

DRAFT FOR PLANNING AND ZONING COMMISSION REVIEW

RESOLUTION # _____

RESOLUTION OF THE CITY OF ALBANY CITY COUNCIL

CERTIFYING

FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)

FOR THE UNIVERSITY VILLAGE MIXED USE DEVELOPMENT

WHEREAS, The Regents of the University of California, serving as the master developer for the site, submitted an application for a mixed use development on Parcel A and Parcel B of University Village, located at 1030-1130 San Pablo Avenue, and;

WHEREAS, the City, acting as the Lead Agency, determined that an Environmental Impact Report (EIR) was necessary under the California Environmental Quality Act (CEQA, at Public Resources Code Section 21000 et seq.), and retained the firm of LSA Associates, Inc. (herein referred to as LSA) to prepare the EIR for the Project; and

WHEREAS, LSA conducted the preparation of the EIR under the direction of City staff, and all draft products prepared by LSA were reviewed and approved by City staff; and

WHEREAS, the Notice of Preparation of an EIR was circulated for review to the public and other agencies in March 29, 2008 (CEQA Guidelines Section 15082); and

WHEREAS, in April 22, 2008, the City held a publicly noticed scoping session to receive public input on the scope of the EIR (CEQA Guidelines Section 15083); and

1
2 **WHEREAS**, the Draft EIR, titled University Village at San Pablo Avenue
3 Project Environmental Impact Report, dated July 2009, was prepared and completed.
4 A Notice of Completion was filed with the State Office of Planning and Research on
5 July 3, 2009 (CEQA Guidelines Section 15085).

6
7 **WHEREAS**, the public review period for the Draft EIR began on July 2,
8 2009 continued for 45 days, through August 20, 2009 (CEQA Guidelines Section
9 15087); and

10
11 **WHEREAS**, at the close of the public review period, City staff and LSA
12 compiled all of the written responses to the Draft EIR and prepared Responses to
13 Comments, all of which are contained in the Final EIR titled University Village at
14 San Pablo Avenue Project Environmental Impact Report Response to Comments
15 Document, dated February 2011 (CEQA Guidelines Sections 15088, 15089); and

16
17 **WHEREAS**, the City Council has considered the Project, the FEIR, the
18 Addenda to the FEIR, and the information submitted in the staff reports and at the
19 public hearings; and

20
21 **WHEREAS**, the project description states a maximum height of 52 feet, but
22 upon final design completion, the maximum height, as measured from grade to the
23 highest point of the structure may reach 62 feet; and

24
25 **WHEREAS**, the City Council has considered the Project, the Final EIR and
26 the information submitted in the staff reports and at the public hearings; and changes,
27 alterations, and mitigation measures have been incorporated into the project or will be
28 required as conditions of approval that will avoid or substantially lessen significant
29 impacts identified in the FEIR as described below,
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1 **NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City
2 of Albany certifies that the Final EIR for the Project has been completed in
3 compliance with the requirements of CEQA and reflect the Council’s independent
4 judgment and analysis.

5
6 **BE IT FURTHER RESOLVED**, that the Albany City Council makes the
7 following findings regarding (1) potentially significant environmental impacts of the
8 Project under CEQA; (2) measures identified in the Final EIR that if adopted will
9 mitigate the significant Project impacts to less than significant levels; (3) changes or
10 alterations that have been required in, or incorporated into, the Project to avoid or
11 substantially lessen significant impacts; (4) impacts that are not significant; (5)
12 project alternatives; and (6) a Statement of Overriding Considerations. (CEQA
13 Guidelines Section 15091)

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16 **FINDINGS REGARDING POTENTIAL IMPACTS AND MITIGATION**
17 **MEASURES UNDER CEQA.**

18 By these findings, the City Council have attempted to avoid or mitigate to a less-than-
19 significant level all University Village Mixed Use Project impacts, and to otherwise
20 consider, address, and resolve all of the environmental concerns raised during the
21 public process. To the extent that a significant impact is unavoidable, it is determined
22 that there are no feasible mitigation measures or alternatives and that the specific
23 social, economic, legal, technical or other reasons set forth in the Statement of
24 Overriding Considerations contained herein outweigh the unavoidable adverse
25 environmental effects. To the extent the Findings presented here summarize the Final
26 EIR and Addenda thereto, the summary is not intended to change any aspect of the
27 complete text of the analysis and mitigation measures discussed in the Final EIR and
28 Addenda. These Findings incorporate by reference in their entirety the text of the
29 Final EIR and Addenda. Without limitation, this incorporation is intended to
30 elaborate on the scope and nature of Project and cumulative development impacts,

1 related mitigation measures, and the basis for determining the significance of such
2 impacts.

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4 (Parenthetical references are to the Mitigation Measures set forth in Exhibit A).
5 (CEQA Guidelines Section 15091)

- 6
- 7 1. Transportation, Circulation, and Parking. Construction activities associated
8 with the proposed project will have temporary adverse impacts on vehicular,
9 bicycle, and pedestrian circulation access. These potentially significant
10 circulation impacts can be mitigated to a level less than significant with
11 preparation of a Construction Traffic Management Plan, which would include
12 regulations on truck routes, construction hours, employee parking, and detour
13 plans. The Construction Traffic Management Plan shall be approved by the
14 City of Albany staff prior to construction. (MM TRANS-13) - 15
 - 16 2. Air Quality. Demolition and construction period activities would generate dust
17 and exhaust, and organic emissions from vehicles. Potentially significant air
18 quality impacts can be mitigated to a level less than significant with measures
19 to reduce dust and exhaust. Consistent with guidance from the BBAQMD, the
20 project applicant shall require contractors to include dust control measures in
21 construction specifications for the project. (MM AIR-1).
 - 22
 - 23 3. Global Climate Change. The project may conflict with the policies and
24 regulations with regard to Greenhouse Gas reduction goals. In order to reduce
25 these impacts to levels less than significant, the project will use
26 environmentally friendly building materials, take measures to exceed
27 California Building Code's Title 24 energy standards, devise a water
28 conservation strategy for the site, and provide transit and bike facilities. (MM-
29 GCC-1).
 - 30

- 1 4. Noise. Noise levels from construction activities will increase temporarily, and
2 long-term noise impacts from traffic generation could exceed the acceptable
3 interior noise levels on the site. Construction practices and hours of
4 construction work can be modified to mitigate to a less-than-significant level
5 potential noise impacts. To mitigate internal noise levels within the
6 completed Project to a less-than-significant level, all residential units shall
7 include alternative ventilation systems to ensure that windows can remain
8 close for prolonged periods of time. (MM-NOISE-1-2)
9
- 10 5. Biological Resources. The proposed Project could impact the Central Coast
11 Steelhead habitat and the western pond turtles in Codornices Creek. The
12 project may also impact the bird species and Monarch butterfly colonies on
13 site. Construction activities will be timed to mitigate to a less-than-significant
14 level the impact on fish and bird habitats, and disturbance to existing grades
15 and vegetation will be limited. Western pond turtles, if present, will be
16 relocated to a suitable habitat. Protected buffer zones will be established
17 around these biological habitats. (MM-BIO1-4)
18
- 19 6. Hydrology and Water Quality. Construction activity could result in
20 degradation of water quality in Codornices Creek, Village Creek, and the San
21 Francisco Bay. Once completed, operation of the site could reduce
22 infiltration, increase runoff volume, and degrade the quality of stormwater
23 runoff. The project contractor shall comply with the Albany Municipal Code
24 relating to grading projects erosion control, and discharge regulations and
25 requirements (Chapter XX, Section 15-4.7), and Best Management Practices
26 will be followed included soil stabilization controls, watering for dust control,
27 perimeter silt fences, and placement of hay bales and sediment basins. (MM-
28 HYDRO1). The Project will meet all requirements of the current County
29 Wide NPDES Permit, and the drainage plan shall include features and
30 operational Best Management Practices to reduce potential impacts to surface

1 water quality associated with operation of the Project to a less-than significant
2 level. (MM-HYDRO3)

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4 **SUMMARY OF IMPACTS THAT ARE NOT FOUND TO BE SIGNIFICANT**

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6 1. Aesthetics. Aesthetic impacts would not degrade the site, which currently
7 consists of empty fields and vacant structures. The project would be compatible
8 with the San Pablo Avenue Design Guidelines. Impacts to visual resources would
9 be less than significant.

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11 2. Agricultural Resources. The project site is not designated by the Farmland
12 Mapping and Monitoring Program as prime farmland, unique farmland, or
13 farmland of statewide importance. Decisions by the University of California as to
14 future use of the Gill Tract would not be affected by implementation of the
15 proposed project. Impacts to agricultural resources would be less than significant.

16
17 3. Cultural Resources. The project site is not eligible for listing on the California
18 Register, and is not considered a historical resource in accordance with CEQA.
19 Should unknown resources be discovered during construction, implementation of
20 the Mitigation Measures (CULT-1, CULT-2, or CULT-3) identified in the EIR
21 and outlined in Exhibit A would reduce impacts to cultural resources to a less than
22 significant level.

23
24 4. Geology and Soils. The project site has been rated as being moderately
25 susceptible to liquefaction hazards. However, with implementation of the
26 Mitigation Measures (GEO-1 and GEO-2) identified in the EIR and outlined in
27 Exhibit A, impacts to geology and soils would be less than significant.

28
29 5. Hazards and Hazardous Materials. The amount of chemical agents, solvents,
30 and other hazardous materials associated with construction activities would be
31 limited, and would be in compliance with existing government regulations.

1 Hazards and hazardous materials would thus not be considered a significant
2 hazard.

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4 6. Land Use and Planning. The proposed project is compatible with the existing
5 General Plan designations, and land use and planning impacts would be less than
6 significant.

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8 7. Mineral Resources. There are no known mineral resources located within the
9 project site. Impacts on mineral resources would be less than significant.

10

11 8. Population and Housing. The proposed project would result in the
12 construction of 175 senior housing and assisted living units, which amounts to
13 approximately 1.3 percent of the estimated 2010 population. The proposed
14 project would not cause a significant growth impact, and there would be no
15 removal of housing, so population and housing impacts would be less than
16 significant.

17

18 9. Public Services. The project would marginally increase demand for public
19 services, but would not require the construction of new facilities to meet the
20 demand. Thus, impacts to public services would be less than significant.

21

22 10. Recreation. The project would incrementally increase use of nearby
23 recreation facilities, but it is not expected to result in substantial physical
24 deterioration of local parks, trails, or other recreational facilities. Thus, impacts to
25 recreation facilities would be less than significant.

26

27 11. Utilities. Implementation of the project would not exceed the Regional Water
28 Quality Control Board's treatment standards, and the construction of new water or
29 wastewater treatment facilities would not be required to provide service to the
30 project site. Given Mitigation Measures (UTIL-1 and UTIL-2) identified in the

1 EIR and outlined in Exhibit A, and adequate capacity at the Potrero Hills Landfill
2 to accommodate the project, impacts to utilities would be less than significant.

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5 **SUMMARY OF UNAVOIDABLE SIGNIFICANT ADVERSE IMPACTS.**

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7 Detailed descriptions of each Unavoidable Significant Adverse Impact, and the
8 accompanying Mitigation Measure can be found in Exhibit A.

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10 The University Village Mixed Use project will result in the following impacts that
11 would not be mitigated to a less than significant level; and therefore would constitute
12 significant unavoidable traffic impacts:

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- 14 • Marin Avenue/San Pablo Avenue
- 15 • Gilman Street/I-80 Westbound Ramps
- 16 • Gilman Street/I-80 Eastbound Ramps
- 17 • Gilman Street/Eastshore Highway
- 18 • Gilman Street/San Pablo Avenue
- 19 • Gilman Street/Hopkins Street

20

21 The proposed project would also contribute to significant and unavoidable cumulative
22 (2035) impacts at the following intersections:

23

- 24 • Solano Avenue/San Pablo Avenue
- 25 • Buchanan Street/Eastshore Highway
- 26 • Harrison Street/San Pablo Avenue

27

28 The proposed project would significantly affect operations on the following segments
29 of the CMP roadway network:

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- 1 • Northbound San Pablo Avenue between Gilman Street and Marin Avenue
- 2 during the PM peak hour under Near Term (2015) Plus Project Conditions.
- 3 • Northbound San Pablo Avenue between Gilman Street and Solano Avenue
- 4 during the PM peak hour under Cumulative (2035) Plus Project Conditions.
- 5 • Southbound San Pablo Avenue between Marin Avenue and Gilman Street
- 6 during the PM peak hour under Cumulative (2035) Plus Project Conditions.

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8 **FINDINGS ON THE FEASIBILITY OF ALTERNATIVES TO THE**

9 **PROPOSED PROJECT**

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11 The Draft EIR evaluated a reasonable range of alternatives to the Project and in

12 compliance with CEQA and the CEQA Guidelines, the alternatives analysis also

13 included an analysis of a No Project Alternative and identified the environmentally

14 superior alternative . The EIR examined each alternative’s feasibility and ability to

15 meet the Project objectives. Those found to be clearly infeasible were rejected

16 without further environmental review. Alternatives that might have been feasible and

17 that would attain most of the Project objectives were carried forward and analyzed

18 with regard to whether they would reduce or avoid significant impacts of the Project.

19

20 In connection with certification of the Final EIR for the Project, the City certifies that

21 it independently reviewed and considered the information on alternatives provided in

22 the Final EIR and the record of proceedings. The City finds that no new alternatives

23 that are considerably different from those analyzed in the Final EIR for the Project

24 have been identified and that the feasibility of the analyzed alternatives has not

25 changed since the Draft EIR. Brief summaries of the evaluated alternatives are

26 provided below

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28 **Alternative 1: The No Project Alternative**

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30 Description: The project site would not be subject to redevelopment, and

31 would generally remain in its existing condition. No site improvements would

1 occur (including pedestrian and bicycle facilities), and the project site would
2 remain largely unused and vacant.

3
4 Finding: This alternative would not achieve the Project objectives to utilize
5 the vacant parcels along San Pablo for a mixed use development, to build a
6 grocery store within the San Pablo frontage of University Village, to provide
7 retail space and outdoor seating to serve local residents, to improve the visual
8 quality of the site, to provide senior housing, to provide a pedestrian/bicycle
9 path along Codornices Creek, and to facilitate pedestrian/bicycle movement
10 along San Pablo Avenue. Compared to the Project, the No Project Alternative
11 would have reduced environmental impacts because no construction would
12 take place and the impacts identified in the EIR would not occur.

13
14 Reasons for Rejecting this Alternative: This alternative would not meet the
15 project proponent's objectives for the proposed project, since it would not
16 include development of the mixed use facility or senior housing. This
17 alternative is examined as required by CEQA Section 15126.6(e), even though
18 it would not achieve the project objectives.

19
20 Alternative 2: The Existing Zoning Alternative

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22 Description: The project site would be redeveloped with the type and intensity
23 of uses currently allowed under the Zoning Ordinance, which includes San
24 Pablo Avenue Commercial (SPC), Residential Medium Density (R-2), and
25 Watercourse Overlay District. Under this alternative, a 15,000 square foot
26 market would be located within the area designated as SPC on Block A,
27 fronting along San Pablo Avenue. The Block B component would include
28 one 30-foot tall mixed use building along San Pablo with 16,000 square feet
29 of retail on the ground floor and senior housing units on the second floor. The
30 second building in Block B would be three stories tall, and combined with the
31 first building, would provide 70 senior housing units.

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2 Finding: This alternative does not meet the project objectives. It would
3 provide significantly less retail and grocery square footage, and fewer
4 dwelling units. This alternative does not fulfill the basic definition of a
5 project objective as contained in Section 15126.6(a) of the CEQA Guidelines,
6 which provides that alternatives should be examined "which would feasibly
7 attain most of the basic objectives of the proposed project."
8

9 Reasons for Rejecting this Alternative: Although this alternative would reduce
10 some environmental impacts, such as trip-generation and circulation impacts,
11 it would not fully reduce any potentially significant impacts, and it would not
12 meet the project proponent's objectives for the proposed project, since it
13 would provide significantly less retail and grocery space. This alternative is
14 examined as required by CEQA Section 15126.6(e), even though it would not
15 achieve the project objectives.
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17 Alternative 3: The Reduced Residential Alternative

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19 Description: Under this alternative, Block A would remain the same as the
20 proposed project, with 2,000 square feet of retail and a 55,000 square foot
21 Whole Foods Market. Block B would be altered to include only 85 residential
22 units, a 90 unit reduction over the proposed project.
23

24 Finding: This alternative would meet all objectives of the proposed project but
25 would provide significantly fewer residential units, and would only minimally
26 reduce the significant environmental impacts. The project seeks to provide a
27 number of residential units that is of a higher density than in other areas of the
28 city, and thus the alternative prohibits the applicant from achieving this goal.
29

30 Reasons for Rejecting the Alternative: Although this alternative would
31 address some of the potential environmental impacts of the project, these

1 impacts can be mitigated through other measures discussed in the
2 Environmental Impact Report in a way that would not decrease the residential
3 portion of the project. The benefits of the proposed project with the full
4 residential component outweigh the negative impacts that would be avoided
5 with this alternative.
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7 **STATEMENT OF OVERRIDING CONSIDERATIONS**

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9 1. Detailed Statement. The City Council has fully considered the
10 discussion and analyses of the Record regarding the environmental impacts,
11 socioeconomic effects, cumulative impacts, growth-inducing impacts, and
12 irreversible and irretrievable commitments of resources. The City Council
13 finds that the programs and activities of the mixed use development at
14 University Village provide numerous economic, social, environmental and
15 other benefits to the City of Albany, which overrides any unavoidable
16 significant adverse impacts of the project. The City Council finds that the
17 alternatives to the mixed use development at University Village set forth in
18 the EIR and summarized in this document are infeasible because such
19 alternatives would limit the social, economic, and other benefits of the
20 proposed development, and are therefore outweighed by them. Therefore,
21 pursuant to Public Resources Code Section 21081c and CEQA, the City
22 Council makes the following Statement of Overriding Considerations and
23 findings in support thereof:
24

25 a. The University Village Mixed Use project promotes
26 development that fulfills the goals of the General Plan, including
27 upgrading commercial development along San Pablo Avenue in order
28 to expand the City's economic base. It fulfills the General Plan goal
29 that future redevelopment of the University of California lands is
30 compatible with the City's long-term land use goals, including mixed
31 use development along the San Pablo Avenue Commercial Corridor.

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b. The proposed project is consistent with the Housing Element goal to expand housing opportunities for the elderly, disabled, and other persons with special housing needs. The project will provide 175 housing units, which would make progress towards Albany's Fair Share of Alameda's Regional Housing Needs Allocation as identified by ABAG for 2007-2014.

c. The University Village Mixed Use Project cannot fully resolve the transportation and circulation impacts of growth and development for the project area. However, with adoption of the mitigation measures outlined in this document, Exhibit A, and the EIR, these adverse impacts can be reduced. Furthermore, several of the intersections identified in the EIR as significantly impacted are not within the City of Albany's jurisdiction. Therefore, despite mitigation measures that would reduce the impacts to less-than-significant levels, they are still considered significant and unavoidable. (MM TRANS-1-10,12)

d. Certification of the FEIR and implementation of the University Village Mixed Use Project, in combination with the adoption of the mitigation measures outlined in this document, will contribute to the physical and economic revitalization of this site, which is currently vacant and underutilized land. Specifically, the University Village Mixed Use project will produce sales tax revenue that will benefit the City and will create employment opportunities for Albany residents.

e. The consequences of failing to approve the project will include:

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I. Delays in or lack of development or in the project area that will adversely affect potentially productive property, business, and public service opportunities.

II. Failure to meet the City of Albany’s Fair Share of the Regional Housing Needs Allocation for the Housing Element 2007-2014.

f. The City Council is prepared to accept the risks of the unavoidable adverse environmental consequences identified in this document and the FEIR for the following reasons:

I. The economic and social benefits of the project are consistent with the goals of the Albany General Plan, and outweigh the adverse environmental consequences;

II. The economic benefits to the City in terms of potential increased tax revenues, broadened employment opportunities, and aesthetic improvement to the currently vacant site outweigh the adverse environmental consequences;

III. The majority of the adverse transportation impacts are outside of the City’s jurisdiction, and thus are unavoidable and significant despite mitigation measures that will reduce their impact to less than significant levels.

g. The City Council has considered a reasonable range of alternatives to the University Village Mixed Use Project, as detailed in the FEIR and in this document. The City Council concludes as follows:

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I. The alternatives to the University Village Mixed Use Project fail to achieve the comprehensive goals and objectives of the General Plan for Albany, and as such are deemed infeasible. While the Alternative Land Uses would reduce some impacts to a level of insignificance, they would not result in the same economic and social benefits as proposed by the project.

II. Failure to develop the University Village Mixed Use project will not provide the best balance of costs and opportunities to minimize the adverse economic and environmental consequences.

2. Overall Conclusion. Based on the detailed findings made in this document and the implementation of specified mitigation measures and monitoring programs, the overall finding is made that economic and social considerations outweigh the remaining environmental effects of the proposed University Village Mixed Use Project, and the City Council concludes that the project be approved, taking into account the future significant environmental consequences identified in the FEIR and Exhibit A.

3. Supporting Evidence. The Statement of Overriding Considerations set forth is based on substantial evidence throughout the Record, with particular reference to the information and analysis of the various benefits of the Redevelopment Plan and the Program contained in the Report Accompanying the Redevelopment Plan.

4. Summary. Based on the foregoing findings and the information contained in the record, it is hereby determined that:

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a. All significant impacts on the environment due to the Project have been eliminated or substantially lessened where feasible.

b. Any significant impacts found to be unavoidable were fully analyzed and adequately addressed in the Final EIR and are acceptable due to the factors described in the Findings and Statement of Overriding Considerations.

c. The environmentally superior alternative would lessen the significant and unavoidable impacts of the proposed Project. The environmentally superior alternative, as well as the other alternatives evaluated in the EIR, are rejected as infeasible because they fail to accomplish the basic Project objectives.

BE IT FURTHER RESOLVED that the Albany City Council hereby finds as follows:

1) Based on the recitals above, the City Council finds that the Final EIR has been completed in compliance with the requirements of the California Environmental Quality Act (CEQA).

2) The Final EIR (including three addenda) was presented to the City Council, and that the Final EIR was reviewed by the City Council and its information considered prior to taking action on the proposed project; and

3) The Final EIR reflects the City's independent judgment and analysis.