RESOLUTION #2011-51

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

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

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

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

WHEREAS, on September 27, 2011, the Planning Commission considered the Project, the FEIR, and the information submitted in the staff reports and at the public hearings and adopted resolutions recommending approval of the Project and certification of the FEIR; and

WHEREAS, the City Council has considered the Project, the FEIR, and the information submitted in the staff reports and at the public hearings; and

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

WHEREAS, the City desires and intends to use the EIR for the approval of the amendments to the Zoning Ordinance regarding the project site and the University Village Mixed Use Project Zoning Overlay District, the Planned Unit Development

for Parcel A and P of the University Mixed Use Development and related actions as the environmental document required by CEQA; and

WHEREAS, consistent with the requirements of Public Resources Code Section 21081 and Section 15091 of the CEQA Guidelines, written findings have been prepared for significant impacts identified in the EIR; and

WHEREAS, CEQA Guidelines Section 15093 requires the decision making body to balance, as applicable, the economic, legal, social, technological or other benefits of the proposed project against its unavoidable environmental risks when determining whether to approve a project. If these benefits outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable." The decision making body must state in writing the specific reasons to support its action based on the EIR and/or other information in the record; and

WHEREAS, a Statement of Overriding Considerations has been prepared specifying the economic, social and other benefits that render acceptable the significant unavoidable environmental effects associated with the project and is contained herein; and

WHEREAS, consistent with the requirements of CEQA, a Mitigation Monitoring and Reporting Program ("MMRP") has been prepared to outline the procedures for implementing all mitigation measures identified in the EIR and recommended for approval by the Planning Commission and is attached as **Exhibit A**; and

WHEREAS, the City Council has considered the Project, the Final EIR and the information submitted in the staff reports and at the public hearings; and changes, alterations, and mitigation measures have been incorporated into the project or will be required as conditions of approval that will avoid or substantially lessen significant impacts identified in the FEIR as described below,

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Albany certifies that the Final EIR for the Project has been completed in compliance with the requirements of CEQA and reflect the Council's independent judgment and analysis.

BE IT FURTHER RESOLVED, that the Albany City Council makes the following findings regarding (1) potentially significant environmental impacts of the Project under CEQA; (2) measures identified in the Final EIR that if adopted will mitigate the significant Project impacts to less than significant levels; (3) changes or alterations that have been required in, or incorporated into, the Project to avoid or substantially lessen significant impacts; (4) impacts that are not significant; (5) project alternatives; (6) a mitigation and monitoring program; and (7) a Statement of Overriding Considerations. (CEQA Guidelines Section 15091) based on substantial evidence contained in the administrative record:

1. Based on review and analysis of the EIR and other information in the record, including the written and oral comments received at the public hearings on the EIR and the project, prior to acting upon or approving the project, the City Council shall certify that the (1) EIR has been completed in compliance with CEQA; (2) EIR was presented to the City Council and that the members of the City Council reviewed and considered the information in the EIR before approving the project; and (3) EIR reflects the City's independent judgment and analysis.

2. The Findings set forth herein, are incorporated in this Resolution by reference and are hereby made and adopted as the City's findings under CEQA and the CEQA Guidelines. The Findings provide the written analysis and conclusions of the Council regarding the project's environmental impacts, mitigation measures and alternatives to the project.

3. That the mitigation measures described herein be adopted as conditions of approval of the project.

4. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 *et seq*., the City Council adopt the Statement of Overriding Considerations regarding the remaining significant impacts of the project set forth herein.

5. That the MMRP for the project which is attached to this Resolution as **Exhibit A** be adopted. The MMRP identifies impacts of the project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

6. The City Clerk of the City of Albany, located at City Hall, 1000 San Pablo Avenue, Albany, California, 94706, is designated as the custodian of documents and record of proceedings on which the decision is based.

INTRODUCTION

These Findings and Statement of Overriding Considerations ("Findings") are made as the City's Findings and Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") relating to the University Village Mixed Use Development ("Project"). These Findings explain the potential environmental impacts of the Project, identify mitigation measures that have been adopted to mitigate those impacts, explain the alternatives that were evaluated and rejected, and include the overriding considerations to support approval of the Project.

LEGAL EFFECT OF FINDINGS

These findings constitute the City's evidentiary and policy bases for its decision to approve the project in a manner consistent with the requirements of CEQA. To the extent that these findings conclude that proposed mitigation measures outlined in the EIR are feasible and have not been modified, superseded or withdrawn, the City hereby binds the project applicant and any other responsible parties to implement those measures. These findings, in other words, are not merely informational or advisory, but constitute a binding set of obligations that will come into effect when the City adopts the resolution(s) and/or ordinance(s) approving the Planned Unit Development and related approvals for the Project. (Public Resources Code § 21081.6(b).) In addition, the adopted mitigation measures are conditions of approval.

FINDING OF INDEPENDENT JUDGMENT

The City of Albany is the Lead Agency with respect to the Project pursuant to the Section 15367 of the CEQA Guidelines. Public Resources Code 21081 and Section 15091 of the CEQA Guidelines require that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation for the rationale for each finding. The EIR identified potentially significant effects that could result from Project implementation. The City finds that the mitigation measures in the EIR will reduce most, but not all, of those effects to less than significant levels. Those impacts that are not reduced to less than significant levels are identified and overridden due to specific Project benefits identified in the Statement of Overriding Considerations.

In accordance with CEQA and the State CEQA Guidelines, the City adopts these Findings as part of its approval of the Project. Pursuant to Section 21082.1(c)(3) of the Public Resources Code, the City also finds that the EIR reflects the City's independent judgment as the Lead Agency for the Project.

ADMINISTRATIVE RECORD

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

- The EIR (both the Draft EIR and Final EIR, collectively the "EIR") and all documents referenced in or relied upon by the EIR.
- All information (including written evidence and testimony) provided by City Staff to the Planning Commission and the City Council relating to the EIR, the approvals, and the project.
- All information (including written evidence and testimony) presented at or in preparation of any City public hearing or City workshop related to the Project and the EIR.
- For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation the general plan, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- The Mitigation Monitoring and Reporting Program ("MMRP") for the Project.
- All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the City Clerk or her designee. Such documents and other materials are located at the Albany City Hall, 100 San Pablo Avenue, Albany, California, 94706.

MITIGATION MONITORING AND REPORTING PROGRAM ("MMRP")

Section 21081.6 of the Public Resources Code requires the City to adopt a monitoring or compliance program regarding the changes in the project and mitigation measures imposed to lessen or avoid significant effects on the environment. The City prepared a MMRP for the project and approves the MMRP by this same resolution that adopts these findings. (Public Resources Code § 21081.6(a)(1); CEQA Guidelines § 15097.) The MMRP is attached hereto as **Exhibit A**. The City finds that all mitigation

measures contained in the MMRP are feasible and will mitigate the significant impacts of the project to which they are addressed to a less than significant impact. The City will use the MMRP to track compliance with project mitigation measures.

Based on the entire record, and having considered the unavoidable and significant impacts of the Project, the City hereby determines that all feasible mitigation measures within the responsibility and jurisdiction of the City have been adopted to reduce or avoid the potentially significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce significant impacts.

FINDINGS REGARDING POTENTIAL IMPACTS AND MITIGATION MEASURES UNDER CEQA.

The EIR evaluated the potential for the Project to result in significant impacts and was prepared at a specific project level and with respect to the University Village Mixed Use Development. All impacts were found to be less than significant or less than significant after incorporation of mitigation measures, with the exception of certain impacts relating to transportation circulation and parking, which were found to be significant and unavoidable.

By these findings, the City Council have attempted to avoid or mitigate to a less-than-significant level all University Village Mixed Use Project impacts, and to otherwise consider, address, and resolve all of the environmental concerns raised during the public process. To the extent that a significant impact is unavoidable, it is determined that there are no feasible mitigation measures or alternatives and that the specific social, economic, legal, technical or other reasons set forth in the Statement of Overriding Considerations contained herein outweigh the unavoidable adverse environmental effects. To the extent the Findings presented here summarize the Draft and Final EIR, the summary is not intended to change any aspect of the complete text of the analysis and mitigation measures discussed in the Draft and Final EIR. These Findings incorporate by reference in their entirety the text of the Draft and Final EIR.

Without limitation, this incorporation is intended to elaborate on the scope and nature of Project and cumulative development impacts, related mitigation measures, and the basis for determining the significance of such impacts.

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

1. Transportation, Circulation, and Parking. Construction activities associated with the proposed project will have temporary adverse impacts on vehicular, bicycle, and pedestrian circulation access. These potentially significant circulation impacts can be mitigated to a level less than significant with preparation of a Construction Traffic Management Plan, which would include regulations on truck routes, construction hours, employee parking, and detour plans. The Construction Traffic Management Plan shall be approved by the City of Albany staff prior to construction. (MM TRANS-13)

2. Air Quality. Demolition and construction period activities would generate dust and exhaust, and organic emissions from vehicles. Potentially significant air quality impacts can be mitigated to a level less than significant with measures to reduce dust and exhaust. Consistent with guidance from the BAAQMD, the project applicant shall require contractors to include dust control measures in construction specifications for the project. (MM AIR-1).

3. Global Climate Change. The project may conflict with the policies and regulations with regard to Greenhouse Gas reduction goals. In order to reduce these impacts to levels less than significant, the project will use environmentally friendly building materials, take measures to exceed California Building Code's Title 24 energy standards, devise a water conservation strategy for the site, and provide transit and bike facilities. (MM-GCC-1).

4. Noise. Noise levels from construction activities will increase temporarily, and long-term noise impacts from traffic generation could exceed the acceptable interior noise levels on the site. Construction practices and hours of construction work can be modified to mitigate to a less-than-significant level potential noise impacts. To mitigate internal noise levels within the completed Project to a less-than-significant level, all residential units shall include alternative ventilation systems to ensure that windows can remain closed for prolonged periods of time. (MM-NOISE-1-2)

5. Biological Resources. The proposed Project could impact the Central Coast Steelhead habitat and the western pond turtles in Codornices Creek. The project may also impact the bird species and Monarch butterfly colonies on site. Construction activities will be timed to mitigate to a less-than-significant level the impact on fish and bird habitats, and disturbance to existing grades and vegetation will be limited. Western pond turtles, if present, will be relocated to a suitable habitat. Protected buffer zones will be established around these biological habitats. (MM-BIO1-4)

6. Hydrology and Water Quality. Construction activity could result in degradation of water quality in Codornices Creek, Village Creek, and the San Francisco Bay. Once completed, operation of the site could reduce infiltration, increase runoff volume, and degrade the quality of stormwater runoff. The project contractor shall comply with the Albany Municipal Code relating to grading projects erosion control, and discharge regulations and requirements (Chapter XX, Section 15-4.7), and Best Management Practices will be followed included soil stabilization controls, watering for dust control, perimeter silt fences, and placement of hay bales and sediment basins. (MM-HYDRO1). The Project will meet all requirements of the current County Wide NPDES Permit, and the drainage plan shall include features and operational Best Management Practices to reduce potential impacts to surface

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

SUMMARY OF IMPACTS THAT ARE NOT FOUND TO BE SIGNIFICANT

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

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

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

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

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

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

6. Land Use and Planning. The proposed project is compatible with the existing General Plan designations, and land use and planning impacts would be less than significant. Approval of the University Village Mixed Use Project Zoning Overlay District would ensure mixed use development within the University Villages parcels along San Pablo Avenue, specifically encouraging residential development, including residential care uses, consistent with the Realistic Unit Capacity of the San Pablo Commercial Zone as defined by the Housing Element.

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

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

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

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

11. Utilities. Implementation of the project would not exceed the Regional Water Quality Control Board's treatment standards, and the construction of new water or wastewater treatment facilities would not be required to provide service to the project site. Given Mitigation Measures (UTIL-1 and UTIL-2) identified in the EIR and outlined in Exhibit A, and adequate capacity at the Potrero Hills Landfill to accommodate the project, impacts to utilities would be less than significant.

SUMMARY OF SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS.

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

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

Transportation, Circulation and Parking

The proposed project would contribute to the following intersections experiencing unacceptable levels of congestion when measured against the City's significance thresholds:

- Marin Avenue/San Pablo Avenue
- Gilman Street/I-80 Westbound Ramps
- Gilman Street/I-80 Eastbound Ramps
- Gilman Street/Eastshore Highway
- Gilman Street/San Pablo Avenue
- Gilman Street/Hopkins Street

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

- Solano Avenue/San Pablo Avenue

- Buchanan Street/Eastshore Highway
- Harrison Street/San Pablo Avenue

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

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

FINDINGS ON THE FEASIBILITY OF ALTERNATIVES TO THE PROPOSED PROJECT

The Draft EIR evaluated a reasonable range of alternatives to the Project and in compliance with CEQA and the CEQA Guidelines, the alternatives analysis also included an analysis of a No Project Alternative and identified the environmentally superior alternative. The EIR examined each alternative's feasibility and ability to meet the Project objectives. Those found to be clearly infeasible were rejected without further environmental review. Alternatives that might have been feasible and that would attain most of the Project objectives were carried forward and analyzed with regard to whether they would reduce or avoid significant impacts of the Project.

In connection with certification of the Final EIR for the Project, the City certifies that it independently reviewed and considered the information on alternatives provided in the Final EIR and the record of proceedings. The City finds that no new alternatives that are considerably different from those analyzed in the Final EIR for the Project have been identified and that the feasibility of the analyzed alternatives has not

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

Alternative 1: The No Project Alternative

Description: The project site would not be subject to redevelopment, and would generally remain in its existing condition. No site improvements would occur (including pedestrian and bicycle facilities), and the project site would remain largely unused and vacant.

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

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

Alternative 2: The Existing Zoning Alternative

Description: The project site would be redeveloped with the type and intensity of uses currently allowed under the Zoning Ordinance, which includes San Pablo Avenue Commercial (SPC), Residential Medium Density (R-2), and

Watercourse Overlay District. Under this alternative, a 15,000 square foot market would be located within the area designated as SPC on Block A, fronting along San Pablo Avenue. The Block B component would include one 30-foot tall mixed use building along San Pablo with 16,000 square feet of retail on the ground floor and senior housing units on the second floor. The second building in Block B would be three stories tall, and combined with the first building, would provide 70 senior housing units.

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

Reasons for Rejecting this Alternative: Although this alternative would reduce some environmental impacts, such as trip-generation and circulation impacts, it would not fully reduce any potentially significant impacts, and it would not meet the project proponent’s objectives for the proposed project, since it would provide significantly less retail and grocery space. This alternative is examined as required by CEQA Guidelines Section 15126.6(e), even though it would not achieve the project objectives.

Alternative 3: The Reduced Residential Alternative

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

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

Reasons for Rejecting the Alternative: Although this alternative would address some of the potential environmental impacts of the project, these impacts can be mitigated through other measures discussed in the Environmental Impact Report in a way that would not decrease the residential portion of the project. The benefits of the proposed project with the full residential component outweigh the negative impacts that would be avoided with this alternative.

MINOR PROJECT CHANGES DO NOT REQUIRE RECIRCULATION

The DEIR/FEIR currently states that the buildings comprising the senior housing component on Parcel B would be five stores and 52 feet tall on Monroe Street set back approximately 75 feet from San Pablo Avenue. In addition, the DEIR/FEIR did not mention amending the zoning code to approve the University Village Mixed Use Project Overlay District. Recently, the City learned that the project architect had calculated height differently than the method used under the Municipal Code and that the project sought a maximum height (calculated pursuant to the Municipal Code) of 62 feet above grade to the highest point of the structure in the senior housing component on Parcel B (beginning from a setback line 55 feet from San Pablo Avenue westerly to the boundary of the San Pablo commercial Zoning District and subject to general exceptions and mechanical appurtenances described in Section 20.24.080). The University Village Mixed Use Project Overlay District was proposed to conform to the project and provide assurances that

the project site would be developed as a mixed use project as contemplated and analyzed in the EIR. The adoption of the University Village Mixed Use Project Overlay District and addressing the discrepancy in the maximum height of the project requires clarification only, and does not require recirculation of the EIR for the following reasons:

1. Clarification of the project description height does not require recirculation of the EIR because it does not constitute "significant new information" affecting any of the impacts studied under the EIR. First, no new significant environmental impacts, or substantial increase in the severity of any environmental impacts, would result from clarifying the height identified in the project description. This is because the change is de minmis in the context of the project site and surroundings and is allowable under the Planned Unit Development provisions of the Municipal code. The EIR determined, based on visual simulations included in the initial study, that impacts to visual resources would be less than significant and this clarification does not alter that conclusion; and

2. Amendment of the City of Albany Zoning Ordinance to include the University Village Mixed Use Project Overlay District does not require recirculation of the EIR because it does not constitute "significant new information" affecting any of the impacts studied under the EIR. No new significant environmental impacts, or substantial increase in the severity of any environmental impacts, would result from the adoption of the University Village Mixed Use Project Overlay District. This is because the overlay district is a means to provide assurances that the project site would be developed in substantial conformity with the project studied in the EIR, or would require a future zoning amendment application necessitating additional compliance with CEQA.

For the foregoing reasons, the clarification of the maximum height of the project from approximately 52 feet to 62 feet, and the adoption of the University Village Mixed Use Project Zoning Overlay District do not affect the input to the physical characteristics of the site as studied. All studies conducted on the site remain valid and this clarification does not require circulation under Section 15088.5 of the CEQA Guidelines.

STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits of a project against its unavoidable environmental risks when determining whether to approve a project. If the specific economic, legal, social, technological or other benefits of a project outweigh the unavoidable adverse environmental effects, those effects may be considered "acceptable." (CEQA Guidelines Section 15093(a).) CEQA requires the agency to state, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened.

In accordance with the requirements of CEQA and the CEQA Guidelines, the City finds that the mitigation measures identified in the EIR and the MMRP, when implemented, will avoid or substantially lessen most of the significant effects of the Project. However, certain impacts of the Project are unavoidable even after incorporation of all feasible mitigation measures. The EIR provides detailed information regarding these impacts.

The City has adopted all the mitigation measures and finds that all mitigation measures identified in **Exhibit A** will be implemented with the Project. The City further finds that the remaining significant and unavoidable effects are outweighed and are found to be acceptable due to the following specific overriding economic,

legal, social, technological, or other benefits based upon the facts set forth above in the Findings, the EIR, and the record, as follows:

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

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

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:

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:

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.

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

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 based on substantial evidence contained in the Record 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 was presented to the Planning Commission and City Council, and that the Final EIR was reviewed by the Planning Commission and 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.

Table II-1: Summary of Impacts and Mitigation Measures

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
IMPACTS AND MITIGATION MEASURES IDENTIFIED IN THE EIR			
A. Transportation, Circulation and Parking			
TRANS-1: Completion of the proposed project would significantly affect operations of the Marin Avenue/San Pablo Avenue (#7) intersection under Existing Plus Project conditions.	S	TRANS-1: Optimize traffic signal timing parameters (i.e., allocation of green time for each intersection approach and coordination with adjacent signals along San Pablo Avenue). This mitigation measure would improve intersection operations to LOS D during both AM and PM peak hours. Although this improvement would mitigate the impact to a less-than-significant level, the impact is considered significant and unavoidable because the City of Albany does not have jurisdiction over the mitigation measure. This mitigation measure would need to be implemented by Caltrans.	SU
TRANS-2: Completion of the proposed project would significantly affect operations of the Gilman Street/I-80 Westbound Ramps (#13) intersection under Existing Plus Project conditions.	S	TRANS-2: The project applicant shall contribute its fair share to the City of Berkeley's proposed dual roundabout project at the Gilman Street/I-80 Interchange. Based on a preliminary analysis, the west roundabout is expected to operate at LOS F and the east roundabout is expected to operate at LOS B during the AM peak hour; the west roundabout would operate at LOS C and the east roundabout would operate at LOS B during the PM peak hour; and both roundabouts would operate at LOS F during the Saturday peak hour after the implementation of this planned improvement. Although either one or both roundabouts would operate at LOS F during certain peak hours, they would operate with less delay than the current configuration. Because the City of Albany does not have jurisdiction over the mitigation measure and it would need to be implemented by City of Berkeley and Caltrans, the impact is considered significant and unavoidable. In addition, the improvement is still in preliminary design, has not been approved, and does not have full funding.	SU
TRANS-3: Completion of the proposed project would significantly affect operations of the Gilman Street/I-80 Eastbound Ramps (#14) intersection under Existing Plus Project conditions.	S	TRANS-3: Implement Mitigation Measure TRANS-2.	SU
TRANS-4: Completion of the proposed project would significantly affect operations of the Gilman Street/Eastshore Highway (#15) intersection under Existing Plus Project conditions.	S	TRANS-4: Implement Mitigation Measure TRANS-2.	SU

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
TRANS-5: Completion of the proposed project would significantly affect operations of the Gilman Street/San Pablo Avenue (#18) intersection under Existing Plus Project conditions.	S	TRANS-5: The project applicant shall contribute its fair share to the City of Berkeley's plan to eliminate parking along the north side of Gilman Street between Kains Avenue and San Pablo Avenue and provide an additional travel lane on the westbound approach of the intersection. The improvement would reduce delay at the intersection. However, the intersection would continue to operate at LOS E during the PM and Saturday peak hours. Thus, the impact would remain significant and unavoidable. In addition, the City of Albany does not have jurisdiction over the mitigation measure. This mitigation measure would need to be implemented by City of Berkeley and may require approval from Caltrans.	SU
TRANS-6: Completion of the proposed project would significantly affect operations of the Gilman Street/Hopkins Street (#19) intersection under Existing Plus Project conditions.	S	TRANS-6: The project applicant shall contribute its fair share to signalize this intersection. This mitigation measure would improve intersection operations to LOS B during the PM peak hour. Although this improvement would mitigate the impact to a less-than-significant level, the impact is considered significant and unavoidable because the City of Albany does not have jurisdiction over the mitigation measure. This mitigation measure would need to be implemented by City of Berkeley, and the City of Berkeley does not currently have any plans to signalize this intersection.	SU
TRANS-7: Completion of the proposed project would significantly affect operations of the Marin Avenue/San Pablo Avenue (#7) intersection under Near-Term (2015) Plus Project conditions.	S	TRANS-7: The project applicant shall install an exclusive right-turn lane and convert the current shared through/right-turn lane into an exclusive through lane on eastbound Marin Avenue approach of the intersection. This mitigation measure would improve intersection operations to LOS D during the PM peak hour. Although this improvement would mitigate the impact to less-than-significant level, the impact is considered significant and unavoidable because the mitigation measure would need to be approved by Caltrans. In addition, this mitigation measure would adversely affect pedestrian circulation by increasing the distance to cross the west approach of the intersection.	SU
TRANS-8: Completion of the proposed project would significantly affect operations of the Solano Avenue/San Pablo Avenue (#1) intersection under Cumulative (2035) Plus Project conditions.	S	TRANS-8: No improvements are currently feasible at this intersection. This is due to the lack of available right-of-way at this location, presence of existing lights and utilities, and that Caltrans has jurisdiction over this intersection. Thus, the impact is considered significant and unavoidable.	SU

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
TRANS-9: Completion of the proposed project would significantly affect operations of the Buchanan Street/Eastshore Highway (#4) intersection under Cumulative (2035) Plus Project conditions.	S	TRANS-9: The project applicant shall contribute its fair share to signalize this intersection and provide a left-turn from northbound Eastshore Highway to westbound Buchanan Street. Signal timing at the intersection shall be coordinated with adjacent signals along Buchanan Street. This mitigation measure would improve intersection operations to LOS B during the Saturday peak hour. Although this improvement would mitigate the impact to a less-than-significant level, the impact is considered significant and unavoidable because the City of Albany does not have jurisdiction over the mitigation measure. This mitigation measure would need to be approved by Caltrans. Caltrans currently has no plans to signalize this intersection.	SU
TRANS-10: Completion of the proposed project would significantly affect operations of the Harrison Street/San Pablo Avenue (#12) intersection under Cumulative (2035) Plus Project conditions.	S	TRANS-10: The project applicant shall contribute its fair share to signalize this intersection. Signal timing at the intersection shall be coordinated with adjacent signals along San Pablo Avenue. This mitigation measure would improve intersection operations to LOS A during the AM, PM, and Saturday peak hours. Although this improvement would mitigate the impact to a less-than-significant level, the impact is considered significant and unavoidable because the City of Albany does not have jurisdiction over the mitigation measure. This mitigation measure would need to be implemented by City of Berkeley and approved by Caltrans. Neither the City of Berkeley nor Caltrans currently have any plans to signalize this intersection.	SU
TRANS-11: Completion of the proposed project would significantly affect operations on segments of the CMP roadway network.	S	TRANS-11: Full mitigation of these impacts is not feasible as the constrained right-of-way along San Pablo Avenue does not allow widening of the roadway. Implement Mitigation Measures TRANS-5, TRANS-7, TRANS-8, and TRANS-10. These mitigation measures would reduce the magnitude of the project impact, but not to a less-than-significant level; the impact would remain significant and unavoidable.	SU

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
TRANS-12: Completion of the proposed Class I bicycle and pedestrian path along Codornices Creek will have an adverse impact on bicycle and pedestrian safety at San Pablo Avenue.	S	TRANS-12: Implement any one of the following four improvements as shown on Figures IV.A-16a and IV.A-16b to improve pedestrian and bicycle access across San Pablo Avenue between the proposed Class I path along Codornices Creek and Dartmouth Street: 1. Install a high-intensity activated crosswalk (HAWK) traffic signal on San Pablo Avenue at Dartmouth Street. HAWK signals operate by using traffic and pedestrian/bicycle signal heads, but they are only activated when the pedestrian push buttons or bicycle loop detectors are triggered. Therefore when bicyclists and/or pedestrians desire to cross San Pablo Avenue at Dartmouth Street, they would activate the HAWK signal, stopping northbound and southbound traffic on San Pablo Avenue, allowing for bicyclists/ pedestrians to cross safely. When not activated, the HAWK signal rests on all dark. In addition, widen the sidewalk on west side of San Pablo Avenue between Codornices Creek and Dartmouth Street to accommodate both pedestrians and bicycles, install bicycle detector loops on the Dartmouth Street approach, and coordinate the HAWK signal with the existing signals along San Pablo Avenue in order to minimize vehicle delay. Since HAWK signals have not been officially approved for use in California, consider installing an interim traffic signal designed to accommodate conversion to a HAWK. 2. Signalize the San Pablo Avenue/Dartmouth Street intersection and provide pedestrian countdown signal and high-visibility crosswalk on both north and south approaches of San Pablo Avenue. Coordinate signal timing parameters with adjacent signals along San Pablo Avenue. In addition, install bicycle detector loops on the Dartmouth Street approach and coordinate the signal with the existing signals along San Pablo Avenue. Widen the sidewalk on west side of San Pablo Avenue between Codornices Creek and Dartmouth Street to accommodate both pedestrians and bicycles.	SU

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
TRANS-12 *Continued*		3. Install a two-stage signalized crossing with a six-foot wide median refuge on San Pablo Avenue between Codornices Creek and Dartmouth Street. Provide a crosswalk and a signal on southbound San Pablo Avenue opposite Codornices Creek path to allow pedestrians and bicycles to cross southbound San Pablo Avenue. Provide a crosswalk and a signal on northbound San Pablo Avenue at Dartmouth Street to allow pedestrians and bicycles to cross northbound San Pablo Avenue. A path in the median would connect the two signalized crosswalks. The main advantage of the two-stage signalized crossings is that each of the signals can be individually coordinated with adjacent signals along San Pablo Avenue. 4. Provide a two-stage unsignalized crossing with a median refuge on San Pablo Avenue. This option would be similar to the previous option except the crossings would not be signalized. However, other safety features such as stutter flashing lights would be required. Since stutter flashing lights have not been officially approved for use in California, consider installing overhead beacons as an interim measure. The overhead beacons should be designed for easy conversion to stutter flashing lights when appropriate. Any of the four improvement options would mitigate the impact to less-than-significant level. However, San Pablo Avenue is a Caltrans facility, and the lead agency cannot ensure that Caltrans approval of the mitigation measure would be granted. As such, this impact is considered significant and unavoidable.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
TRANS-13: Construction activities associated with the proposed project will have temporary adverse impacts on vehicular, bicycle, and pedestrian circulation and access.	S	TRANS-13: Prior to start of construction, the prime contractor shall prepare a Construction Traffic Management Plan which shall include the following items: • Proposed truck routes to be used, consistent with the City's truck route map. All trucks shall use the Buchanan Street Interchange to access the project site from the freeways. • Construction hours, including limits on the number of truck trips during the AM and PM peak traffic periods (7:00 to 9:00 a.m. and 4:00 to 6:00 p.m.), if conditions demonstrate the need. • Proposed employee parking plan (number of spaces and planned locations) to be accommodated within the site. • Proposed construction equipment and materials staging areas, showing minimal conflicts with traffic, pedestrian and bicycle circulation patterns. • Expected traffic detours needed, planned duration, and traffic control plans including potential sidewalk closures and plans to accommodate vehicular, pedestrian and bicycle detours. The Construction Traffic Management Plan shall be approved by City of Albany staff prior to start of construction.	LTS
B. Air Quality			
AIR-1: Demolition and construction period activities would generate dust and exhaust, and organic emissions from vehicles.	S	AIR-1a: Consistent with guidance from the BAAQMD, the project applicant shall require contractors to include dust control measures in construction specifications for the project. Demolition. The following controls shall be implemented during demolition:	LTS

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
AIR-1 *Continued*		• Water during demolition of structures and break-up of pavement to control dust generation; • Cover all trucks hauling demolition debris from the site; and • Use dust-proof chutes to load debris into trucks whenever feasible. Construction. The following controls shall be implemented during construction: • Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing sensitive land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers to control dust; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard; • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites; • Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; • Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; • Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); • Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.) • Limit traffic speeds on unpaved roads to 15 mph; • Install sandbags or other erosion control measures to prevent silt runoff to public roadways; • Replant vegetation in disturbed areas as quickly as possible; • Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; • Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph;	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
AIR-1 *Continued*		• Route any temporary haul roads to the soil stockpile area away from existing sensitive receptors to the extent feasible. Any temporary haul roads shall be surfaced with gravel and regularly watered to control dust or treated with an appropriate dust suppressant; • Utilize water sprays to control dust when material is being added or removed from the stockpile. When the stockpile is undisturbed for more than 1 week, the storage pile shall be treated with a dust suppressant or crusting agent to eliminate blown dust generation; and • All neighboring properties located within 500 feet of property lines of a construction area shall be provided with the name and phone number of a designated construction operation control coordinator who will respond to complaints within 24 hours by suspending all dust producing activities or providing additional personnel or equipment for dust control deemed necessary. The phone number of the BAAQMD pollution complaints contact shall also be provided. The dust control coordinator shall be on-call during construction hours. The coordinator shall keep a log of complaints received and remedial action taken in response. AIR-1b: The project applicant shall require contractors to include emissions control measures in construction specifications for the project: • Alternative powered construction equipment (i.e., CNG, biodiesel, electric) shall be utilized when feasible; • Idling time of diesel powered construction equipment shall be limited to 3 minutes; • Heavy-duty (>50 horsepower) off-road vehicles shall achieve a project-wide fleet average of 40 percent NOx reduction and 45 percent particulate reduction compared to the most recent CARB fleet average. • Add-on control devices shall be used such as diesel oxidation catalysts or particulate filters; • Construction equipment shall be located away from sensitive receptors, such as fresh air intakes to buildings, air conditioners and operable windows; and • The operating hours of heavy duty equipment and/or the amount of equipment in use shall be minimized.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
C. Global Climate Change			
GCC-1: Policies included in the project may conflict with applicable plans, policies and regulations of other agencies to the degree that GHG reduction goals may not be met.	S	GCC-1: To the extent feasible and to the satisfaction of the City, the following measures shall be incorporated into the design and construction of the project: ***Construction and Building Materials*** • Use locally produced and/or manufactured building materials for construction of the project; • Recycle/reuse demolished construction material in accordance with or exceeding the City of Albany's ordinance regarding construction and demolition debris recycling (Ordinance #06-017); and • Use "Green Building Materials," such as those materials which are resource efficient, and recycled and manufactured in an environmentally friendly way, including low Volatile Organic Compound (VOC) materials. ***Energy Efficiency Measures*** • Design all project buildings to exceed California Building Code's Title 24 energy standard, including, but not limited to any combination of the following: o Increase insulation such that heat transfer and thermal bridging is minimized; o Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption; o Design, construct and operate all newly constructed and renovated buildings, including grocery store, commercial retail, and mixed-use residential buildings, pursuant to the City of Albany Green Building Standards. • Install solar panels as appropriate to minimize demand for traditional energy usage, including electricity and natural gas usage, water heating and/or space heating/cooling; • Provide a landscape and development plan for the project that takes advantage of shade, prevailing winds, and landscaping;	LTS

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
GCC-1 *Continued*		• Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings; • Install light colored "cool" roofs and cool pavements; • Install energy efficient heating and cooling systems, appliances and equipment, and control systems; and • Install solar or light emitting diodes (LEDs) for outdoor lighting. ***Water Conservation and Efficiency Measures*** • Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include the following, plus other innovative measures that might be appropriate: o Create water-efficient landscapes within the development, requiring drought tolerant landscaping; o Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls; o Install pipes for recycled water use for nondomestic purposes, including landscape irrigation, commercial process use, and toilet/urinal flushing in nonresidential buildings, when it becomes available at adequate quality and quantity and available at reasonable cost; o Collect surface runoff on site for irrigation purposes; o Design buildings to be water-efficient. Install water-efficient fixtures and appliances, including low-flow faucets, dual-flush toilets and waterless urinals; and o Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff. ***Transportation and Motor Vehicle Measures*** • Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters); • Provide bicycle lanes and/or paths, incorporated into the proposed street systems and connected to a community-wide network; and • Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
D. Noise			
NOISE-1: Noise levels from construction activities may range up to 85 dBA L_{max} at the nearest sensitive land uses to the project site.	S	NOISE-1a: All construction equipment must have appropriate sound muffling devices, which shall be properly maintained and used at all times such equipment is in operation.	LTS
		NOISE-1b: Where feasible, the project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.	
		NOISE-1c: The construction contractor shall locate on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during.	
		NOISE-1d: Except as otherwise permitted, construction activities shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. weekdays and Saturdays, and 10:00 a.m. to 6:00 p.m. on Sundays and legal holidays.	
NOISE-2: Local traffic would generate long-term noise exceeding normally acceptable levels on the project site and could expose site uses to unacceptable interior noise levels.	S	NOISE-2: All residential units of the senior housing component of the project shall include an alternative form of ventilation, such as air conditioning systems, to ensure that windows can remain closed for prolonged periods of time.	LTS
E. Biological Resources			
BIO-1: Development of the proposed project could impact Central Coast Steelhead habitat in Codornices Creek.	S	BIO-1a. All construction activities in or adjacent to Codornices Creek shall be completed between June 15 and October 15 (i.e., outside the steelhead migration period). Should the project proponent demonstrate a need to conduct activities outside this time period, the Corps may authorize such activities after obtaining approval from NOAA Fisheries. During temporary de-watering of the stream (if required), pre-construction surveys by a qualified biologist shall be conducted. Subject to the approval of the NOAA Fisheries, any steelhead that are found in the stream section	LTS

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
BIO-1 *Continued*		that would be de-watered shall be captured and relocated to a suitable site upstream or downstream from the construction area. Prior to the initiation of construction activities for the outfalls, NOAA Fisheries shall approve a permit for the biologists to conduct such relocation work. The following additional steps will be implemented to further reduce direct and indirect impacts to steelhead and their habitat: • The NOAA Fisheries-approved biologist shall be present at the work site until such time as all removal of steelhead (if found) and habitat disturbance has been completed. After that time, the contractor or permittee shall designate a person to monitor on-site compliance with all mitigation measures. The monitor and the NOAA Fisheries-approved biologist shall have the authority to halt any action that might result in impacts that exceed the levels anticipated by the Corps and NOAA Fisheries. • Disturbance to existing grades and vegetation will be limited to the actual site of the project and necessary access routes. Vegetation removal will be minimized to the extent possible. Placement of all roads, staging areas, and other facilities shall avoid and limit disturbance to the stream bank or stream channel habitat to the extent possible. When possible, existing ingress or egress points shall be used and/or work performed from the top of the creek banks. Following completion of the work, the contours of the creek bed and creek flows shall be returned to pre-construction conditions or better. • All fueling and maintenance of vehicles and other equipment, and staging areas, shall be located at least 20 meters from Codornices Creek. Prior to the onset of work, the project proponent will prepare a plan to allow a prompt and effective response to any accidental spills into the creek (see Mitigation Measure BIO-1b, below). All workers shall be informed of the importance of preventing spills and the appropriate measures to take should a spill occur. In the event of a spill, NOAA Fisheries will be notified.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
BIO-1 *Continued*		BIO-1b: Best management practices (BMPs) shall be implemented during all construction activities to prevent erosion and sedimentation into the stream and to prevent the spill of contaminants around the stream. These BMPs shall be described in a Stormwater Pollution Prevention Plan (SWPPP) that shall be prepared in compliance with Regional Water Quality Control Board requirements. The SWPPP shall include the following major components, at a minimum: • A comprehensive erosion and sediment control plan, depicting areas to remain undisturbed, and providing specifications for revegetation of disturbed areas. • A list of potential pollutants from building materials, chemicals, and maintenance practices used during construction, and the specific control measures to be implemented to minimize release and transport of these constituents in runoff. • Specifications and designs for the appropriate BMPs for controlling drainage and treating runoff in the construction phase. • A program for monitoring all control measures that includes schedules for inspection and maintenance, and identifies the party responsible for monitoring. • A site map that locates all water quality control measures and restricted areas to be left undisturbed.	
		BIO-1c: Post-construction BMPs shall be prepared for the project prior to initiating construction. The BMPs shall address long-term operation and management of the project to avoid water quality degradation and other potential adverse impacts to Codornices Creek. In particular, structural and management BMPs shall be implemented to ensure adequate treatment of storm water and irrigation runoff to a level needed to maintain habitat for steelhead in compliance with stream "beneficial uses" under the RWQCB Region 2 Basin Plan (RWQCB 2007).	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
BIO-2: The proposed project could impact the foraging or nesting habitat for bird species of special concern.	S	BIO-2: In order to avoid impacts to raptors and other migratory nesting birds, pre-construction surveys shall be conducted by a qualified biologist during the months of March through August, no more than 30 thirty days prior to the start of grading or vegetation removal. Pre-construction surveys are not required if construction activities are restricted to the non-nesting season (September through February). At a minimum, the surveys shall encompass all areas within 100 feet of the grading or vegetation removal work. If active nests are found on the project site, a qualified biologist shall establish an adequate buffer zone around the nests within which construction is prohibited until the biologist has determined that the young birds have fledged.	LTS
BIO-3: The construction of the proposed project could impact western pond turtles that may be present in Codornices Creek.	S	BIO-3: Prior to the start of creek de-watering (if necessary) and outfall installation, Codornices Creek shall be surveyed by a qualified biologist for the presence of western pond turtles. If present, the western pond turtle individuals shall be relocated to suitable habitat upstream or downstream of the project site to avoid killing or injuring such individuals.	LTS
BIO-4: The construction of the proposed project could impact Monarch butterfly winter colonies.	S	BIO-4: Prior to the initiation of any work that will affect eucalyptus, pine, and cypress groves on the project site during the period between September and March, pre-construction surveys by a qualified biologist shall be conducted in the tree groves. If Monarch butterflies are found to be utilizing any of the trees as a winter colony site, construction in the vicinity of those trees shall be avoided and the removal of trees around the colony shall be avoided or postponed until after the butterflies have left for the breeding season. The width of the protected buffer zones around the winter colony trees shall be determined on a case-by-case basis by the biologist, based on guidelines for maintaining suitable microclimatic conditions in the tree canopy, as per *Conservation and Management Guidelines for Preserving the Monarch Butterfly Migration and Overwintering Habitat in California* (The Monarch Project, January 1993).	LTS

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
F. Hydrology and Water Quality			
HYDRO-1: Construction-phase activities could result in degradation of water quality in Codornices Creek, Village Creek and the San Francisco Bay by reducing the quality of stormwater runoff.	S	HYDRO-1: The project contractor shall comply with the City of Albany Municipal Code relating to grading projects, erosion control, and discharge regulations and requirements (Chapter XX, Section 15-4.7). In addition, the project applicant shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of the project. The SWPPP must be maintained on-site and made available to City inspectors and/or Water Board staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At a minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. An important component of the stormwater quality protection effort is the knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of stormwater quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list, along with summary of topics of discussion, shall be specified in the SWPPP. The SWPPP shall specify a monitoring program, which must include both dry and wet weather inspections, to be implemented by the construction site supervisor. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable in runoff." Water Board and/or City personnel, who may make unannounced site inspections, are empowered to levy considerable fines if it is determined that the SWPPP has not been properly prepared and implemented.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
HYDRO-1 *Continued*		BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control, that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.	LTS
HYDRO-2: Dewatering effluent may contain contaminants and if not properly managed could cause impacts to construction workers and the environment.	S	HYDRO-2: The construction-period SWPPP shall include provisions for the proper management of construction-period dewatering effluent. At minimum, all dewatering effluent shall be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system, as appropriate. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater shall be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the project applicant shall acquire the appropriate permit(s) prior to discharge of the effluent. Discharge of the dewatering effluent would require a site-specific permit from the Water Board or may be permitted under the Construction General Permit (for discharge to the storm sewer system or to San Francisco Bay) and/or East Bay Municipal Utility District (EBMUD) (for discharge to the sanitary sewer system).	LTS

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
HYDRO-3: Operation-phase activities of the site could result in hydrology and water quality impacts through a reduction in infiltration, increases in runoff volume, duration, or velocity, and degradation the quality of stormwater runoff.	S	HYDRO-3: The project applicant and City of Albany shall ensure that the proposed project drainage design meets all the requirements of the current Countywide NPDES Permit (NPDES Permit No. CAS0029831), as amended The drainage plan shall include features and operational Best Management Practices to reduce potential impacts to surface water quality associated with operation of the project. Stormwater discharges shall not cause an increase in the erosion potential of the receiving stream over the pre-project (existing) conditions. Increases in runoff flow and volume shall be managed so that post-project runoff shall not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of creek beds and banks, silt pollutant generation, or other adverse impacts to beneficial uses due to increased erosive force. Such management shall be through implementation of the hydromodification requirements of Provision C.3.F of Order No. 2003-0021 as amended. These features shall be included in the project drainage plan and final development drawings. Specifically, the final design shall include measures designed to mitigate potential water quality degradation of runoff from all applicable portions of the completed development. In general, "passive," low-maintenance BMPs (e.g., stormwater planters, rain gardens, grassy swales, pervious pavements) are preferred over active filtering or treatment systems. An operations and maintenance plan shall be developed and implemented to inspect and maintain BMPs in perpetuity. If paved surfaces within garages and covered parking areas are washed with water, this water shall not be directed to the storm drainage system. This wash water effluent shall either be directed to the sanitary sewer or contained and transported off-site for proper disposal. The final design team for the project shall review and incorporate as many concepts as practicable from *Start at the Source, Design Guidance Manual for Storm Water Quality Protection* and the California Storm water Quality Association's *Storm Water Best Management Practice Handbook, Development and Redevelopment*, and the Alameda County Clean Water Program (ACCWP) technical guidelines. The City Public Works Department shall review and approve the drainage plan prior to approval of the grading plan.	LTS

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
HYDRO-4: The project as proposed, including landscaping, paving, and walkways, may conflict with implementation of the existing Lower Codornices Creek Improvement Plan (LCCIP) and associated Memorandum of Agreement.	S	HYDRO-4: The project applicant and City of Albany shall ensure that the site and structure design of the proposed project, including final landscape and drainage plans, do not interfere with the implementation of the LCCIP, as currently designed.	LTS
HYDRO-5: The proposed project may place housing, structures, or site improvements within the 100-year special flood hazard area as mapped by FEMA, or other flood hazard delineation map, and may impede or redirect flood flows or expose people or structures to a significant risk of flood related loss.	S	HYDRO-5: The project applicant shall retain a qualified engineering or surveying professional to prepare a determination, including appropriate site plan sheet, of the precise location of the 100-year special flood hazard area boundaries for creeks in the vicinity of the project site. Based on this determination, if the project encroaches into the floodplain, consistent with the City of Albany Flood Damage Prevention Regulations, the applicant shall obtain a flood zone permit. The applicant shall comply with all requirements of the flood zone permit as imposed by the City. These recommendations and requirements are to be implemented in the planning and construction of the proposed project, so as to assure that the project will not impede or redirect flood flows, or present a significant risk of flood-related loss to people or structures.	LTS
IMPACTS AND MITIGATION MEASURES IDENTIFIED IN INITIAL STUDY/ENVIRONMENTAL CHECKLIST			
I. Aesthetics			
Initial Study Impact AES-1: The proposed project could include nighttime lighting that could spillover onto adjacent properties or building materials that could produce daytime glare.		AES-1a: Prior to issuance of a building permit for any component of the project, the project applicant shall submit a lighting plan for City review and approval. The plan shall include provisions to ensure that outdoor lighting is designed so that potential glare or light spillover to surrounding properties, or the adjacent creeks, are minimized through appropriate site design and shielding of light standards. The City will review the final site plans to ensure that all lighting is directed downward and away from surrounding properties. AES-1b: The applicant shall incorporate into the project glass surfaces that are non-mirrored or include non-reflective films, coatings and shading devices to reduce glare. The architectural detail regarding glass shall be reviewed and approved by the City during the design review process.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
V. Cultural Resources			
Initial Study Impact CULT-1: The proposed project could uncover archaeological resources during construction.		CULT-1: Should an archaeological resource be encountered during project construction activities, the construction contractor shall halt construction in the vicinity of the find and shall notify the City. Construction activities shall be redirected and a qualified archaeologist, in consultation with the City, shall: 1) evaluate the archaeological deposit to determine if it meets the CEQA definition of a historical or unique archaeological resource and 2) make recommendations about the treatment of the deposit, as warranted. If the deposit does meet the CEQA definition of a historical or unique archaeological resource, then it shall be avoided to the extent feasible by project construction activities. If avoidance is not feasible, then adverse effects to the deposit shall be mitigated as specified in *CEQA Guidelines* section 15126.4(b) (for historic resources) or CEQA section 21083.2 (for unique archaeological resources). This mitigation may include, but is not limited to, a thorough recording of the resource on DPR Form 523 records, or archaeological data recovery excavation. If data recovery excavation is warranted, *CEQA Guidelines* section 15126.4(b)(3)(C), which requires a data recovery plan prior to data recovery excavation, shall be followed. If the significant identified resources are unique archaeological resources, mitigation of these resources shall be subject to the limitations on mitigation measures for archaeological resources identified in CEQA sections 21083.2(c) through 21083.2(f).	
Initial Study Impact CULT-2: The proposed project could uncover paleontological resources during construction.		CULT-2: If paleontological resources are encountered during site preparation or grading activities, all work within 25 feet of the discovery shall be redirected until a qualified paleontologist has assessed the discoveries and made recommendations. Paleontological resources include fossil plants and animals, and evidence of past life such as trace fossils and tracks.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
CULT-2 *Continued*		If the paleontological resources are found to be significant, adverse effects to such resources shall be avoided by project activities to the extent feasible. If project activities cannot avoid the resources, the adverse effects shall be mitigated. In accordance with CEQA Guidelines Section 15126.4(b)(3), mitigation may include data recovery and analysis, preparation of a final report, and the formal transmission or delivery of any fossil material recovered to a paleontological repository, such as the University of California Museum of Paleontology (UCMP). Upon completion of project activities, the final report would document methods and findings of the mitigation and be submitted to the City of Albany and the University of California, Berkeley and a suitable paleontological repository.	
Initial Study Impact CULT-3: The proposed project could uncover human remains during construction.		CULT-3: If human remains are encountered, work within 25 feet of the discovery shall be redirected and the Alameda County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and consult with the appropriate agencies. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report shall be submitted to the City of Albany, the University of California, Berkeley and the Northwest Information Center.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
VI. Geology and Soils			
Initial Study Impact GEO-1: The proposed project would be located in an area having the potential for strong ground shaking.		GEO-1: Prior to issuance of a final grading permit, the project applicant shall submit a site specific geotechnical report prepared by a qualified and licensed geotechnical engineer. This report shall address differential fill thickness, total and differential settlement within building pads, soil stability, potential seismic ground shaking, liquefaction, potentially expansive soils, and shall provide specific building foundation recommendations to reduce the risk associated with geologic/soils hazards. This report shall be reviewed and approved by the City of Albany.	
Initial Study Impact GEO-2: Runoff from the project site could cause erosion.		GEO-2: Implement Mitigation Measure HYDRO-1	
VII. Hazards and Hazardous Materials			
Initial Study Impact HAZ-1: Hazardous materials, associated with former uses and structures, may exist on the project site.		HAZ-1: Prior to the City's issuance of a building permit for the proposed project, the University shall provide the City with written confirmation from a qualified hazardous materials professional (e.g., professional engineer, professional geologist, registered environmental assessor) that all known hazardous materials, including but not limited to lead-based paint, asbestos containing materials, and lead-contaminated soil within the project site have been remediated or removed from the project site as part of the building demolition process. Additionally, the University shall provide written confirmation that the site is safe for unrestricted use.	
Initial Study Impact HAZ-2: Radioactive materials were used adjacent to the project site.		HAZ-2: Prior to the City's issuance of a building permit for the proposed project, the University shall provide the City with written confirmation from the California Department of Public Health that the Gill Tract has been removed from the University's Radioactive Materials License and that the site is safe for unrestricted use.	
XVI. Utilities and Service Systems			
Initial Study Impact UTIL-1: Existing water flows may be inadequate to meet fire flow requirements for the project site.		UTIL-1: When detailed site plans for the proposed project are submitted, staff from the Albany Fire Department and EBMUD shall review and approve plans to ensure the provision of adequate water fire flows. Should water infrastructure upgrades or installation be necessary to meet the requirements, the City and EBMUD shall require and approve infrastructure improvements by the applicant prior to issuance of a grading permit. An occupancy permit for the proposed project shall not be issued until the City of Albany has confirmed adequate fire flow is available.	

Table II-1 *Continued*

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation
Initial Study Impact UTIL-2: Existing sewer pipes may allow for groundwater infiltration.		UTIL-2: The project applicant shall replace and/or rehabilitate existing sewer pipes within the project site to decrease groundwater infiltration.	

Source: LSA Associates, Inc., 2009.