golf course or recreation area to prohibit golfers/visitors from entering areas where the artificial burrow complexes will be located (See MM BIO-9.2 below). If development occurs on Area 4, signage will also be placed along the ACFC&WCD Line D levees and the Mowry Slough levee to instruct recreational users of these levees against leaving the levee tops.
- (viii) **MM BIO-4.7:** Development and implementation of a predator management program.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-4.1, BIO-4.2, and BIO-4.3 will ensure against the possibility of take of individual owls within Area 3. Within Area 4 implementation of mitigation measures BIO-4.1, BIO-4.2, BIO-4.3, BIO-4.4, BIO-4.5A or BIO-4.5B, and BIO-4.6 will ensure against the possibility of take of individual owls.
- (ii) **Remaining Impacts.** Any remaining impacts related to burrowing owls will be less than significant.

5. Impacts to Nesting Peregrine Falcons

- a. **Potential Impact.** The potential impacts related to nesting Peregrine falcons are discussed in the Draft EIR at page 146.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 146 through 148, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-5.1:** Construction shall occur during the non-breeding season to the maximum extent possible.
 - (ii) **MM BIO-5.2:** Any construction that must occur during the breeding seasons shall be preceded by pre-construction surveys for nesting peregrine falcons and shall be reviewed

and approved by the City prior to the start of grading and construction.

- (iii) **MM BIO-5.3:** If an active nest is found within 300 feet of any construction activity, a 300-foot buffer, within which no new development-related activity will be permissible, will be maintained between development activities and the occupied nest until the young falcons have fledged or the nest is no longer active.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-5.1, BIO-5.2, and BIO-5.3 will reduce the potential for loss of eggs or young Peregrine falcons.
- (ii) **Remaining Impacts.** Any remaining impacts related to nesting Peregrine falcons will be less than significant.

6. Impacts to Tricolored Blackbird Colonies

a. **Potential Impact.** The potential impacts related to tricolored blackbirds are discussed in the Draft EIR at page 148.

b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 148 through 149, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

- (i) **MM BIO-6.1:** Construction shall occur during the non-breeding season to the maximum extent possible.
- (ii) **MM BIO-6.2:** Any construction that must occur during the breeding seasons shall be preceded by pre-construction surveys for nesting tricolored blackbirds conducted by a qualified ornithologist.
- (iii) **MM BIO-6.3:** If an active colony is found within 400 feet of any construction activity, a 400-foot buffer, within which no new development-related activity will be permissible, will be maintained between development activities and the occupied nest until the young have fledged or the colony is no longer active.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-6.1, BIO-6.2, and BIO-6.3 will reduce the potential for impacts to tricolored blackbird colonies.
- (ii) **Remaining Impacts.** Any remaining impacts related to tricolored blackbird colonies will be less than significant.

7. Impacts to Roosting Bats

- a. **Potential Impact.** The potential impacts related to roosting bats are discussed in the Draft EIR at page 149.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 149 through 150, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-7.1:** A survey for roosting bats shall be completed prior to the removal of any building or tree with potential for day-roosting by bats, or prior to the initiation of any construction activities within 250 ft of such potential roost sites, by a qualified bat biologist. The survey results shall be reviewed and approved by the City prior to the start any construction related activities.
 - (ii) **MM BIO-7.2:** A second pre-demolition/pre-construction survey for roosting bats, following the methods described in MM BIO-7.1, shall be completed within 15 days prior to the commencement of these activities in a given area.
 - (iii) **MM BIO-7.3:** If a maternity roost of any bat species is found, the bat biologist shall determine the extent of a construction-free buffer around the active roost that will be maintained until the young are flying.
 - (iv) **MM BIO-7.4:** If a roost of any kind is found in an area (e.g., a building or tree) that will not be disturbed by construction, or that can be avoided, the roost structure will not be impacted.
 - (v) **MM BIO-7.5:** If a day roost is found in a building, or in a tree that is to be completely removed or replaced, individual bats will be safely evicted under the direction of a qualified bat biologist.

(vi) **MM BIO-7.6:** If a day roost for pallid bats or Yuma myotis will be impacted, an alternative bat roost structure will be provided.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

(i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-7.1, BIO-7.2, BIO-7.3, BIO-7.4, BIO-7.5, and BIO-7.6 will reduce the potential for impacts to roosting bats.

(ii) **Remaining Impacts.** Any remaining impacts related to roosting bats will be less than significant.

8. Impacts to Salt Marsh Harvest Mouse and Wandering Shrew.

a. **Potential Impact.** The potential impacts related to salt marsh harvest mouse and wandering shrew are discussed in the Draft EIR at page 151.

b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 152 through 153, and in the Final EIR at page 255, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

(i) **MM BIO-8.1:** Prior to the issuance of building permits, all temporary staging areas and construction access roads shall be located away from suitable habitat for these species and limits of all wetlands that are to be avoided will be clearly demarcated by a qualified biologist with Environmentally Sensitive Area fencing.

(ii) **MM BIO-8.2:** Prior to issuance of grading permits and under the supervision of a qualified biological monitor, all salt marsh harvest mouse/wandering shrew habitat within the construction area shall be removed by hand. After at least 24 hours have elapsed since the removal of this pickleweed-dominated vegetation from harvest mouse/wandering shrew habitat areas, a barrier to exclude salt marsh harvest mice and salt marsh wandering shrews from impact areas will be installed at the perimeter of all project construction areas that are located within 50 feet of potential salt marsh harvest mouse and salt marsh wandering shrew habitat.

- (iii) **MM BIO-8.3:** Any individuals already in the impact areas shall be salvaged and translocated to the exterior of the construction exclusion area. A qualified mammalogist should be on-site during removal of pickleweed-dominated vegetation, construction of the barrier fence, and initial clearing and grubbing within 10 feet of the barrier fence to look for individual salt marsh harvest mice and salt marsh wandering shrews that may be within the Specific Plan area. Any individuals detected would be captured and translocated to a safe location within the closest suitable, pickleweed-dominated habitat.

If these species are present at all it would be in small numbers, and thus we are not proposing to require trapping and relocation.

- (iv) **MM BIO-8.4:** Permanent loss of salt marsh harvest mouse and salt marsh wandering shrew habitat due to fill, shading, or isolation will be mitigated at a 3:1 ratio by the creation or restoration of pickleweed-dominated salt marsh on Area 4. Habitat for these species that is indirectly impacted will be mitigated at a 2:1 ratio by on-site habitat restoration.

A habitat mitigation and monitoring plan will be prepared that outlines the necessary steps for restoration. All created mitigation habitats will be protected in perpetuity and will be placed into a land trust or under a conservation easement, or fee title will be transferred to the Refuge or a third-party non-profit entity that has been approved by the City and appropriate permitting agencies.

c. Findings. Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-8.1, BIO-8.2, 8.3, and BIO-8.4 will reduce the potential for impacts to salt marsh harvest mice and wandering shrews.
- (ii) **Remaining Impacts.** Any remaining impacts related to salt marsh harvest mice and wandering shrews will be less than significant.

9. Impacts to Sensitive Habitats and Species from Recreational Disturbance

- a. **Potential Impact.** The potential impacts related to sensitive habitats and species resulting from recreational disturbance are discussed in the Draft EIR at page 153 through 154.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at page 154, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-9.1:** The golf course shall be designed to minimize disturbance to adjacent sensitive habitats and species by golfers.
 - (ii) **MM BIO-9.2:** On the golf course, areas that are “out of bounds” shall be clearly marked as such, explaining the importance of preserving the ecological integrity of the adjacent natural areas. Signs will be erected along the ACFC&WCD levees and along Mowry Slough describing the ecological value of adjacent wetland areas and instructing users to stay on the ACFC&WCD levee tops, stay out of sensitive habitats, and keep dogs on leashes.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-9.1 and BIO-9.2 will reduce the potential for impacts to special status species and sensitive habitats resulting from recreational disturbances.
 - (ii) **Remaining Impacts.** Any remaining impacts related to special status species and sensitive habitats resulting from recreational disturbances will be less than significant.

10. Indirect Impacts on Waterbird Use of Wetlands

- a. **Potential Impact.** The potential impacts related to the use of wetlands by waterbirds are discussed in the Draft EIR at page 154 through 155.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 155, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-10.1:** Creation or enhancement of waterbird habitat at a 0.5:1 ratio for a total of 9 acres of mitigation

shall be included on the site. A mitigation plan shall be developed that outlines the proposed wetland creation/enhancement for indirect impacts to waterbird use of wetlands on the site.

- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure BIO-10.1 will mitigate indirect impacts to birds using the undeveloped wetlands on the site by the creation or enhancement of waterbird habitat.
 - (ii) **Remaining Impacts.** Any remaining indirect impacts related to the use of wetlands by waterbirds will be less than significant.

11. Impacts from the Spread of Non-native, Invasive Plant Species

- a. **Potential Impact.** The potential impacts related to the spread of non-native, invasive plant species are discussed in the Draft EIR at page 156.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 156 through 157 and page 255 of the Final EIR, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-11.1:** Prior to issuance of grading permits and during construction, a qualified biologist will implement various measures including the removal of concentrations of invasive species, maintain staging areas free of weeds, and ensure that any straw used for road stabilization and erosion control is certified weed-free.
 - (ii) **MM BIO-11.2:** Future development projects shall develop and implement an Invasive Species Management Plan.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-11.1 and BIO 11.2 will reduce native plant and wildlife species impacts resulting from the spread of non-native invasive plant species to a less than significant level.

- (ii) **Remaining Impacts.** Any remaining impacts related to the spread of non-native invasive plant species will be less than significant.

12. Short-term Impacts to Water Quality During Construction

- a. **Potential Impact.** The potential temporary impacts to water quality during construction are discussed in the Draft EIR at page 158.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at page 159, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-12.1:** Future development projects will incorporate Best Management Practices for water quality.
 - (ii) **MM BIO-12.2:** No soil stockpiling, equipment staging, construction access roads, or other intensively soil-disturbing activities shall occur immediately adjacent to any wetlands that are to be avoided. The limits of the construction area shall be clearly demarcated with Environmentally Sensitive Area fencing by a qualified biologist.
 - (iii) **MM BIO-12.3:** Watering trucks shall be used during all grading, construction, and soil stockpiling activities that have the potential to mobilize dust. If soil stockpiles are to remain on the site for long periods of time prior to the start of grading, they shall be hydroseeded so that vegetation will suppress dust and inhibit erosion.
 - (iv) **MM BIO-12.4:** All mitigation measures for containing contamination from the auto wrecking yard removal will be followed (*see* Hazardous Materials and Water Quality sections of the EIR).
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures BIO-12.1, BIO-12.2, BIO-12.3, and BIO-12.4 will minimize impacts in the surrounding wetland environment, sloughs and channels, and the San Francisco Bay during construction.

- (ii) **Remaining Impacts.** Any remaining impacts related to short-term water quality will be less than significant.

13. Long-term Water Quality Impacts

- a. **Potential Impact.** The potential impacts relating to long-term water quality are discussed in the Draft EIR at pages 159 through 160.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 160 through 161, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - **MM BIO-13.1:** All development projects within the Specific Plan shall comply with the NPDES permit requirements, the Alameda County Clean Water Program standards, the City of Newark's ordinances, policies, and processes, and other applicable local, state, and federal requirements.

All development projects shall also prepare a SWMP that includes post-construction water quality BMPs that control pollutant levels.

- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure BIO-13.1 will reduce impacts to long-term water quality.
 - (ii) **Remaining Impacts.** Any remaining impacts related to long-term water quality will be less than significant.

14. Impacts to Ordinance-Size Trees

- a. **Potential Impact.** The potential impacts related to the loss of City ordinance-size trees are discussed in the Draft EIR at pages 161 through 162.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 161 through 162, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM BIO-14.1:** The Specific Plan shall incorporate preservation of existing trees with emphasis on ordinance-

size or larger native species and in good or better condition, to the maximum extent practicable, to the satisfaction of the City's Community Development Director.

- (ii) **MM BIO-14.2:** Where preservation of existing trees is not feasible due to site constraints, trees to be removed by the project shall be replaced at a 3:1 ratio unless the City's Community Development Director determines that a higher ratio is required. Trees greater than 18 inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has first been approved.
- (iii) **MM BIO-14.3:** The species and exact number of trees to be planted on the site during the construction phase shall be determined in consultation with the City Arborist and to the satisfaction of the Community Development Director.
- (iv) **MM BIO-14.4:** If the developed portion of the development site cannot accommodate the required tree mitigation, an alternative site(s) shall be identified for additional tree planting and/or the size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure BIO-14.1, BIO-14.2, BIO-14.3, and BIO-14.4 will mitigate impacts related to the loss of City ordinance-size trees.
- (ii) **Remaining Impacts.** Any remaining impacts related to the loss of City ordinance-size trees will be less than significant.

15. Health of Preserved Trees

- a. **Potential Impact.** The potential impacts related to the short and long-term health of preserved trees are discussed in the Draft EIR at page 162.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 162, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

(i) **MM BIO-15.1:** A Tree Preservation Plan shall be prepared by a certified arborist to the satisfaction of the City's Community Development Director for all areas with trees prior to the issuance of any approval or development permit.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

(i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure BIO-15.1 will mitigate impacts to the health of preserved trees inventorying the trees on the subject development sites as to size, species and eligibility for ordinance size status which could help to reduce adverse impacts to preserved trees.

(ii) **Remaining Impacts.** Any remaining impacts related to the health of preserved trees will be less than significant.

E. Cultural Resources

1. Paleontological Resource Impacts

a. **Potential Impact.** The potential impacts of the Specific Plan on paleontological deposits throughout the site are discussed in the Draft EIR at pages 170 through 171.

b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 171, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

(i) **MM CUL-1.1:** A variety of measures shall be completed during all development activities that include excavation or disturbance of existing ground surfaces, installation of utility lines, or other subsurface trenching, including: redirection of all work within 25 feet of any paleontological resources discovered during project activities to allow for an assessment by a qualified paleontologist. Upon completion of the assessment, the paleontologist would prepare a report that would be submitted to the City and would document the methods and results and provide recommendations for the treatment of the paleontological resources discovered.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure CUL-1.1. will ensure that the effects of direct or indirect destruction of paleontological resources or site are mitigated to a less than significant level by requiring the immediate suspension of work if any resources are discovered during construction.
- (ii) **Remaining Impacts.** Any remaining impacts related to paleontological resources will be less than significant.

F. Geology and Soils

1. Liquefaction-Induced Settlement

- a. **Potential Impact.** The potential impacts associated with settlement during strong seismic ground shaking due to potentially liquefiable soils are discussed in the Draft EIR at page 184.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 184 and the Final EIR at page 257, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM GEO-1.1:** Prior to issuance of grading permits, further study will be required to characterize the lateral extent and magnitude of potential liquefaction-induced settlement for design of new structures and improvements within Areas 3 and 4. The results of the investigation shall be submitted to the Director of Public Works for review and approval.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-1.1 will ensure that the effects of exposure to hazards from groundshaking are mitigated to a less than significant level. These measures contain various provisions, which reduce the possibility of hazards from groundshaking, such as recommendation for rigid foundations designed to tolerate the anticipated total and differential settlements, or deep foundations to support structures on firm soil below potentially liquefiable layers. Additionally, coordination with ACWD prior to beginning any soil improvement measures will ensure impacts on groundwater resources are

minimized. Ground improvement techniques may also be used to mitigate liquefaction-induced differential settlement.

- (ii) **Remaining Impacts.** Any remaining impacts related to seismically-induced settlement will be less than significant.

2. **Seismically-Induced Lateral Spreading Adjacent to Existing Channels**

- a. **Potential Impact.** The potential impacts of seismically induced lateral spreading on adjacent flood control channels are discussed in the Draft EIR at page 184.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 184, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM GEO-2.1:** Prior to issuance of building permits, design-level geotechnical investigations for specific site improvements such as residential developments, bridges, or school development shall be completed and submitted to the Director of Public Works for review and approval, once detailed site development plans are available.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-2.1 will ensure that impacts resulting from the liquefiable conditions of on-site soils and the possibility of localized lateral spreading adjacent to the existing flood control channels or Mowry Slough are reduced to less than significant levels.
 - (ii) **Remaining Impacts.** Any remaining impacts related to seismically-induced lateral spreading adjacent to existing channels will be less than significant.

3. **Settlement Due to Compressible Soils**

- a. **Potential Impact.** The potential impacts associated with settlement of compressible soils in Area 4 are discussed in the Draft EIR at pages 184 through 185.

- b. Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at pages 184 through 186 and the Final EIR at pages 257 through 258, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

 - (i) MM GEO-3.1:** This mitigation measure provides for alternative settlement mitigation approaches. Settlement due to fill and building loads can be mitigated by supporting lightly loaded structures on rigid foundations designed to resist differential settlement. As an alternative, buildings could be supported on deep foundations. In addition, design ground improvement techniques, such as surcharging, rammed aggregate piers, or soil/cement mixing can be utilized. The settlement mitigation approach shall be reviewed and approved by the Director of Public Works, prior to issuance of grading and building.

- c. Findings.** Based on the EIR and the entire record before the City, the City finds that:

 - (i) Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-3.1 will ensure that settlement due to fill and building loads is mitigated by attempting to provide rigid or deep foundations that resist differential settlement and by instituting ground improvement techniques to mitigate settlement.
 - (ii) Remaining Impacts.** Any remaining impacts related to settlement due to compressible soils in Area 4 will be less than significant.

4. Settlement of the Stevenson Boulevard Overpass Embankment

- a. Potential Impact.** The potential impacts associated with the Stevenson Boulevard Overpass Embankment and the potential for settlement are discussed in the Draft EIR at page 186.
- b. Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 186, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

 - (i) MM GEO-4.1:** A site-specific investigation shall be prepared for the proposed Stevenson Boulevard Bridge to determine the potential for differential settlement and to formulate a detailed approach to mitigate such settlement.

The investigation and proposed measures shall be reviewed and approved by the Director of Public Works prior to issuance of grading and building permits. Bridge foundations shall be designed to account for potential differential settlement, as well as the approached slabs and asphalt pavement sections constructed on the embankments.

- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-4.1 will ensure that a site-specific plan that accounts for the potential for differential settlement on the project site and addresses the particular issues with the site is prepared.
 - (ii) **Remaining Impacts.** Any remaining impacts related to settlement of the Stevenson Boulevard Overpass Embankment will be less than significant.

5. Settlement from Undocumented Fills

- a. **Potential Impact.** The potential impacts associated with development of the Specific Plan and the possible undocumented fill within Areas 3 and 4 are discussed in the Draft EIR at page 186.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 186, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM GEO-5.1:** Undocumented fills shall be located and further evaluated. The undocumented fills would likely need to be over-excavated and recompacted or removed and replaced with engineered fill material prior to site development, subject to approval by the City.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-5.1 will ensure that possible undocumented fill is identified, removed and

replaced with engineered fill, where necessary, prior to development.

- (ii) **Remaining Impacts.** Any remaining impacts related to settlement from undocumented fills in the Specific Plan area will be less than significant.

6. Expansive Soils

- a. **Potential Impact.** The potential impacts associated with expansive soils are discussed in the Draft EIR at page 187.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 187, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM GEO-6.1:** Provide sufficient reinforcement to slabs-on-grade, which shall be supported on a layer of non-expansive fill; footings shall extend below the zone of seasonal moisture fluctuation. Use of positive drainage away from buildings and improvements, as well as limiting landscaping watering to minimize moisture changes.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-6.1 will ensure that adverse impacts associated with expansive soils are mitigated to less than significant levels.
 - (ii) **Remaining Impacts.** Any remaining impacts related to expansive soils will be less than significant.

7. Groundwater Impacts

- a. **Potential Impact.** The potential impacts associated with groundwater are discussed in the Draft EIR at page 188.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 188, and in the Final EIR at page 258, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM GEO-7.1:** Design underground improvements for potential hydrostatic uplift pressures.

- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-7.1 will ensure that groundwater impacts to grading and underground improvements are mitigated to less than significant levels.
 - (ii) **Remaining Impacts.** Any remaining impacts related to groundwater will be less than significant.

8. Soil Corrosion Potential

- a. **Potential Impact.** The potential impacts associated with corrosive soils are discussed in the Draft EIR at page 188.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 188, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM GEO-8.1:** Soil corrosion testing shall be performed in Areas 3 and 4 during future phases of investigation. Consultation with a corrosion engineer will also be necessary to determine appropriate mitigation measures for site improvements. Special requirements for corrosion protection could be considered to protect metal pipelines, such as cathodic protection or specially coated pipes. In addition, if near-surface soils contain moderate to high levels of soluble sulfates, then buried concrete structures in contact with these soils may require special concrete mix design, such as using Type II cement and a higher compressive strength or Type V cement, to mitigate impacts from sulfate attack.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure GEO-8.1 will limit the corrosion potential for buried metallic structures, such as metal pipes, by limiting corrosive soils and protecting metallic structures from corrosion.
 - (ii) **Remaining Impacts.** Any remaining impacts related to corrosive soils will be less than significant.

G. Hydrology and Water Quality

1. Long-Term Impacts to Quality of Stormwater Drainage Runoff

- a. Potential Impact.** The potential impacts related to polluted stormwater drainage runoff are discussed in the Draft EIR at page 204.
- b. Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 204 through 206 and also in the Final EIR at pages 259 through 261, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

- (i) MM HYD-1.1:** Comply with the NPDES permit requirements, the City of Newark's ordinances, policies, and processes, and other applicable local, state, and federal requirements.
- (ii) MM HYD-1.2:** Development projects within the Specific Plan shall include post-construction water quality BMPs that control pollutant levels. The development of the golf course clubhouse shall also include applicable post-construction water quality BMPs that control pollutant levels and golf course maintenance facilities shall be developed and operated to include applicable post-construction water quality BMPs that control pollutant levels.

The use of low impact development (LID) techniques shall be emphasized. The City of Newark shall require the golf course operators to prepare, implement, and maintain a SWPPP for all corporation yards, vehicle maintenance, parking areas, and material storage facilities that comply with water quality standards by incorporating all applicable BMPs described in the EIR.

- (iii) MM HYD-1.3:** BMPs shall be designed in accordance with engineering criteria in the California Stormwater BMP Handbook for New and Redevelopment, or other accepted guidance and designs shall be reviewed and approved by the City prior to issuance of grading or building permits for the roadway or driveways.
- (iv) MM HYD-1.4:** All development projects within the Specific Plan shall implement storm water management program measures, such as street sweeping and litter

control, outreach regarding appropriate fertilizer and pesticide use practices, and managed disposal of hazardous wastes. The project proponent shall prepare a clearly defined operations and maintenance plan for post-construction water quality and quality control measures. The project proponent shall identify the responsible parties and provide adequate funding to operate and maintain stormwater improvements. If lot-level BMPs are accepted by the City as a suitable control measure, the project proponent shall establish a mechanism for enforcement to assure that BMP functioning is being maintained as designed. The project proponent shall also establish financial assurances, as deemed appropriate by the Department of Resource Management, enabling the City to maintain the stormwater improvements should the HOA or other entity disband or cease to perform its maintenance responsibilities.

- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures HYD-1.1, HYD-1.2, HYD-1.3, and HYD-1.4 will ensure that the effects of polluted runoff are mitigated to a less than significant level. Polluted runoff would be reduced to a less than significant level through the implementation of the Construction General Permit, as it would minimize land disturbance and associated runoff and provide stabilization of disturbed soils. Adherence to BMPs and stormwater management program measures would also maintain stormwater quality. Together, these measures would reduce the effects of polluted runoff to a less than significant level.
 - (ii) **Remaining Impacts.** Any remaining impacts related to polluted stormwater runoff will be less than significant.

2. **Short-Term Hydrology and Water Quality Impacts**

- a. **Potential Impact.** The potential impacts associated with contamination of runoff from construction activities are discussed in the Draft EIR at page 206.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 206 through 207, are hereby

adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

- (i) **MM HYD-2.1:** Development projects within the Specific Plan shall file a NOI with the SWRCB and prepare a SWPPP before construction can commence.
- (ii) **MM HYD-2.2:** The SWPPP shall include an erosion control plan that prescribes measures such as phasing of grading, limiting areas of disturbance, designation of restricted-entry zones, diversion of runoff away from disturbed areas, protective measures for sensitive areas, outlet protection, and provision for revegetation or mulching. The plan would also prescribe treatment measures to trap sediment once it has been mobilized, at a scale and density appropriate to the size and slope of the catchment. These measures typically include inlet protection, straw bale barriers, straw mulching, straw wattles, silt fencing, check dams, terracing, and siltation or sediment ponds.
- (iii) **MM HYD-2.3:** The Specific Plan developer(s) shall implement BMPs for reducing the volume of runoff and pollution in runoff to the maximum extent practicable during demolitions, site excavation, grading, and construction.
- (iv) **MM HYD-2.4:** BMPs shall be implemented in accordance with criteria in the California Stormwater BMP Handbook for Construction, or other accepted guidance and shall be reviewed and approved by the County prior to issuance of grading or building permits.
- (v) **MM HYD-2.5:** Specific Plan developer(s) shall identify the SWPPP Manager responsible for proper implementation, maintenance, and performance of the BMPs.

c. Findings. Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures HYD-2.1, HYD-2.2, HYD-2.3, HYD-2.4, and HYD-2.5 will mitigate the contamination of runoff from construction activities to less than significant levels.

- (ii) **Remaining Impacts.** Any remaining impacts related to contamination of runoff from construction activities will be less than significant.

H. Hazards and Hazardous Materials

1. Area 3 Residential Uses Exposure

- a. **Potential Impact.** The potential impacts related to the exposure of residential uses in Area 3 to hazardous materials contamination are discussed in the Draft EIR at page 219.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at pages 219 and also in the Final EIR at page 264, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **HAZ-1.1:** Development of a remediation plan.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure HAZ-1.1 will ensure mitigation of residual organochlorine pesticides where residential uses will occur in Area 3 so that future occupants or users of the site are not exposed to contamination in excess of soil cleanup goals developed for the site.
 - (ii) **Remaining Impacts.** Any remaining impacts related to the exposure of residential uses to hazardous materials contamination in Area 3 will be less than significant.

2. Hazards to Schools

- a. **Potential Impact.** The potential impacts related to hazards to schools are discussed in the Draft EIR at page 220.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at page 220 through 221, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM HAZ-2.1:** Prior to any approval of the potential school site, the District shall coordinate with DTSC and all available data pertaining to the proposed school site shall be provided to them, so that an appropriate plan for further

site evaluation and/or remediation can be developed. Investigation and remediation of the pesticide impacted soil will be required prior to elementary school development. Options for remediation of pesticide impacted soils would be similar to those described for MM HAZ-1.1.

- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure HAZ-2.1 will ensure that the effects of hazards to schools are mitigated to a less than significant level. First, a further site evaluation shall be coordinated. Then a plan for cleaning-up the site shall be overseen by DTSC. And all of this mitigation shall take effect prior to the development of a school on the site, so as to minimize exposure to hazards.
 - (ii) **Remaining Impacts.** Any remaining impacts related to hazards to schools will be less than significant.

3. **Area 4 Residential Uses Exposure**

- a. **Potential Impact.** The potential impacts related to the exposure of residential uses in Area 4 to hazardous materials contamination are discussed in the Draft EIR at page 221.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at pages 222 through 223 and also in the Final EIR at page 264, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM HAZ-3.1:**
 - Prior to any subsurface drilling activities a drilling permit must be obtained.
 - If on-site mitigation (such as habitat restoration) will occur in Sub-Area E, the area of the former duck club and associated ponds shall be evaluated for lead from lead shot, former fill soil quality of the duck club ponds shall be evaluated prior to issuance of grading permits for the residential development in Area 4.
 - All pesticide impacted soil shall be remediated;

- Additional soil samples shall be collected near existing and known former farm structures to test for residual levels of pesticides and remediate as necessary.
- Soil quality adjacent to on-site wells shall also be analyzed for spilled chemicals including pesticides. Appropriate remediation will be implemented, if necessary. Prior to issuance of a grading permit, the project proponent(s) and ACWD shall identify all abandoned wells within the project boundary. Any wells identified or discovered during construction shall be appropriately destroyed in accordance with ACWD specifications and local standards prior to issuance of a grading permit.
- The unnamed parcel located to the west of the southern terminus of Stevenson Boulevard, shall be further evaluated to assess the current environmental conditions of this area to determine appropriate remediation, if necessary.
- The source and quality of all imported soil to raise the level of the site shall be documented.
- The property owner shall periodically review monitoring data from the TCRDF to assess whether there are any significant changes to the Area 4 conditions. The Perry/Arrillaga property shall be evaluated for soil vapor for contaminants that may have migrated from TCRDF unless monitoring data from the landfill shows that further evaluation is unnecessary.

c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:

- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure HAZ-1.1 will ensure mitigation of residual organochlorine pesticides where residential uses will occur in Area 4 so that future occupants or users of the site are not exposed to contamination in excess of soil cleanup goals developed for the site.
- (ii) **Remaining Impacts.** Any remaining impacts related to the exposure of residential uses to hazardous materials contamination in Area 4 will be less than significant.

4. Proposed Golf Course

- a. Potential Impact.** The potential impacts related to the exposure of the public, construction workers, or the environment to existing hazardous materials contamination related to the construction and use of the golf course are discussed in the Draft EIR at pages 223 through 224.
- b. Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at pages 224 through 225 and also in the Final EIR at pages 264 through 265, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
- (i) **MM HAZ-4.1:** Where necessary, the following measures shall be followed by proper remediation under the authority of the appropriate regulatory agency-
- Soil and ground water quality investigations at the auto wrecking operation properties prior to issuance of demolition permits.
 - Any future golf course development activities at the 10-acre Mowry Avenue property shall be coordinated with the City and the appropriate regulatory agency, DTSC and/or ACWD. Additionally, prior to issuance of grading permits, methane monitoring shall be completed.
 - The depth and quality of the former fill areas shall be investigated prior to issuance of grading permits.
 - Prior to any demolition of the existing buildings (Pick-N-Pull, Ace Auto Wrecker's), an asbestos survey is required. Removal of potentially friable ACBMS are required prior to building demolition or renovation that may disturb the ACBM.
- c. Findings.** Based on the EIR and the entire record before the City, the City finds that:
- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure HAZ-4.1 will ensure impacts to the golf course are reduced to a less than significant level through early investigation and safe demolition techniques followed by remediation under the authority of the appropriate regulatory agencies.

- (ii) **Remaining Impacts.** Any remaining impacts related to the exposure of residential uses to hazardous materials contamination in Area 4 will be less than significant.

5. Golf Course Operation

- a. **Potential Impact.** The potential impacts related to the exposure of residential uses in Area 4 to hazardous materials contamination are discussed in the Draft EIR at page 221.
- b. **Mitigation Measures.** The following mitigation measure, discussed in the Draft EIR at pages 222 through 223 and also in the Final EIR at page 264, is hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:
 - (i) **MM HAZ-5.1:** Development of a golf course operations plan prior to the opening of the golf course.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
 - (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measure HAZ-5.1 will ensure from the proposed golf course operation are mitigated to a less than significant level impacts would not create a significant hazard to the public or the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment.
 - (ii) **Remaining Impacts.** Any remaining impacts related to the release of hazardous materials from the operation of the golf course will be less than significant.

I. Energy

1. Construction Energy Usage

- a. **Potential Impact.** The potential impacts related to construction energy usage are discussed in the Draft EIR at pages 271 through 272.
- b. **Mitigation Measures.** The following mitigation measures, discussed in the Draft EIR at pages 271 through 272, are hereby adopted and will be implemented as provided in the Mitigation and Monitoring Reporting Program:

- (i) **MM ENR-1.1:** Utilize local and regional building materials.
 - (ii) **MM ENR-1.2:** Use of local construction sites for fill material.
 - (iii) **MM ENR-1.3:** Reduce Equipment and vehicle idle times.
 - (iv) **MM ENR-1.4:** Reduce Vehicle emissions by properly tuning and maintaining equipment.
- c. **Findings.** Based on the EIR and the entire record before the City, the City finds that:
- (i) **Effects of Mitigation.** Implementation of the mitigations recommended by Mitigation Measures ENR-1.1, ENR-1.2, ENR-1.3, and ENR-1.4 will ensure that the construction of the project does not result in a wasteful and inefficient consumption of energy associated with fuel usage.
 - (ii) **Remaining Impacts.** Any remaining impacts related to construction energy usage will be less than significant.

V. Findings and Recommendations Regarding Impacts which are Less Than Significant

- A. Specific impacts within the following categories of environmental effects were found to be less than significant as set forth in more detail in the Draft EIR.
1. **Conflict with Applicable Land Use Plans:** The Project's potential impacts related to conflicts with applicable land use plans are discussed on pages 32 through 38 of the Draft EIR and are determined to be less than significant.
 2. **Cumulative Land Use Impacts:** The Project's potential cumulative land use impacts are discussed on pages 276 through 277 of the Draft EIR and are determined to be less than significant.
 3. **Impacts to Intersection Level of Service:** The Project's potential impacts related to impacts to signalized and unsignalized intersections as discussed on pages 57 through 60 and are determined to be less than significant.
 4. **Impacts to the CMA Roadway Network:** The Project's potential impacts relating to the CMA roadway network as discussed on pages 61 through 63 are determined to be less than significant.
 5. **Pedestrian and Bicycle Impacts:** The Project's potential impacts related to pedestrians and bicycle traffic as discussed on pages 63 through 68 are determined to be less than significant.

6. On-site Access and Circulation: The Project's potential impacts related to on-site access and circulation are discussed on pages 68 through 70 of the Draft EIR and are determined to be less than significant.

7. Impacts to Construction and Air Traffic: The Project's potential impacts related to construction and air traffic are discussed on pages 70 through 71 of the Draft EIR and pages 251 through 252 of the FEIR and are determined to be less than significant.

8. Consistency with Clean Air Planning Efforts: The Project's potential impacts related to consistency with population and vehicle miles traveled under the applicable Clean Air Plan are discussed on pages 83 through 84 of the Draft EIR and are determined to be less than significant.

9. Localized Air Quality: The Project's potential impacts related to localized air quality are discussed on pages 89 through 90 of the Draft EIR and are determined to be less than significant.

10. Climate Change: The Project's potential project-level impacts related to climate change are discussed on pages 91 and 297 through 303 of the Draft EIR and are determined to be less than significant.

11. Objectionable Odors: The Project's potential impacts related to objectionable odors are discussed on page 95 of the Draft EIR and are determined to be less than significant.

12. Airport Noise: The Project's potential impacts related to airport noise are discussed on page 108 of the Draft EIR and are determined to be less than significant.

13. Groundborne Vibration: The Project's potential impacts related to groundborne vibration are discussed on page 108 of the Draft EIR and are determined to be less than significant.

14. Project Generated Noise: The Project's potential impacts related to noise-generating uses and project-generated traffic noise are discussed on pages 108 through 09 of the Draft EIR and are determined to be less than significant.

15. Impacts to Upland Agriculture, Ruderal Heraceous Field, Developed, and Coastal Scrub Habitat: The Project's potential impacts related to Upland Agriculture, Ruderal Heraceous Field, Developed, and Coastal Scrub Habitat are discussed on pages 133 through 34 of the Draft EIR and are determined to be less than significant.

16. Impacts to Certain Potentially Breeding and Non-Breeding Special Status Wildlife Species and Their Habitats: The Project's potential impacts related to Potentially Breeding and Non-Breeding Special Status Wildlife Species and Their Habitats are discussed on pages 140 through 157 of the Draft EIR and are determined to be less than significant.

17. Short-term Impacts to Wildlife: The Project's potential impacts related to short-term effects to wildlife from construction-associated activities are discussed at page 158 of the DEIR and page 256 of the FEIR and are determined to be less than significant.

18. Impacts to Wildlife Movement: The Project's potential impacts related to wildlife movement are discussed on pages 157 through 158 of the Draft EIR and are determined to be less than significant.

19. Historic Resources Impacts: The Project's potential impacts related to historic resources are discussed on page 175 of the Draft EIR and are determined to be less than significant.

20. Seismic Impacts: The Project's potential impacts related to seismic activity and fault rupture hazards in particular are discussed on page 183 of the Draft EIR and are determined to be less than significant.

21. Long-Term Flooding: The Project's potential impacts related to long-term flooding risks are discussed on page 198 of the Draft EIR and are determined to be less than significant.

22. Off-site Flooding and Inundation: The Project's potential impacts related to off-site flooding and inundation are discussed on pages 198 through 201 of the Draft EIR and are determined to be less than significant.

23. Groundwater Impacts: The Project's potential impacts related to groundwater are discussed on page 203 of the Draft EIR and are determined to be less than significant.

24. Violation of Water Quality Standards and Impacts to Wetland Hydrology: The Project's potential to violate water quality standards or impact wetland hydrology are discussed on pages 203 through 204 of the Draft EIR and are determined to be less than significant.

25. Residential Operations Hazardous Materials: The Project's potential impacts related to emissions or handling of hazardous materials from residential operations are discussed on pages 219 through 220 of the Draft EIR and are determined to be less than significant.

26. School Siting Issues: The Project's potential impacts related to the siting and construction of the elementary school site in relation to hazardous emissions are discussed on pages 220 through 221 of the Draft EIR and are determined to be less than significant.

27. Risks due to Accidental Chemical Release: The Project's potential impacts related to potential sources of risks due to accidental chemical release are discussed on pages 226 through 227 of the Draft EIR and pages 265-67 and are determined to be less than significant.

28. Visual Significance and Scenic Vistas: The Project's potential impacts related to general plan elements of visual significance and scenic vistas are discussed on page 239 of the Draft EIR and are determined to be less than significant.

29. Light and Glare: The Project's potential impacts related to the generation of light or glare are discussed on page 241 of the Draft EIR and are determined to be less than significant.

30. Public Services Impacts: The Project's potential impacts related to the provision of public services are discussed on pages 244 through 247 of the Draft EIR and are determined to be less than significant.

31. Water Supply, Utilities, and Service Systems: The Project's potential impacts related to demands on water supply, utility or service facilities are discussed on page 3.13-7 of the Draft EIR and pages 250-63 and are determined to be less than significant.

32. Operational Energy: The Project's potential impacts related to usage of operational energy is discussed on page 270 of the Draft EIR and is determined to be less than significant.

VI. Findings and Recommendations Regarding Significant Irreversible Changes

Section 21100(b)(2)(B) of CEQA requires that an EIR identify any significant effect on the environment that would be irreversible if the project were implemented. Section 15126.2(c) of the CEQA Guidelines identifies irreversible environmental changes as those involving a large commitment of nonrenewable resources or irreversible damage resulting from environmental accidents.

The Project's significant and irreversible changes are discussed in the Draft EIR at page 324. The Draft EIR explains that the proposed project will require the use and consumption of nonrenewable resources, such as steel and other metals used to construct the campus buildings and single-family houses. Nonrenewable construction materials will also be used during the construction phase including concrete, metals, and plastics. Nonrenewable resources and energy will be consumed during the manufacturing and transportation of building materials, preparation of the site, and construction of the school buildings, single-family houses, and golf course facilities. The operational phase will also consume energy for multiple purposes including lighting and electronics. Energy in the form of fossil fuels will be used to fuel vehicles traveling to and from the area. Finally, the Project will be constructed on lands that are currently undeveloped; the transformation of these lands from an undeveloped/open space character to suburban/urban environment would, from a practical perspective, be an irreversible change.

VII. Findings and Recommendations Regarding Growth-Inducing Impacts

Section 15126.2(d) of the CEQA Guidelines states that an EIR should 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." Growth can be

induced in a number of ways, including through elimination of obstacles to growth, through the stimulation of economic activity within the region, or through precedent-setting action.

The Project's growth inducing impacts are discussed in the Draft EIR at pages 320 through 322. The Project would result in the construction of 1,260 new residential units. However, the General Plan assumed a higher level of potential residential growth on the site - 2,700 new residential units, which is more than twice the amount of the residential units than is currently being proposed. The new Stevenson Bridge overcrossing will increase public access into Area 4, but this would not foster new housing into surrounding areas. Area 4 is at the western edge of the developable area of Newark, meaning that there is nowhere else for development to occur beyond Area 4. Therefore, the proposed development would not encourage additional growth beyond what is currently proposed.

Development of the Specific Plan will result in economic growth for the area due to the creation of short-term jobs directly tied to the construction phases of the project. In addition, there will be an indirect increase of workers with businesses with whom the project is engaged in a buyer-seller relationship, primary in retail and services. It is expected that some of these jobs will be filled by local residents, employees, and suppliers already in the Alameda County area, and some of the jobs may be filled with people who temporarily transfer to the area during the construction phase. Given that these are temporary jobs, it would be speculative to assume that these jobs would induce substantial new housing or commercial development.

While the proposed Specific Plan would allow less job-producing development than the current General Plan land use designation, the proposed project would result in job growth at the site, with a total job growth of approximately 482 jobs.

The proposed development would generate tax revenues for the City of Newark. The project will require services that would increase expenditures for City departments, but it would not require the construction of new community facilities. Existing public facilities are adequate to serve the proposed Specific Plan. The proposed project would include recreational facilities, which will reduce the residential development's demands on local parks and recreation. No additional sewer system growth will be induced by the project.

While the proposed development is intended to accommodate planned population growth, the project may indirectly induce some growth in the immediate vicinity of the project site. The golf course facilities and residential development could attract additional commercial, support services, and residential development; however, the surrounding area is largely built out.

Attempts to predict where growth will occur are speculative, but based upon the limited possible amount of growth that could occur as a result of the proposed Specific Plan project, the development would not result in a significant growth inducing impact.

VIII. Project Alternatives

A. Background - Legal Requirements:

CEQA requires that EIRs assess feasible alternatives or mitigation measures that may substantially lessen the significant effects of projects prior to approval. *Public Resources Code § 21002*. With the exception of the “no project” alternative, the specific alternatives or types of alternatives that must be assessed are not specified. CEQA “establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its own facts, which in turn must be reviewed in light of the statutory purpose.” *Citizens of Goleta Valley v. City Council* (1990) 52 Cal.3d. 553, 556. The legislative purpose of CEQA is to protect public health, welfare and the environment from significant impacts associated with all types of development, by ensuring that agencies regulate activities so that major consideration is given to preventing environmental damage while providing a decent home and satisfying living environment for every Californian. Public Res. Code § 21000. In short, the objective of CEQA is to avoid or mitigate environmental damage associated with development. This objective has been largely accomplished in the Project through the inclusion of mitigation measures that reduce most of the potentially significant impacts of the Project to a less than significant level.

B. Identification of Project Objectives:

The CEQA Guidelines state that the “range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one of more of the significant effects” of the Project. CEQA Guidelines § 15126(d)(2). Thus, an evaluation of the Project objectives is key to determining which alternatives should be assessed in the EIR.

The primary objective of the Areas 3 and 4 Specific Plan is to provide low density residential, a golf course, and/or recreational facilities, and land for a school for the current and future residents of Newark. Specific project objectives include the following:

- Through a General Plan amendment allow residential uses;
- Provide up to 1,260 units of low density residential uses (4.2 – 8.5 units per acre) in Areas 3 and 4;
- Provide high quality residential uses including a mix of executive housing types;
- Provide up to 189 below market rate housing units that are within the 1,260 total residential units;
- Provide land for an up to 600-student elementary school in Area 3 to serve both the Specific Plan development and neighboring residential
- Provide vehicle access to Area 4 via a railroad overcrossing at Stevenson Boulevard;
- Provide and contribute toward community recreational facilities;
- Provide land for a golf course available to the public;
- If a golf course is found unfeasible, then another recreation use that is acceptable to the City, and undergoes environmental analysis, shall be provided as a condition of development;
- Provide park and open space amenities within Areas 3 and 4.

C. Alternatives Analyzed in EIR:

The CEQA Guidelines state that the “range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects” of the Project. The City evaluated the alternatives listed below by determining the desirability of the alternatives based on a reasonable balancing of the economic, environmental, social and technological factors involved. (*See California Native Plant Society v. City of Santa Cruz* (2009) 1177 Cal.App.4th 957, 1001 quoting *City of Del Mar v. City of San Diego* (1992) 133 Cal.App.3d 401, 417.).

1. No Project (Continuation of Existing Conditions) Alternative

The No Project (Continuation of Existing Conditions) Alternative is discussed in the Draft EIR at pages 311 through 312. With the No Project (Continuation of Existing Conditions) Alternative, the existing farming and discing of the 78-acre property in Area 3 and approximately 520 acres of Area 4 would continue as long as the property owner(s) continue with this operation. The approximately 30 acres within Area 4 utilized for the two auto dismantler businesses would cease to operation no later than 2014 according to a conditional use permit with the City.

The No Project (Continuation of Existing Conditions) Alternative would avoid the significant environmental impacts of the project, but it would not result in the enhancement of Area 4 wetland areas that is proposed as mitigation for project impacts, nor would it implement the City’s General Plan.

- a. Findings:** The No Project (Continuation of Existing Conditions) Alternative is rejected as infeasible because it is not consistent with and will not achieve any of the Project’s objectives.
- b. Explanation:** The No Project (Continuation of Existing Conditions) Alternative meets none of the Project’s objectives, as identified in the Draft EIR and as summarized in section **VIII(B)**, above.

2. No Project (Implementation of Existing General Plan) Alternative

The No Project (Implementation of Existing General Plan) Alternative is discussed in the Draft EIR at pages 312 through 313. With the No Project (Implementation of Existing General Plan) Alternative, the existing City of Newark General Plan would be implemented.

The General Plan land use diagram designates the 78-acres within Area 3 as Special Industrial. Under the No Project (Implementation of Existing General Plan) Alternative, the 78-acre property in Area 3 would be developed with an approximate 1.175 million square foot industrial/office business park. According to the General Plan, Area 4 is planned for high-quality low-density residential use with up to 2,700 units, a 18-hole golf course, and open space, with a requirement for preparation of a Specific Plan to guide development on Area 4. The proposed Specific Plan implements the General Plan vision for Area 4; therefore,

the proposed project and the No Project (Implementation of Existing General Plan) Alternative are the same for Area 4.

- a. Findings:** The No Project (Implementation of Existing General Plan) Alternative is rejected as infeasible because it is not consistent with and fails to achieve many of the Project's fundamental objectives. Furthermore, the No Project (Implementation of Existing General Plan) Alternative is rejected because it would not avoid any impacts compared to the proposed project, and in fact, would result in similar or greater impacts as the proposed project.
- b. Explanation:** The No Project (Implementation of Existing General Plan) Alternative would not eliminate all environmental impacts associated with the Project, nor as discussed below, would it meet many of the Project's fundamental objectives.
 - (i)** The No Project (Implementation of Existing General Plan) Alternative does not meet the project objective to provide housing within Area 3;
 - (ii)** The No Project (Implementation of Existing General Plan) Alternative does not meet the project objective to provide land for an up to 600-student elementary school in Area 3.

3. No Development in Area 4 and Higher Density Area 3 Alternative

The No Development in Area 4 and Higher Density Area 3 Alternative is discussed in the Draft EIR at pages 315 through 316. The No Development in Area 4 and Higher Density Area 3 Alternative would eliminate development within Area 4 and intensify the housing development on Area 3, while retaining the land for a school. This alternative would not include the golf course. The No Development in Area 4 and Higher Density in Area 3 Alternative consists of the same number of residential units as the proposed Specific Plan project, but all the residential units would be located within Area 3. The elementary school would be the same size (up to 600-student capacity) as the proposed project. Area 4 would remain in its current existing condition, as long as the property owner(s) continue with the current agricultural operation.

The No Development in Area 4 and Higher Density Area 3 would eliminate impacts associated with the development of Area 4, including all wetland, marsh, and aquatic habitat and specific status species impacts, as well as cultural resources impacts within Area 4. There would a substantial reduction in the short-term energy usage associated with importing soil to Area 4 because no imported soil would be required under this alternative. While impacts to archaeological resources, geology, hazardous materials, water quality, and visual resources in Area 4 would not occur, impacts related to Area 3 would still occur and all

the mitigation measures associated with Area 3 would continue to be required to reduce or avoid impacts. Traffic, air quality, noise, and energy impacts would be similar to the proposed project.

The No Development in Area 4 and Higher Density Area 3 alternative is identified in a draft EIR at page 318 as one of the two environmentally superior alternatives.

- a. Findings:** The No Development in Area 4 and Higher Density Area 3 Alternative is rejected as infeasible because it is not consistent with and fails to achieve many of the Project's fundamental objectives. This alternative would also still result in significant unavoidable impacts associated with long-term air quality emissions and cultural resources in Area 3. Further, the No Development in Area 4 and Higher Density Area 3 Alternative would also result in densities in Area 3 that are not consistent with the communities vision and which would create greater aesthetic impacts due to building height and massing, and therefore it is rejected as infeasible.
- b. Explanation:** The No Development in Area 4 and Higher Density Area 3 Alternative would not eliminate all environmental impacts associated with the Project, nor would it meet key Project objectives, as identified in the Draft EIR, and as summarized in section VIII(B), above.
 - (i)** The No Development in Area 4 and Higher Density Area 3 Alternative would not provide for any development in Area 4.
 - (ii)** The No Development in Area 4 and Higher Density Area 3 Alternative would not meet the project objective to provide up to 1,260 units of low density residential uses (4.2 – 8.5 units per acre) in Areas 3 and 4;
 - (iii)** The No Development in Area 4 and Higher Density Area 3 Alternative would not meet the project objective of providing for the development of a golf course available to the public.
 - (iv)** The No Project (Implementation of Existing General Plan) Alternative does not meet the project objective to provide park and open space amenities within Areas 3 and 4.

4. Reduced Housing Alternative

The Reduced Housing Alternative is discussed in the Draft EIR at pages 314 through 315. The Reduced Housing Alternative anticipates the development within Area 3 would be the same as the proposed project. Approximately 400 single-family units and 189

multi-family units were assumed to be constructed in Area 3 under this alternative. There would be a 120-acre golf course in Area 4 designed to minimize wetland fill and no residential development within Area 4. The Stevenson Bridge overcrossing would be the same as the proposed project in order to provide access to the golf course.

The Reduced Housing alternative would result in lessened traffic; air quality; wetlands, marsh and aquatic habitat and specific status species; and noise impacts, but mitigation would still be required. The Reduced Density Alternative would not avoid the significant unavoidable regional air quality impact of the project. Short-term energy usage associated with importing soil to Area 4 would be substantially reduced because no imported soil would be required under this alternative. Cultural resource impacts could be avoided in Area 4 through design of the golf course, but will remain significant in Area 3. The impacts associated with geology, hazardous materials, water quality, and visual resources would be the similar to the proposed project.

The Reduced Housing Alternative is identified in the Draft EIR at page 318 as one of the two environmentally superior alternatives.

- a. **Findings:** The Reduced Housing Alternative is rejected as infeasible because it is not consistent with and fails to achieve a key project objective. Further, this alternative fails to reduce biological and cultural impacts in Area 4 and cultural resources impact in Area 3 to a less than significant level and as such is rejected as infeasible.
- b. **Explanation:** The Reduced Housing Alternative fails to meet a fundamental Project objective, as identified in the Draft EIR and as summarized in section VIII(B), above.
 - (i) The Reduced Housing Alternative does not meet the project objective to provide high quality, low density executive housing within Area 4.

5. No Golf Course Alternative

The No Golf Course Alternative is discussed in the Draft EIR at pages 315 through 316. The No Golf Course Alternative would be the same as the proposed project, in terms of residential and school uses, except the Area 4 golf course component would be replaced with a passive recreation area and habitat restoration. The recreation area could include public trails and wildlife viewing platforms/areas, while the wildlife restoration areas would be protected for restoration by the appropriate public agencies.

The No Golf Course Alternative would result in similar impacts to traffic, air quality, noise, energy cultural resources, geology, hazardous materials, water quality, and visual resources as the proposed project. Impacts associated with importing fill will be the same as the proposed project, as would associated impacts to cultural resources from the placement of fill. There would be some beneficial biological impacts associated with preservation and habitat

restoration under the No Golf Course Alternative, as well as avoidance of some biological habitat impacts.

- a. **Findings:** The No Golf Course Alternative is rejected as infeasible because it does not meet the project objective of providing a golf course, as anticipated by the City’s General Plan. Further, significant unavoidable project impacts including long-term and short-term air quality, cultural resources, and visual impacts would remain under this alternative and therefore it is rejected as infeasible.
- b. **Explanation:** The No Golf Course Alternative fails to meet a fundamental Project objective, as identified in the Draft EIR and as summarized in section VIII(B), above.
 - (i) The No Golf Course Alternative does not meet the General Plan goals and project objectives of providing a golf course within Area 4.

6. Location (Area 2) Alternative

The Location (Area 2) Alternative is discussed in the Draft EIR at pages 316 through 317. This alternative considers the development of the project at another location within the City. The only other location within the City with a similar amount of infill area would be Area 2. Area 2 is located south of Thornton Avenue and west of Willow Street and encompasses 232 acres. The Location (Area 2) Alternative would result in similar traffic impacts. Air quality, noise, and energy would also be similar to the proposed project because the development buildout is assumed to be the same. There would also be impacts associated with importing fill because portions of Area 2 are within the 100-year flood zone. Impacts to cultural resources would be considered the same under this alternative as under the proposed project. Based upon the similar habitat impacts and possible filling of wetlands, the impacts to biological resources are assumed to be similar to the proposed project. The Location (Area 2) Alternative would result in a reduced visual impact compared to the proposed project. Additionally, it is likely there may be hazardous contamination that would require soil and ground water mitigation similar to what is required on the proposed project site.

- a. **Findings:** Location (Area 2) Alternative is rejected as infeasible because it is not consistent with and will not achieve many of the Project’s fundamental objectives. Additionally, the Location (Area 2) Alternative would likely result in similar traffic, air quality, biological resources, noise, cultural resources, and energy impacts. Further, soil and ground water mitigation similar to what is proposed for the project would likely be required. For these reasons, this alternative is rejected as infeasible.
- b. **Explanation:** The No Golf Course Alternative fails to meet a fundamental Project objective, as identified in the Draft EIR and as summarized in section VIII(B), above.

- (i) The Location (Area 2) Alternative would not meet the General Plan goals and project objectives for providing a golf course because there is not sufficient acreage available within Area 2. Furthermore, the developable land in Area 2 is not currently available for sale.

IX. Statement of Overriding Considerations

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, this City adopts and makes the following Statement of Overriding Considerations regarding the remaining significant and unavoidable impacts of the Project, as discussed above, and the anticipated economic, social, and other benefits of the Project.

A. Findings and Statement

The City finds and determines that the majority of the significant impacts of the Project will be reduced to less than significant levels by the mitigation measures recommended in these Findings. However, as set forth above, the City's approval of the Project as proposed will result in certain significant adverse environmental effects that cannot be avoided, even with the incorporation of all feasible mitigation measures into the Project. Further, as set forth above, and there are no feasible Project alternatives which would mitigate or avoid those significant environmental effects.

In light of the environmental, social, economic, and other considerations set forth below, the City chooses to approve the Project because, in its view, the economic, social, technological, and other benefits resulting from the Project will render the significant effects acceptable.

The following statement identifies the reasons why, in the City's judgment, the benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the Project can be found in the preceding findings, which are herein incorporated by reference, in the Project itself, and in the record of proceedings as defined in Section II(B). Each of the overriding consideration set forth below constitutes a separate and independent ground for findings that the benefits of the Project outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

The City finds that the Project, as approved, would have the following economic, social, technological, and environmental benefits:

- 1.** It will implement the General Plan's goals for Areas 3 and 4 by approving a Specific Plan for the development of Area 4 with high-quality low-density housing, a golf course, or if not feasible, other recreational facilities, and open space for Area 4.
- 2.** It will result in providing for the reservation of land to the City for the development of a potential new elementary school with a 600 student capacity.
- 3.** It will provide for a wide variety of recreational spaces for the city including a 3-acre park in Area 3, 2.5 acres of parks and trails in Area 4 and a potential golf course or other recreational facility.
- 4.** It will provide up to 1,260 new residential units within Areas 3 and 4. Further, it will ensure that 15% of the new units developed, will be built either on or off-site as

Moderate Income Household units, or, alternately, provide for the payment of in-lieu fees for these affordable housing units. This will help Newark satisfy its Regional Housing Needs Allocation.

5. It will provide for economic growth in the city, both short-term jobs directly tied to the construction phases of the project, and indirectly through an increase of workers with businesses with whom the Project is engaged in a buyer-seller relationship, primarily in retail and services. Further, the proposed elementary school is expected to provide approximately 50 jobs and the proposed golf course approximately 42 jobs. Overall, the EIR estimates that the job growth allowed by the Specific Plan would be approximately 482 jobs.