

RESOLUTION 2013-_____

CERTIFYING THE MODIFIED ELLIS PROJECT FINAL REVISED ENVIRONMENTAL IMPACT REPORT, ADOPTING FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING PROGRAM FOR THE SURLAND COMMUNITIES LLC APPLICATIONS (APPLICATIONS GPA11-0005; A/P11-0002; SPA11-0002; DA11-0002)

WHEREAS, in 2004, Surland Communities LLC, the Project Applicant, submitted planning applications to the City of Tracy requesting approval of the Surland Communities Development Agreement and Ellis Specific Plan Applications, including a Development Agreement Program (DAP), which would provide eligibility for the Project Applicant to obtain up to 3,850 Regional Growth Allocations (RGAs) at some time in the future, which would include up to 2,250 units proposed within the Ellis Specific Plan (ESP). The City of Tracy processed the applications and commissioned the preparation of the City of Tracy/Surland Development Agreement and Ellis Specific Plan Environmental Impact Report ("Original Ellis EIR"). On December 16, 2008, the City certified the Original Ellis EIR and approved the land use applications for the Original Ellis Entitlements, approving the Ellis Development Agreement ("Original Ellis DA") and the Ellis Specific Plan ("Original Ellis Specific Plan"). Following the approval of the Original Ellis Entitlements, the Tracy Regional Alliance for a Quality Community (TRAQC) challenged the sufficiency of the Original Ellis EIR and the Original Ellis DA in a mandamus action filed in the Superior Court, Tracy Regional Alliance for a Quality Community v. City of Tracy, et al., San Joaquin County Superior Court Case No. 39-2009-00201854-CU-WM-STK, and

WHEREAS, On October 31, 2011, the trial court issued its Statement of Decision and Judgment, ordering that the certification of the Original Ellis EIR and the Original Ellis DA be set aside for legal infirmities. Because the trial court concluded that the City did not certify an adequate EIR, the Original Ellis Entitlements were ordered to be set aside, and

WHEREAS, The Project Applicant and the City subsequently appealed the judgment of the Superior Court to the District Court of Appeal. The result of the appeal is that the judgment of the Superior Court, overturning the Original Ellis EIR and the Ellis Entitlements, is stayed, pending the outcome of the appeal. It is anticipated that the appeal process could take two years or more, and

WHEREAS, In December 2011, the Project Applicant filed applications with the City for a modification and amendment to the Original Ellis DA ("Amended and Restated Ellis DA") application number DA11-0002, a modification and amendment to the Original Ellis Specific Plan ("Modified Ellis Specific Plan") application number SPA11-0002, Petition for Annexation and Pre-Zoning application number A/P11-0002, and General Plan Amendment application number GPA11-0005. The application for the General Plan Amendment seeks to make minor modifications to the language in the TR-Ellis designation identified in the City's General Plan approved by the City on February 1, 2011. As used here, the term "Project" shall refer to the development of the Ellis Specific Plan, as permitted by (and modified by) the various approvals listed in this paragraph, and

WHEREAS, A revised Ellis EIR was prepared (State Clearinghouse No. 2012022023) in response to the trial judge's Statement of Decision and Judgment, addressing and remedying those things that the trial judge found objectionable. In addition, the Original Ellis DA and the

Original Ellis Entitlements were modified and amended to address and remedy the issues outlined by the trial judge; and

WHEREAS, Planning applications include a request to amend the General Plan, Specific Plan approval, Development Agreement approval, and Annexation and pre-zoning approval, and

WHEREAS, Upon a review of the subject applications, in February 2012, an Initial Study was prepared consistent with the requirements of the City of Tracy guidelines and the California Environmental Quality Act (CEQA) Guidelines, finding that the proposed development had the potential to result in significant environmental effects, and

WHEREAS, A Draft Revised Environmental Impact Report (DREIR) was prepared and published in July 2012, which was subject to a 45-day public review period from July 30, 2012 through September 9, 2012. During the public review period, the City's Planning Commission held a public meeting for the proposed Project on August 22, 2012 to receive public comments on the DREIR, and

WHEREAS, The City received and evaluated numerous comments from public agencies, utilities, organizations, special interest groups and persons who reviewed the DREIR and has prepared responses to comments received during the 45-day public review period, and

WHEREAS, A Final Revised Environmental Impact Report (FREIR) was prepared and published on November 21, 2012. The FREIR consists of an edited Draft Environmental Impact Report, Response to Comments and appendices containing technical background studies. The Response to Comments document contains all written and verbal comments and recommendations received on the DREIR, either verbatim or in summary, and an inventory of agencies, organizations, special interest groups and persons commenting on the DREIR, and

WHEREAS, Consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to outline the procedures for implementing all mitigation measures identified in the FREIR. The MMRP is provided as Exhibit D to this resolution, and

WHEREAS, the City desires and intends to use the FREIR for the Project as the environmental document required by CEQA for each phase of discretionary action required for this Project by the City, and

WHEREAS, On February 1, 2011, the City of Tracy adopted a General Plan ("General Plan") which guides the growth of the City of Tracy (Resolution No. 2011-029); and

WHEREAS, A Final Environmental Impact Report (Final General Plan EIR) (SCH # 2008092006) for the General Plan was certified in 2011, which considers the environmental consequences of the adoption of the General Plan and which included the adoption of a series of self-mitigating goals, policies, actions, and mitigation measures, and

WHEREAS, With certification of the Final General Plan EIR in 2011, the City Council of the City of Tracy adopted a Statement of Overriding Considerations (Resolution No. 2011-028) for a number of unavoidable significant impacts identified within the General Plan FEIR, which is incorporated herein by reference, and

WHEREAS, The Surland Communities submitted planning applications to the City of Tracy requesting approval of the Surland Communities Modified and Restated Development Agreement, Annexation, and Ellis Specific Plan ("ESP") Applications (GPA11-0005; A/P11-0002, SPA11-0002 and DA11-0002 hereinafter the "Surland Applications"), and

WHEREAS, On February 8, 2012, the City distributed an Initial Study and Notice of Preparation ("NOP") for the proposed ESP, and

WHEREAS, On February 22, 2012, a public scoping meeting was held by the Tracy Planning Commission, to discuss the project and provide an opportunity for public input regarding the environmental concerns and issues to be addressed in an EIR, and

WHEREAS, On July 31, 2012, an EIR (SCH No. 2012022023) for the Surland Communities Development Agreement and Ellis Specific Plan Applications was distributed, and

WHEREAS, On August 22, 2012, the Planning Commission held a public hearing on the Draft EIR, and

WHEREAS, The City received and evaluated numerous comments from public agencies, utilities, organizations, special interest groups and persons who reviewed the DREIR and has prepared responses to comments received during the extended public review period, and

WHEREAS, Consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to outline the procedures for implementing all mitigation measures identified in the FREIR; and

WHEREAS, The City desires and intends to use the FREIR for the Surland Companies Applications as the environmental document required by CEQA for each phase of discretionary action required for this Project by the City; and

WHEREAS, The FREIR was prepared and published on November 21, 2012. The FREIR consists of an edited DREIR Response to Comments; and appendices containing technical background studies. The Response to Comments document contains all written and verbal comments and recommendations received on the DEIR, either verbatim or in summary, and an inventory of agencies, organizations, special interest groups and persons commenting on the DREIR; and

WHEREAS, The FREIR for the Applications are based on the best data available, and recognize that actual development decisions may depend on information not currently available and that, as better, more current and more comprehensive data become available, the Specific Plan will be updated and amended as necessary; and

WHEREAS, The Planning Commission reviewed all evidence presented both orally and in writing and intends to make certain findings in compliance with CEQA, which are more fully set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy does hereby certify the FREIR inclusive of the Errata presented in the FREIR, and approves the MMRP, based on findings contained set forth in this Resolution.

The City Council certifies the FREIR and, in support of this certification, finds the following, based on substantial record evidence:

- a. The FREIR has been completed in compliance with the requirements of CEQA and the CEQA Guidelines (14 Cal. Code Regs. hereafter referred to as "Guidelines") (Guidelines, § 15090(a)(1).) as set forth in Exhibits "A" and "B".
- b. The FREIR was presented to the City Council, which reviewed and considered the information contained therein, prior to taking action on the Project. (Guidelines, § 15090(a)(2).)
- c. The Final EIR reflects the independent judgment and analysis of the City Council. (Guidelines, § 15090(a)(3).)
- d. As described in more detail in the attached CEQA findings, changes or alterations have been required in and/or incorporated into the project which avoid or substantially lessen some of the significant impacts which cannot be avoided through the adoption of mitigation measures or the approval of feasible alternatives. As to these impacts, all mitigation measures identified in the FREIR have been imposed, and there are specific economic, legal, social, technological, and other considerations which render infeasible the project alternatives identified in the FREIR, as explained in Exhibit B. (Guidelines, § 15091 (a).)
- e. The documents and other materials which constitute the record of proceedings upon which the Council bases its approval of this project are located at City Hall, 333 Civic center plaza, Tracy, CA. The custodians of those documents are the City Clerk and the Director of Development Services. (Guidelines, § 15091 (e).)

The foregoing Resolution 2013-_____ was adopted by the City Council on the 22nd day of January, 2013, by the following vote:

AYES: COUNCIL MEMBERS:
 NOES: COUNCIL MEMBERS:
 ABSENT: COUNCIL MEMBERS:
 ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

A. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

1. The FREIR has been prepared in accordance with CEQA, the State CEQA Guidelines, and the provisions of the City of Tracy.
2. The FREIR was published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines, and constitutes an accurate, adequate, objective and complete FREIR. The City observed a 45-day public review period on the DREIR and the FREIR (Response to Comments and DREIR text edits) was made available for 15 days prior to the Planning Commission hearing on certification.
3. The City has exercised its independent judgment in evaluating the FREIR and has considered the information combined with the FREIR, including comments (and responses thereto) received during the public review period on the DREIR.
4. Pursuant to the State CEQA Guidelines Section 15091 and 15092, the City Council hereby adopts Findings of Fact and an MMRP, which has been prepared in accordance with the State CEQA Guidelines Section 15097 to ensure that all reasonably feasible mitigation measures are implemented.

B. FINDINGS OF FACT REGARDING THE FINAL REVISED ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE CITY OF TRACY MODIFIED ELLIS PROJECT

The FREIR, prepared in compliance with the State CEQA Guidelines, evaluates the potentially significant and significant adverse environmental impacts that could result from approval of the City of Tracy Modified Ellis Project, which would accommodate the development of a minimum of 1,000 to a maximum of 2,250 residential units, as well as a Village Center, open space, 180,000 square feet of retail, office, and other commercial uses, and, consistent with City requirements, approximately four acres per 1,000 people of parks with an opportunity to include a Family-Oriented Swim Center (Family Swim Center) on approximately 321 acres.

As the FREIR concludes that implementation of the Project, as amended (and the Project alternatives) would result in adverse impacts, the City is required under the State CEQA Guidelines to make certain findings with respect to these impacts (CEQA Guidelines Section 15091). The required findings appear in the following sections of this resolution. This resolution lists and describes the following, as analyzed in the FREIR: 1) potential impacts determined to be less-than-significant in the FREIR; 2) significant impacts that can be avoided, minimized, mitigated, or substantially reduced with the implementation of feasible mitigation measures; 3) impacts determined to be insignificant or less-than-significant in the Initial Study Checklist; and 4) Project alternatives that were developed and studied consistent with the CEQA Guidelines. These findings are supported by substantial evidence in the record of proceedings before the City as stated below.

1. IMPACTS FOUND TO BE LESS THAN SIGNIFICANT IN THE FREIR

Agricultural Resources

Impact 3B.7-1: Conflicts with Agricultural Zoning and Williamson Act Contracts

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.7-7 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, although none of the parcels within the ESP site are under a Williamson Act contract, the land is zoned Agriculture-Urban Reserve (AU-20) by the County. Development of the site would therefore conflict with existing zoning for agricultural use. However, the ESP site is identified in the City's General Plan and corresponding land use map as "Urban Reserve 10." The City of Tracy will be initiating proceedings by petition to the San Joaquin County Local Agency Formation Commission (LAFCO) for the reorganization of the City of Tracy's boundary and service districts to include the Modified Ellis Specific Plan site, which is currently in the City's SOI. The proposed reorganization consists of annexation of territory to the City of Tracy and detachment of the same territory from San Joaquin County. The subsequent urban development of the ESP site would be consistent with the City's zoning and proposed uses for the area. Therefore, no conflicts would occur. For this reason, this impact would be less than significant and no mitigation is required.

Impact 3B.7-2: Indirect Impacts to Important Farmland

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.7-8 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the City's Right to Farm Ordinance gives agricultural operations protection from adjacent landowners' objections to noise, odors, dust, etc. that are part of normal agricultural operations. The Ordinance would require future residents be informed that agricultural activities are allowed under the law and that they cannot be stopped by encroaching residential development. In this way, future residents would be notified about the possible negative impacts of the adjacent agricultural operations, helping to prevent the cessation of agricultural operations and the premature conversion of farmland to non-agricultural use due to the complaints of adjacent land owners and residents. Impacts to adjacent agricultural uses can also be lessened through the construction of perimeter fencing sufficient for keeping humans, pets, and livestock from crossing property lines. Section 3B.5.9 of the Modified Ellis Specific Plan identifies standards for fencing throughout the Ellis community. Implementation of adequate barriers such as the types described in the Modified Ellis Specific Plan as each phase of the ESP is implemented would reduce the indirect impacts to agricultural operations associated with the trespass of humans, pets, and livestock across the ESP boundary. For this reason, this impact would be less than significant and no mitigation is required.

Biological Resources

Impact 4.2-3: Movement of Fish and Wildlife Species

Facts in Support of Finding

As presented in and determined by the analysis contained on page 4.4-22 of the DREIR and in the Final REIR Response to Comments and Errata thereto, the ESP site is located adjacent to the developed areas of the City of Tracy and surrounded on three sides by undeveloped land. The site is not a narrow area of wildlife habitat that connects two larger areas of habitat. Terrestrial animals can move freely and unencumbered throughout the undeveloped lands to the west and north of the ESP site. Therefore, implementation of the ESP would not significantly interfere with the movement of resident or migratory wildlife. For this reason, this impact is less-than-significant and no mitigation is required.

Impact 4.2-4: Habitat Conservation Plans

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 4.2-22 through 4.2-23 of the DREIR and in the Final REIR Response to Comments and Errata thereto, as noted in the Modified Ellis Specific Plan (Section 2.4 of the Modified Ellis Specific Plan), the Project Applicant would work with the City to implement the SJMSCP as it relates to implementation of the Modified Ellis Specific Plan. The Project Applicant would be required to pay fees at time of ground disturbance permits (such as grading and/or BPs) as set forth in the Plan to implement recommendations (called “minimization measures”) as required by an SJCOG appointed qualified biologist on a case-by-case basis throughout the Modified Ellis Specific Plan Area prior to ground disturbance of that area. These standard procedures apply to all projects, including the Modified Ellis Specific Plan, that are covered under the SJMSCP. For this reason, this impact is less-than-significant and no mitigation is required.

Geology and Soils

Impact 3B.12-1: Seismic Ground Shaking

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.12-10 through 3B.12-13 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, building new structures for human occupancy would increase the number of people exposed to local and regional seismic hazards. Seismic hazards are a significant risk for most property in California. Implementation of the requirements of the California Building Code Requirements and the Tracy General Plan would ensure that impacts on humans associated with seismic hazards would be less than significant.

Impact 3B.12-2: Soil Erosion

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.12-11 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, as construction occurs, these exposed surfaces could be susceptible to erosion from wind and water. Effects from erosion include impacts on water quality and air quality. Risks associated with erosive surface soils can be reduced by using appropriate controls during construction and properly revegetating exposed areas. Mitigation Measures 3B.4-1b (refer to Section 3B.4, Air Quality) and Mitigation Measure 3B.10-2 (refer to Section 3B.10, Hydrology, Drainage, and Water Quality) would reduce these impacts to a less than significant level and no additional mitigation is required.

Impact 3B.12-3: Liquefaction

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3B.12-11 through 3B.12-12 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto,

liquefaction more often occurs in earthquake-prone areas underlain by young (Holocene age) alluvium where the groundwater is shallower than 50 feet below the ground surface. The ESP site is not located within an Earthquake Fault Zone, as defined by the State Geologist. The nearest mapped active fault (Carnegie/Corral Hollow) is located approximately eight miles southwest of the site. This geologic condition, in conjunction with a low water table, indicates that the probability of liquefaction near the surface of the site is very low. The Safety Element of the General Plan includes Objective SA-1.1, Policy 1, which requires that geotechnical engineering studies be undertaken for any development in areas where potentially serious geologic risks exist. The implementation of this policy would reduce the potential risk of liquefaction. Any potential impact from liquefaction is therefore considered to be less than significant, and no mitigation is required.

Cumulative Impacts

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.12-13 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the General Plan EIR analyzed the long-term development of the City of Tracy and found no significant impacts relative to geology and soils would occur with implementation of the General Plan. As discussed above, the development of the ESP site would not result in significant unavoidable impacts relative to geology and soils, either.

Units constructed as part of the proposed Project would be constructed within undeveloped open space. Impacts associated with geology and soils are expected to be mitigated to less than significant levels. No cumulative impacts relative to geology and soils are expected with implementation of the ESP.

Hydrology, Drainage, and Water Quality

Impact 3B.10-1: Flooding

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.10-30 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the ESP is not located within the vicinity of a dam or a dam inundation area. In addition, while portions of San Joaquin County could be subject to flooding due to seiches resulting in levee failure, the City of Tracy is not in close proximity to the areas most likely to be affected. Implementation of the proposed ESP would not expose people or structures to risks associated with flooding caused by the failure of a dam or levee; therefore no impacts would occur. For this reason, this impact would be less than significant and no mitigation is required.

Impact 3B.10-2: Groundwater

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.10-33 through 3B.10-38 of the Original Ellis EIR, in the DEIR at pages 4.8-3 and 4.14-1, and in the Final Revised EIR Response to Comments and Errata thereto, as well as in the Project's Revised Water Supply

Assessment (see pages 27-36) and the City's 2010 Urban Water Management Plan, the City's existing and future groundwater water supplies are sufficient to meet the City's existing and projected future groundwater water demands, including those future water demands associated with the proposed ESP. Thus, impacts on groundwater are considered to be less than significant. For these reasons, this impact would be less-than-significant and no mitigation is required.

Cumulative Impacts

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.10-46 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the General Plan EIR analyzed the long-term development of the City of Tracy and found no significant impacts relative to hydrology, drainage, and water would occur with implementation of the General Plan. As discussed above, the development of the ESP site would not result in any significant impacts and may provide some net benefit to water quality.

Cumulative impacts to hydrology, drainage, and water, then, are not considered to be cumulatively considerable and would not result in significant unavoidable cumulative impacts to agricultural resources.

Land Use and Planning

Impact 4.9-2: Airport Hazards

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 4.9-11 through 4.9-13 of the DREIR and in the Final Revised EIR Response to Comments and Errata thereto, given the special design considerations included in the 2009 ALUCP, as well as the low intensity of the proposed Limited Use designation, it is anticipated that implementation of the Modified ESP would not expose people or property to significant airport-related hazards. Furthermore, development within the airport sphere of influence would be subject to review and approval by affected regulatory agencies with jurisdiction over that portion of the Modified ESP site. However, it should be noted that for any discretionary reviews and /or approvals subsequent to the adoption of the Modified Ellis Specific Plan, the Project Applicant reserves the right to require that the land uses be subjected to the 2009 ALUCP. As the Modified ESP would be in conformance with the 2009 ALUCP, and consistent with the special design considerations included in the ALUCP, impacts related to the placement of people and structures within the Outer Approach/Departure Zone would be considered less than significant. No mitigation measures are required.

Impact 3B.1-1: Plan Consistency

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3B.1-13 through 3B.1-30 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, no ESP conflicts with applicable goals and objectives in the General Plan have been identified. No

significant impacts relative to General Plan consistency would occur with the implementation of the proposed ESP. In addition, although the annexation would result in the creation of an island of unincorporated territory at Urban Reserve 11, approval of the annexation is warranted because application of the policy preventing islands in this case would be detrimental to the orderly development of the community, and despite reasonable efforts to include Urban Reserve 11 with the annexation, it is not feasible at this time. For this reason, the Project, as amended would not result in any adverse impacts to the plan consistency and no mitigation is required.

Population and Housing

Impact 3B.2-1: Direct Population Growth

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3B.2-6 through 3B.2-7 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, assuming an average household size of 3.29 persons, the ESP would increase the population of the City by approximately 7,403 persons. This is an approximately 9.2 percent increase over the 2007 population of Tracy as reported by the DOF, and approximately 14.2 percent of the growth anticipated within Tracy by 2025. Thus, the amount of new residential growth by the ESP is within the range of population growth projected by San Joaquin Council of Governments (SJCOG), which estimates a 2025 population of 153,677 people in the City, and also within the 2025 population of 109,000 projected in the Draft General Plan EIR (page 3-32). In addition, the proposed ESP was taken into consideration during the preparation of the General Plan, which designates the ESP site as "Urban Reserve 10," and provides guidance regarding the vision and mix of land uses. Therefore, because the population growth associated with the proposed ESP is within the estimates projected by SJCOG, and was also considered in the General Plan, the ESP would not exceed the amount of growth projected for the City for the year 2025, and thus would result in less than significant impacts on population growth. For this reason, this impact would be less than significant and no mitigation is required.

Impact 3B.2-2: Indirect Population Growth

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3B.2-7 through 3B.2-8 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the amount of jobs created by the ESP would consist of approximately 2.9 percent of the job growth anticipated for the City between 2005 and 2025. The employment generated by the proposed ESP could result in direct growth in the City's population since the potential exists that "future employees" (and their families) may decide to relocate to the City. For analysis purposes, if all of these jobs were filled by new employees who choose to relocate into the City, a demand for 360 housing units could be created and, as a result, the City's population could increase by approximately 1,184 persons (based on the estimate of 3.29 persons per household). As this change would represent an increase of approximately 1.4% in population over existing conditions, the potential impacts that may occur as a result of the jobs generated by the ESP would not be considered significant. For this reason, this impact would be less than significant and no mitigation is required.

Impact 3B.2-3: Displacement of Housing

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.2-8 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project site is used primarily for agricultural purposes and contains one home on the site. Ultimately, implementation of the ESP would result in the demolition of structures to accommodate construction of the proposed land uses. If the proposed ESP is approved, and the Project Applicant purchases the land from the current land owners, two houses would be replaced by 2,250 homes. Due to the small number of existing housing units that would need to be replaced and to the fact that no residents would be displaced, impacts relative to displacement of substantial numbers of existing housing are considered to be less than significant. For these reasons, this impact would be less than significant and no mitigation is required.

Cumulative Population and Housing

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.2-8 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the General Plan EIR analyzed the long-term development of the City of Tracy and found that no significant impacts relative to population and housing would occur with implementation of the General Plan as most of the future growth of the City is expected to occur within the undeveloped Urban Reserves surrounding the City limits. Implementation of the proposed ESP would not result in more units than envisioned by the General Plan and General Plan EIR nor would it displace substantial housing or populations. As this is the baseline for the evaluation of cumulative impacts and the Project would not result in substantial population growth beyond that envisioned by the General Plan, nor would substantial housing or populations be displaced, no cumulative impacts relative to population and housing are expected with implementation of the proposed Project.

Public Services

Impact 3B.9-1: School Services

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3B.9-9 through 3B.9-10 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the proposed 1,851 single-family homes would generate 1,871 new students and the proposed 399 multi-family units would generate 322 new students, for a combined total of 2,193 new students. Approximately 1,285 students would attend JESD elementary and middle schools, and 505 students would attend Tracy High School (TUSD). This projected student population is within the 7,053 new students anticipated in the General Plan through 2025. For this reason, this impact would be less than significant and no mitigation is required.

Impact 3B.9-2: Expansion of Parks

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3B.9-10 through 3B.9-11 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the proposed ESP would result in the construction of recreational facilities, such as the Community Park including a Swim Center and various neighborhood passive and active parks. With a total population of 7,403 residents at full buildout and 40 acres of improved parks, Ellis would provide approximately 5.4 acres of improved and passive parks per 1,000 residents. This exceeds the current General Plan adopted requirement of 4 acres of parks per 1,000 residents, as well as the proposed 5 acres per 1,000 resident requirement. The Project Applicant has chosen to exclude the 20-acre Community Park and Swim Center from the total park acreage required by the City. Therefore, the Project Applicant would be required to pay in lieu fees at a ratio of 4 acres per 1,000 residents in order to comply with the Quimby Act. For this reason, this impact would be less-than-significant and no mitigation is required.

Impact 3B.9-3: Recreational Facilities

Facts in Support of Finding

The proposed ESP would construct recreational facilities, such as the Community Park including a Swim Center and various neighborhood passive and active parks. The Community Park and Swim Center is proposed along Corral Hollow Road in a location that currently contains disked agricultural fields and would require minimal grading. A total of 40 acres of park uses are proposed with the ESP. The system of parks is designed to serve a broad cross-section of residents by providing a diverse mix of active and passive recreational opportunities. The parks proposed in the ESP are in compliance with the City of Tracy General Plan requirements and the State of California's Quimby Act. The impacts of the implementation of these parks are addressed throughout the Draft Revised EIR. Less than significant impacts would occur.

Cumulative Impacts

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.9-15 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the General Plan EIR analyzed the long-term development of the City of Tracy and found that no significant impacts to police, fire protection and emergency medical services, school services, or parks and recreational resources would occur with implementation of the General Plan.

As this is the baseline for the evaluation of cumulative impacts and the Project would not result in substantial growth beyond that envisioned by the General Plan, nor were any significant impacts found relative to the provision of public services, no significant cumulative impacts relative to parks and recreation services are expected.

Traffic and Circulation

Impact 4.13-1: Transit

Facts in Support of Finding

As presented in and determined by the analysis contained on page 4.13-34 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Modified ESP site would comply with the goals, objectives, and policies of the 2011 General Plan Update, including the specific intent of the General Plan with respect to Urban Reserve 10. Goal CIR-4 of the General Plan provides for a balanced transportation system that encourages the use of public transit and high occupancy vehicles. Policy P4 under CIR-4.1 states that the City shall require large developments to provide for transit with adequate street widths and curb radii, bus turnouts, bus shelters, park-and-ride lots, and multi-modal transit centers, if appropriate. As the City further develops to the south and the west, the bus service will be extended along Ellis Drive from the current Corral Hollow Road line to Lammers Road, and bus stops/pull outs will be located along Ellis Road and provide for a ¼-mile to ½-mile walking distance from origins and destinations within the Modified ESP to bus stops to promote greater transit use.

Impact 4.13-2: Bicycle and Pedestrian Modes

Facts in Support of Finding

As presented in and determined by the analysis contained on page 4.13-34 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Modified ESP would comply with the goals, objectives, and policies of the General Plan, including the specific intent of the General Plan with respect to Urban Reserve 10. A 10-foot multi-use bike/pedestrian path will run through portions of the community and encourage non-vehicular travel among neighborhoods, retail, and recreation/park areas. Class I bike paths will span the entire east-west length of the site and provide access to future developments to the north. Class I bike paths are proposed along Ellis Drive, Middlefield Road, and several other community streets throughout the Modified ESP. The Village Center portion of Ellis Drive will be designated a Class III bicycle route, which will be complemented with bicycle signage and pavement markings. Goal CIR-3 of the General Plan provides for safe and convenient bicycle and pedestrian travel as alternative modes of transportation in and around the City. This goal details several policy statements designed to enhance safe and convenient travel for bicyclists and pedestrians. For example, policies P4 and P6 under CIR-3 state that the City's bicycle and pedestrian system shall have a high level of connectivity, and that new development shall include pedestrian and bicycle facilities internal to the development and which connect to citywide facilities, such as parks, schools, and recreational corridors. When developed, the Modified ESP would include pedestrian and bicycle facilities internal to the Modified ESP site and that connect to the existing pedestrian system via street frontage improvements that include sidewalks and bicycle lanes. For these reasons, this impact would be less-than-significant and no mitigation is required.

Impact 4.13-3a: Construction Traffic and Hazards

Facts in Support of Finding

As presented in and determined by the analysis contained on page 4.13-35 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the traffic impact analysis contemplated the construction activity trip generation and schedule and the potential impacts that may be caused on the roadway system. The number of trips generated by Project construction activities is estimated to be less than the trips generated by the Modified ESP. The

potential impacts and mitigations identified for the Project peak-hour traffic will thus suffice for potential construction traffic impacts. The schematic layout of the roadways for the Modified ESP does not indicate obvious traffic hazards. During final design review by the City Engineer, intersection corner sight distance, stopping sight distance, and horizontal and vertical sight distance will be reviewed on a design level and eliminated. The final design review process will require the Project Applicant to prepare and submit Traffic Control plans for construction purposes. These plans will be reviewed by the City Engineer. The purpose of the Traffic Control Plans is to accommodate safe traffic operations on the roadway system during construction activities. The plans may include warning signs, bollards, and diversion of traffic. For these reasons, this impact would be less-than-significant and no mitigation is required.

Impact 4.13-3b: Design Feature or Incompatible Use Hazards

Facts in Support of Finding

As presented in and determined by the analysis contained on page 4.13-35 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, under construction and hazards, the site plan layout of the Modified ESP does not result in any hazards related to a design feature. Based on the Modified ESP street network, including street hierarchy width of travel lanes, design speed, points of ingress and egress, as well as the location of parking, no hazards have been identified, and thus impacts would be less than significant.

Impact 4.13-4: SJCOG Regional Roadways Congestion Management Program

Facts in Support of Finding

As presented in and determined by the analysis contained on page 4.13-35 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Modified ESP would comply with the goals, objectives, and policies of the SJCOG Congestion Management Program. For these reasons, this impact would be less-than-significant and no mitigation is required.

Water Supply and Other Public Utilities

Impact 3B.8-2: Water System Facilities

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3B.8-28 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the City of Tracy's existing water system facilities include a water treatment plant, pump stations, wells, water mains and storage reservoirs. The John Jones Water Treatment Plant (JJWTP), which is near the Tracy Municipal Airport, processes the water from the Delta Mendota Canal (DMC) and distributes it to the City. The JJWTP has the capacity to treat 30 mgd, which is more than adequate capacity to treat water needed by the proposed Project. For this reason, this impact would be less-than-significant and no mitigation is required.

Impact 4.14-1: Water Supply

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 4.14-21 through 4.14-37 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Revised Ellis WSA demonstrates that the City's existing and additional planned potable and recycled water supplies are sufficient to meet the City's existing and projected future potable and recycled water demands, including those future water demands associated with the Modified Project to the Year 2035 under all hydrologic conditions. Thus, the Modified Project would result in less than significant impacts on water supply. In addition, the City has a standard condition of project approval that requires the applicant to demonstrate that the water supply for each tentative map application is secured and available for delivery before the City approves later tentative subdivision maps, final subdivision maps, use permits, or building permits. As such, development cannot occur without the secured water source. The City approves the revised Ellis Water Supply Assessment pursuant to Water Code section 10910(g)(1) and finds that, based on the entire record, and pursuant to CEQA and Water Code section 10911(c), projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses, and thus that impacts related to water supply are less than significant.

2. SIGNIFICANT IMPACTS WHICH CAN BE AVOIDED OR REDUCED WITH MITIGATION

In this section of the Findings of Fact, the City, as authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section Sections 15091 and 15092, identifies the significant impacts that can be eliminated or reduced to a less-than-significant level with the implementation of mitigation measures recommended in the FREIR. These mitigation measures are hereby incorporated into the description of the Project and their implementation will be tracked through the Mitigation Monitoring and Reporting Program.

Air Quality

Impact 4.3-1: Short-term (Construction) Emissions

Significant Impact

As presented in and determined by the analysis contained on pages 4.3-14 through 4.3-16 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, control measures are required and enforced by the SJVAPCD under Regulation VIII. The SJVAPCD considers construction-related emissions from all projects in this region to be mitigated to a less-than significant level if SJVAPCD-recommended PM10 fugitive dust rules (collectively called Regulation VIII and included as Mitigation Measure 4.3-1a) and equipment exhaust emission controls (outlined in Mitigation Measures 4.3-1b) are implemented. With implementation of the proposed mitigation measures, fugitive dust impacts to surrounding sensitive land uses would be considered less than significant.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the

mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 4.3-1a and 4.3-1b, as presented in the Draft Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measure 4.3-1a requires that prior to the issuance of grading permits, the Project Applicant shall submit a construction emission plan to demonstrate to the City of Tracy how construction activities shall comply with emissions control measures. Mitigation Measure 4.3-1b requires the implementation of control measures set forth under Regulation VIII of the San Joaquin Valley Air Pollution Control District (SJVAPCD) Fugitive PM10 Prohibition.

Biological Resources

Impact 4.4-1: Special Status Species or Sensitive Status Species

Significant Impact

As presented in and determined by the analysis contained on pages 4.4-17 through 4.4-20 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, some special status terrestrial vertebrates may be occasional visitors, migrants, or transients to the Modified ESP area. These species include the Northern Harrier, Ferruginous Hawk, Golden Eagle, Prairie Falcon, California Horned Lark, Tricolored Blackbird, Townsend's big-eared bat, pallid bat, California mastiff bat, White-tailed Kite, and badger. Development within the Modified ESP area would result in a minor reduction in the regional availability of foraging habitat for avian species, but is not expected to significantly affect their breeding success. Implementation of Mitigation Measures 4.4-1a through 4.4-1e would reduce potential impacts to a level of less than significant.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 4.4-1a through 4.4-1e, as presented in the Draft Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measure 4.4-1a through 4.4-1e requires preconstruction surveys to be conducted prior to ground disturbing activities. Additionally, the Project Applicant shall preserve or provide compensation of preserve land at a ratio of one acre for every acre of ruderal and non-orchard agricultural habitat converted from open space use. Additionally, burrowing owls may be discouraged from entering

or occupying the Modified ESP area prior to construction by discouraging the presence of ground squirrels in accordance with Section 5.2.4.15(A) of the SJMSCP.

Impact 4.4-2: Habitats

Significant Impact

As presented in and determined by the analysis contained on pages 4.4-20 through 4.4-21 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Modified ESP area is entirely east of the Delta-Mendota Canal and outside of the area identified within the Southwest/Central Transition Zone as necessary for the development of stepping stone refugia. Impacts on special status species occasionally foraging within the Modified ESP area resulting from the loss of agricultural and ruderal habitats can be reduced to less than significant levels by incorporating Mitigation Measures 4.4-1a to 4.4-1c.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 4.4-1a through 4.4-1c, as presented in the Draft Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measure 4.4-1a through 4.4-1c requires preconstruction surveys to be conducted prior to ground disturbing activities. Additionally, burrowing owls may be discouraged from entering or occupying the Modified ESP area prior to construction by discouraging the presence of ground squirrels in accordance with Section 5.2.4.15(A) of the SJMSCP.

Impact 4.2-5: Cumulative Biological Resources Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.2-23 through 4.2-24 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, According to the General Plan EIR future urban development allowed by the proposed General Plan could result in adverse impacts either directly or indirectly to sensitive species identified in the City's SOI. As specifically discussed in the General Plan EIR, the implementation of the San Joaquin Multi Species Habitat Conservation Plan (SJMSCP) provides adequate mitigation for development projects within the City's SOI to reduce impacts to biological resources to a level acceptable to meet State and federal requirements. The General Plan EIR goes on to further state that project proponents that choose not to participate in the SJMSCP, as it is a voluntary plan, would still be required to comply with existing local, State and federal regulations (as in

effect at the time of the application), which require similar mitigation to reduce impacts to sensitive species and habitats to a less than significant level.

As discussed above, the development of the Modified ESP area would not result in significant unavoidable impacts on biological resources after the implementation of mitigation measures.

Cumulative impacts to biological resources, then, are not considered to be cumulatively considerable and would not result in significant unavoidable cumulative impacts.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

Mitigation Measure 4.4-1a through 4.4-1e requires preconstruction surveys to be conducted prior to ground disturbing activities. Additionally, the Project Applicant shall preserve or provide compensation of preserve land at a ratio of one acre for every acre of ruderal and non-orchard agricultural habitat converted from open space use. Additionally, burrowing owls may be discouraged from entering or occupying the Modified ESP area prior to construction by discouraging the presence of ground squirrels in accordance with Section 5.2.4.15(A) of the SJMSCP.

Geology and Soils

Impact 3B.12-4 Expansive Soils

Significant Impact

As presented in and determined by the analysis contained on pages 3B.12-12 through 3B.12-13 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project may be located on expansive soils. Expansive soils shrink and swell in volume during changes in moisture content, such as a result of seasonal rain events, and can cause damage to foundations, concrete slabs, roadway improvements, and pavement sections. All three types of soils present on the ESP site are potentially expansive. The presence of expansive soils is considered a potentially significant impact.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the

mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3B.12-4 as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that a certified geotechnical engineer be retained to evaluate subgrade soils for the extent of their expansive potential.

Greenhouse Gas Emissions

Impact 4.6-2: Consistency with Applicable GHG Plans, Policies, or Regulations

Significant Impact

As presented in and determined by the analysis contained on pages 4.6-20 through 4.6-21 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, consistent with the SAP, the Modified ESP includes policies and measures to increase transit usage and opportunities, improve pedestrian traffic accessibility, increase density, provide mixed-use, improve destination accessibility, install high efficiency lighting, and install energy efficient appliances. Mitigation Measure 4.6-1a also requires the implementation of feasible SAP measures and other measures aimed at reducing GHG emissions. Therefore, with implementation of Mitigation Measure 4.6-1a, the Modified ESP would be consistent with SAP and would not hinder its implementation or effectiveness. As the Modified Project would be consistent with the City's SAP, impacts in this regard would be less than significant.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 4.6-1a as presented in the Draft Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure that design features of the proposed Project are consistent with adopted statewide plans and programs to reduce greenhouse gas emissions.

Hazards and Hazardous Materials

Impact 4.7-1: Accidental Release of Hazardous Materials

Significant Impact

As presented in and determined by the analysis contained on pages 4.7-23 through 4.7-25 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, development at the Modified ESP area could expose construction workers (during site disturbance activities) and the public (during operations) to hazardous materials. Future development at the Modified ESP area would be required to conduct soil sampling within the portions of the site that have historically been utilized for agricultural purposes and may contain pesticide residues in the soil (as determined by a qualified Phase II/Site Characterization specialist). The sampling, conducted in consultation with the EHD, would determine if pesticide concentrations exceed established regulatory requirements and would identify further site characterization and remedial activities, if necessary. Should further site characterization/remedial activities be required, these activities would be required to be conducted per the applicable regulatory agency requirements, as directed by the EHD. No records relating to the pipeline removal or post-removal conformational soil sampling were readily available from either Shell or the EHD. Because historical pipelines throughout the western Central Valley are known to have had issues with leakage, and no information regarding any post-removal conformational sampling was readily available from either Shell or the EHD, this is considered a potential environmental concern. As described above, two PG&E natural gas pipelines and one Chevron active crude oil pipeline cross the southwest edge of the Modified ESP area along an approximately 3,600-foot long easement at an approximately 45-degree angle. According to the Phase I, natural gas lines generally do not present an environmental concern. However, as noted above, historical pipelines throughout the western Central Valley area known to have had issues with leakage, which is considered a potential environmental concern. With implementation of Mitigation Measures 4.7-1a through 4.7-1c, impacts would be reduced to a level of less than significant.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 4.7-1a through 4.7-1c as presented in the Draft Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. These Mitigation Measures require soil sampling, updated site characterization prior to issuance of building permits with regard to Shell Oil's abandoned crude oil pipeline and potential contaminated soils from pipeline leaks.

Impact 4.7-2: Pipeline Safety

Significant Impact

As presented in and determined by the analysis contained on pages 4.7-25 through 4.7-33 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, underground pipelines are present within the Project site, and a variety of risk factors are found in association with natural gas and hazardous liquid underground pipelines. Implementation of Mitigation Measure 4.7-2 would reduce impacts to a level of less than significant.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 4.7-2 as presented in the Draft Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. This Mitigation Measure requires that the Project Applicant work with PG&E and Chevron to implement and observe a site damage-prevention plan.

Impact 4.7-3: Cumulative Hazards Impacts

Significant Impact

As presented in and determined by the analysis contained on page 4.7-34 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the baseline for the evaluation of cumulative impacts relies on the General Plan and General Plan EIR. In addition, the Modified Project is consistent with the intent of the TR-Ellis General Plan Land Use designation, which will ultimately be implemented (with minor text modifications) by the Modified ESP. Based on the Project's conformity with the General Plan, the lack of significant unavoidable impacts associated with implementation of the Modified ESP, and the absence of cumulative impacts associated with buildout of the General Plan, cumulative impacts relative to hazards and hazardous materials are considered less than significant with mitigation with implementation of the Modified ESP. Implementation of Mitigation Measures 4.7-1a through 4.7-1c and 4.7-2 would reduce impacts to a level of less than significant.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 4.7-1a through 4.7-1c and Mitigation Measure 4.7-2 as presented in the Draft Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. These Mitigation Measures require soil sampling, updated site characterization prior to issuance of building permits with regard to Shell Oil's abandoned crude oil pipeline and potential contaminated soils from pipeline leaks, and requires that the Project Applicant work with PG&E and Chevron to implement and observe a site damage-prevention plan.

Hydrology, Drainage, and Water Quality

Impact 3B.10-3 Water Quality

Significant Impact

As presented in and determined by the analysis contained on pages 3B.10-38 through 3B.10-42 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project may significantly impact water quality.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3B.10-3a, 3B.10-3b, 3B.10-3c, and 3B.10-3d as presented in the Final Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) that a hydrology report be prepared that specifies expected stormwater volumes, projected peak storage capacity of temporary basins, and percolation characteristics of soil; 2) compliance with NPDES General Construction Activities Storm Water Permit Requirements; 3) that a draft copy of the Notice of Intent and SWPPP be submitted to the City Engineer for review; and 4) after Project completion, the Project Applicant shall maintain parking lots and other common paved areas.

Impact 3B.10-4 Drainage Patterns

Significant Impact

As presented in and determined by the analysis contained on page 3B.10-43 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project may impact drainage patterns. Future development facilitated by the ESP would involve vegetation removal, grading, earth excavation, and the construction of roads, sidewalks, and buildings.

These activities would alter the existing drainage patterns of the ESP site and would increase the potential for erosion and/or siltation. Such increases in runoff could potentially cause increases in erosion, and/or siltation, of the ESP site.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3B.10-3b, 3B.10-3c, and 3B.10-3d as presented in the Final Revised EIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) compliance with NPDES General Construction Activities Storm Water Permit Requirements; 2) that a draft copy of the Notice of Intent and SWPPP be submitted to the City Engineer for review; and 3) after Project completion, the Project Applicant shall maintain parking lots and other common paved areas.

Impact 3B.10-5 Flooding

Significant Impact

As presented in and determined by the analysis contained on pages 3B.10-43 through 3B.10-45 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project may create flooding impacts. Future development facilitated by the ESP would increase the amount of impervious surfaces through the construction of new building pads, streets, sidewalks, and structures, which would result in changes to the absorption rates, drainage patterns, and the corresponding rate and amount of surface runoff. Such changes could potentially result in flooding on- or off-site.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3B.10-3a, 3B.10-3b, and 3B.10-3c as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) that a hydrology report be prepared that specifies expected stormwater volumes, projected peak storage capacity of temporary basins, and percolation characteristics of soil; 2) compliance with NPDES General Construction Activities Storm Water Permit Requirements; and 3) that a draft copy of the Notice of Intent and SWPPP be submitted to the City Engineer for review.

Impact 3B.10-7 Degradation of Water Quality

Significant Impact

As presented in and determined by the analysis contained on page 3B.10-46 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project may degrade water quality.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3B.10-3a, 3B.10-3b, and 3B.10-3c as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) that a hydrology report be prepared that specifies expected stormwater volumes, projected peak storage capacity of temporary basins, and percolation characteristics of soil; 2) compliance with NPDES General Construction Activities Storm Water Permit Requirements; and 3) that a draft copy of the Notice of Intent and SWPPP be submitted to the City Engineer for review.

Public Services

Impact 3B.9-4 Police Protection Services

Significant Impact

As presented in and determined by the analysis contained on pages 3B.9-11 through 3B.9-13 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project, would potentially impact police protection services.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant police protection service impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3B.9-4, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires the Project Applicants of individual projects consult with the Police Department during preliminary stages of site design to review safety features, determine their adequacy, and suggest design improvements to the proposed site plan.

Impact 3B.9-5 Fire Protection Services

Significant Impact

As presented in and determined by the analysis contained on pages 3B.9-13 through 3B.9-16 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project would potentially impact fire protection services. As discussed above in Section 3B.9.1.1, the South County Fire Authority's response times to the ESP vicinity are currently not meeting the Department's goal of a five-minute response time. According to the South County Fire Authority, the proposed ESP would generate approximately 400 calls per year. This is an 8.8% increase over the existing number of Department calls per year. Future development of the ESP site would require additional fire protection and emergency services. According to the South County Fire Authority, implementation of the proposed ESP might affect service delivery capabilities, although at this time, the South County Fire Authority cannot conclude to what degree service would be affected.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3B.9-5a through 3B.9-b, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require that the Project Applicant work with the City and South County Fire Authority to identify a possible

location for a future fire station and to establish adequate emergency response services through the construction of a new fire sub-station.

Traffic and Circulation

Impact 4.13-5a: Local Intersections (Lammers Road/Schulte Road)

Significant Impact

As presented in and determined by the analysis contained on pages 4.13-38 through 4.13-39 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, under existing conditions, the all-way-stop-controlled Lammers Road/Schulte Road intersection operates at LOS B with an average delay of 14 seconds in both the AM and PM peak hours. The addition of the Modified ESP traffic would increase the average intersection delay to over 50 seconds, shifting the level of service from B to F during the AM peak hour (worst peak hour). The City of Tracy level of service standard for this intersection is LOS D. This is considered a significant impact. Signalizing the intersection would raise the level of service back to LOS B during the AM peak hour. Impacts would be reduced to less than significant levels by signalizing the intersection through implementation of Mitigation Measure 4.13-5.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 4.13-5, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. As identified in Mitigation 4.13-5, the Project Applicant shall pay their fair share contribution towards the implementation of this improvement.

Impact 4.13-5b: Local Intersections (Corral Hollow Road/Valpico Road)

Significant Impact

As presented in and determined by the analysis contained on pages 4.13-39 through 4.13-40 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, under existing conditions, the all-way-stop-controlled Corral Hollow Road/Valpico Road intersection operates at LOS E with an average delay of 44 seconds in the PM peak hour (worst peak hour). The addition of the Modified ESP traffic would increase the average intersection delay to over 50 seconds, shifting the level of service from E to F. The City of Tracy level of service standard for this intersection is D. This is considered a significant impact. Signalizing the intersection and widening the southbound approach to provide two lanes would raise the level of

service to C. Impacts would be reduced to less than significant levels by adding these improvements to the intersection through implementation of Mitigation Measure 4.13-5.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 4.13-5, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. As identified in Mitigation 4.13-5, the Project Applicant shall pay their fair share contribution towards the implementation of this improvement.

Water Supply and Other Public Utilities

Impact 3B.8-3: Electricity and Natural Gas Service

Significant Impact

As presented in and determined by the analysis contained on pages 3B.8-28 through 3B.8-30 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the Project has the potential to result in electricity and natural gas service impacts. PG&E currently supplies electricity to the ESP site. However, the proposed ESP would require an increase in the amount of energy currently supplied to the ESP site. Electric and lines would need to be extended and improved to PG&E standards and specifications.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3B.8-3, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that the Project Applicant coordinate with PG&E regarding proper extension of electrical and natural gas services to the ESP site.

Impact 4.14-2: Wastewater Treatment

Significant Impact

As presented in and determined by the analysis contained on pages 4.14-37 through 4.14-39 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, to ensure that any necessary wastewater conveyance improvements would be available to serve the Modified Project prior to occupation, the City shall verify their installation prior to issuance of building permits, as identified in Mitigation Measure 4.14-2.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 4.14-2 of the Draft Revised EIR, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measure 4.14-2 requires that prior to approval of any tentative map beyond 800 residential units, the Family Swim Center, and storage uses within the Modified Ellis Specific Plan area, necessary improvements, if any, beyond those identified in the Modified Ellis Specific Plan or as part of the Ellis Finance and Implementation Plan ("FIP"), shall be determined regarding modifications or expansions to the City's Wastewater Treatment Plant and proposed new connections (from such tentative map development) and then-existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit.

Impact 4.14-3: Storm Drainage Capacity

Significant Impact

As presented in and determined by the analysis contained on pages 4.14-39 through 4.14-41 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the proposed site storm drainage system would be constructed to follow the existing ground slope of the ESP area, which is relatively flat. Based on existing topographic information, the terrain generally slopes less than one percent from the southwest corner to the northwest corner of the site.. In the east-west direction, the slope of the ESP area is less than 0.5 percent. According to

the Modified ESP, the existing peak flow discharge is approximately 26 cfs. Upon buildout of the ESP, the peak flow discharge is estimated to increase to 63 cfs during a ten-year storm event. Based on this estimate, the Total Basin Retention Volume (minimum basin size to retain the additional peak flow discharge) is estimated to be approximately 78.6 acre-feet. Implementation of Mitigation Measures 3B.10-3a through 3B.10-3d of the Original Ellis EIR, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program would reduce potential impacts to a level of less than significant.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3B.10-3a through 3B.10-3d of the Original Ellis EIR, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) that a hydrology report be prepared that specifies expected stormwater volumes, projected peak storage capacity of temporary basins, and percolation characteristics of soil; 2) compliance with NPDES General Construction Activities Storm Water Permit Requirements; 3) that a draft copy of the Notice of Intent and SWPPP be submitted to the City Engineer for review; and 4) after Project completion, the Project Applicant shall maintain parking lots and other common paved areas.

Impact 4.14-4: Cumulative Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.14-39 through 4.14-41 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the geographic scope of the cumulative impacts for the Modified Project includes development projects anticipated by the General Plan, as most recently updated, that could increase the need for water supply and wastewater and storm drainage facilities in the City. However, future development within the Modified Project vicinity would be guided by the City's General Plan and associated planning and environmental documents. Each project would be subject to the City's planning process. As part of this planning process, the payment of appropriate fees by all development projects would be required to mitigate any effects on public services and utilities and minimize cumulative impacts on a project-by-project basis.

Future development would also be required to comply with all Federal, State, and local regulations and ordinances protecting utility services, including complying with all water conservation measures and waste minimization efforts in accordance with City requirements. Therefore, the incremental impact associated with the Modified Project would not contribute to cumulative long-

term impacts on water supply and wastewater and storm drainage facilities and, therefore, would not be cumulatively considerable.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FREIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 4.14-2 of the Draft Revised EIR, as presented in the FREIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measure 4.14-2 requires that prior to approval of any tentative map beyond 800 residential units, the Family Swim Center, and storage uses within the Modified Ellis Specific Plan area, necessary improvements, if any, beyond those identified in the Modified Ellis Specific Plan or as part of the Ellis Finance and Implementation Plan ("FIP"), shall be determined regarding modifications or expansions to the City's Wastewater Treatment Plant and proposed new connections (from such tentative map development) and then-existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit.

3. SIGNIFICANT IMPACTS WHICH CANNOT BE AVOIDED

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Sections 15091 and 15092, the FREIR is required to identify the significant impacts that cannot be reduced to a less-than-significant level through mitigation measures. Based upon the EIR, public comments, and the entire record before the City Council, the City Council finds that the Project will cause the following significant and unavoidable impacts after the implementation of mitigation measures with respect to the following areas:

Aesthetics

Impact 3B.6-1 Light and Glare

Significant Impact

As presented in and determined by the analysis contained on pages 3B.6-6 through 3B.6-7 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the City of Tracy Standard Plan #154 establishes minimum requirements for light illumination, but does not have regulations limiting glare. The City addresses light and glare issues on a case-by-case basis during Project approval and typically adds requirements as a condition of Project approval to shield and protect against light spillover from one property to the next. Title 10.08.4000 of the Tracy Municipal Code requires that the site plan and architectural package include the exterior lighting standards and devices, and be reviewed by the Development and Engineering Department.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Implementation of Mitigation Measure 3B.4-4 would reduce potential impacts on light and glare by ensuring that the ESP has adequate lighting that avoids glare impacts on neighboring properties. However, it is anticipated that long-term light and glare impacts would be significant and unavoidable. As there is no feasible mitigation to reduce light and glare impacts, this impact remains significant and unavoidable.

Impact 3B.6-2 Visual Character

Significant Impact

As presented in and determined by the analysis contained on pages 3B.6-7 through 3B.6-8 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the ESP proposes development adjacent to existing residential communities north and east of the ESP site. Because the ESP proposes a “feathering of density” along the edges to create smoother transitions between the developed areas and the adjacent agricultural uses, significant impacts regarding the overall visual quality and sensitivity of the ESP site would be minimized. The proposed residential uses would be similar in character and density with existing surrounding land uses, and therefore would be visually compatible with the surrounding uses. Because the ESP includes development standards and design guidelines to ensure quality development of the ESP site, all future development projects within the ESP area would be required to meet the design principles set forth in both the General Plan and Specific Plan/Pattern Book.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Implementation of mitigation measure 3B.6-2 would help to reduce impacts. Despite the implementation of mitigation measures, the proposed ESP would permanently change the existing visual landscape and character of the ESP site. Therefore, a significant and unavoidable impact would occur. As there is no feasible mitigation to reduce visual character impacts, this impact remains significant and unavoidable.

Impact 3B.6-3 Scenic Vista

Significant Impact

As presented in and determined by the analysis contained on page 3B.6-9 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the General Plan EIR

identifies the expansive agricultural lands that surround the City's Planning Area and Sphere of Influence as valued local assets that contribute to the City's agricultural heritage. In addition to these surrounding agricultural lands, the Diablo Range to the southwest of the ESP site, the windfarms on the ridgetops to the west of the City, and the natural landscapes surrounding the Paradise Cut, Old River and Tom Paine Sloughs on the north side of the Planning Area are also considered to be valued scenic resources, although they are not associated with specific viewing areas. A scenic vista is typically considered an important viewshed from a specified public viewing area. With respect to private views (in this case, from the current residences along the eastern boundary of the ESP site), although they may be impacted by ESP implementation, private views are not protected by State law or local policies or significance thresholds established in the General Plan EIR, [Mira Mar Mobile Community v. City of Oceanside (2004) 119 Cal.App. 4th 477, 492-494]. Although private views are not protected, development of the ESP site would impact the scenic vista because the ESP site would be changed from agricultural open space to a planned community. Therefore, implementation of the ESP would cause a significant and unavoidable impact on a scenic vista.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

As there is no feasible mitigation to reduce impacts to the scenic vista, this impact remains significant and unavoidable.

Impact 3B.6-4 Scenic Resources

Significant Impact

As presented in and determined by the analysis contained on page 3B.6-9 through 3B.6-10 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the California Streets and Highway Code, Section 261 defines the scenic corridor as the band of land generally adjacent to the highway right-of-way. The proposed ESP is 0.8-mile away from the highway at its closest point. This is considered to be inside of the range of the scenic corridor; therefore, impacts would be significant and unavoidable in this regard.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

As there is no feasible mitigation to reduce impacts to scenic resources, this impact remains significant and unavoidable.

Cumulative Aesthetics Impacts

Significant Impact

Development of the ESP site and any additional undeveloped land within the City's Planning Area would contribute to the overall degradation of the visual character of the Tracy area and generate new sources of light and glare. Cumulative impacts to visual resources, then, are considered to be cumulatively considerable and would result in significant unavoidable cumulative impacts to visual resources.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

As there is no feasible mitigation to reduce cumulative aesthetics impacts, this impact remains significant and unavoidable.

Agricultural Resources

Impact 3B.7-3 Direct Impacts to Important Farmland

Significant Impact

As presented in and determined by the analysis contained on page 3B.7-9 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, the proposed ESP would result in the phased conversion of 321 acres of prime farmland to residential, commercial, office and recreational uses. Under the significance thresholds of the State CEQA Guidelines, conversion of farmland would result in significant impacts. Converting this farmland to urban uses would permanently eliminate a source of food and fiber. These resources cannot be recreated. Because any quantity of agricultural resources that would be permanently removed from production is significant, direct impacts to farmland would be significant and unavoidable. The permanent preservation of Prime Farmland does not reduce or eliminate the direct physical impacts to Important Farmland.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Mitigation measure 3B.7-3 requires that future applicants pay appropriate Agricultural Mitigation Fees, which would help to reduce impacts. However, this mitigation would help preserve County-wide agricultural resources, helping to preserve the agricultural economy and lessen long-term, cumulative impacts to Important Farmland. The above mitigation measure would reduce potentially significant agricultural resource impacts associated with implementation of the Specific

Plan. However, implementation of the proposed Specific Plan would still result in a net loss of prime agricultural land. This impact would remain significant and unavoidable.

Cumulative Agricultural Resources Impacts

Significant Impact

As presented in and determined by the analysis contained on page 3B.7-9 through 3B.7-10 of the Original Ellis EIR and in the Final Revised EIR Response to Comments and Errata thereto, implementation of the proposed Project would result in the conversion of farmland to non farmland uses. Cumulative impacts to agricultural resources, then, are considered to be cumulatively considerable and would result in significant unavoidable cumulative impacts to agricultural resources. Mitigation measure 3B.7-3 presented above would help reduce cumulative impacts, but not to a less than significant level.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Mitigation measure 3B.7-3 requires that future applicants pay appropriate Agricultural Mitigation Fees, which would help to reduce impacts. However, this mitigation would help preserve County-wide agricultural resources, helping to preserve the agricultural economy and lessen long-term, cumulative impacts to Important Farmland. The above mitigation measure would reduce potentially significant agricultural resource impacts associated with implementation of the Specific Plan. However, implementation of the proposed Specific Plan would still result in cumulative impacts. This impact would remain significant and unavoidable.

Air Quality

Impact 4.3-2 Long-Term (Operational) Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.3-17 through 4.3-21 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the proposed ESP would result in exceedances of the SJVAPCD thresholds of significance for ROG, NOX, and PM10. The Basin is currently designated as a non-attainment area for ozone and particulates. Emissions of criteria pollutant would further lead to the degradation of ambient air quality. The proposed ESP would result in significant exceedances of the SJVAPCD thresholds. Therefore, the ESP would result in a significant and unavoidable impact.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Mitigation Measure 4.3-2a requires that the modified ESP meet the LEED for Neighborhood Development “Certified” rating criteria as published in the LEED ND Pilot Program in Fall 2007. Additionally, Mitigation Measure 4.3-2b requires that the Building Division verify that the Modified Project complies with SJVAPCD Rule 9510. However, implementation of the proposed Modified Project would still result in long term operational air quality impacts. This impact would remain significant and unavoidable.

Impact 4.3-3 Plan Consistency

Significant Impact

As presented in and determined by the analysis contained on pages 4.3-21 through 4.3-22 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, as indicated in the Long-Term Operational Impacts discussion, the proposed ESP would result in exceedances of SJVAPCD thresholds for criteria pollutants.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Project design features would help reduce criteria pollutants, however, as indicated in the analysis, impacts would remain significant and unavoidable. Therefore, the proposed Modified ESP would be inconsistent with the 2007 Ozone Plan in this regard.

Impact 4.3-4: Cumulative Air Quality Impacts

Significant Impact

As presented in and determined by the analysis contained on page 4.3-22 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, since construction emissions from future development projects within the Modified ESP area cannot be mitigated to a less than significant level, and operation of those developments would exceed SJAVPCD thresholds, cumulative impacts would be considered significant and unavoidable.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Project design features would help reduce criteria pollutants, however, as indicated in the analysis, impacts would remain significant and unavoidable. Therefore, the proposed Modified ESP would create a significant and unavoidable cumulative impact.

Greenhouse Gas Emissions

Impact 4.6-1: Greenhouse Gas Emissions Impacts

Significant Impact

As presented in and determined by the analysis contained on page 4.6-14 through 4.6-20 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, as discussed in the General Plan EIR, implementation of the SAP would achieve a 22 to 28 percent reduction in GHG emissions from BAU conditions throughout the City. The SJVAPCD requires a 29 percent reduction from “business as usual” projected emissions for GHG impacts to be considered less than significant. As the SAP would not achieve the SJVAPCD reduction requirement, the City’s General Plan EIR determined that GHG emissions reductions would be significant and unavoidable and a Statement of Overriding Considerations was adopted. The General Plan EIR indicated that all feasible mitigation measures for GHG emissions were included in the General Plan and SAP. No additional measures beyond those found in the SAP have been found feasible to reduce GHG emissions associated with the Modified Project. The General Plan EIR determined that GHG emissions under the SAP would not meet SJVAPCD criteria, and impacts would be significant and unavoidable.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Mitigation Measure 4.6-1a would require that the Project include design features to reduce potential greenhouse gas emissions. However, even with the implementation of the aforementioned mitigation, impacts would remain significant and unavoidable.

Impact 4.6-3: Cumulative Impacts

Significant Impact

As presented in and determined by the analysis contained on page 4.6-21 through 4.6-22 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, despite the implementation of design elements and mitigation measures, the Modified Project would not meet the SJCAPCD reduction threshold for GHG emissions. Although the Modified Project would be consistent with the City’s Sustainability Action Plan and would incorporate relevant measures within the Sustainability Action Plan, such project-specific mitigation cannot be imposed upon cumulative projects. Additionally, the GHGs generated by the Modified Project in

combination with GHG emissions from other known and reasonably foreseeable projects would result in a much greater amount of GHG emissions.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Mitigation Measure 4.6-1a would require that the Project include design features to reduce potential greenhouse gas emissions. However, even with the implementation of the aforementioned mitigation, impacts would remain significant and unavoidable.

Land Use and Planning

Impact 4.9-3: Agricultural Land Conversion

Significant Impact

As presented in and determined by the analysis contained on page 4.9-13 through 4.9-14 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, Since the 2011 General Plan is unable to mitigate impacts associated with agricultural land conversion, the City has established an Agricultural Mitigation Fee (Chapter 13.28 of the Municipal Code), which implements a fee program to mitigate for the loss of farmland as development occurs, especially for projects using water from the SSJID. The Ordinance is also in response to policies in the General Plan to preserve productive farmland, including the development of a program to secure permanent agriculture on lands designated for agriculture in the City and/or County General Plan.

The fee is intended to mitigate a CEQA determination of significant, unavoidable impacts to the loss of farmland as a result of proposed development, which would be approved by the City with a statement of overriding consideration. The fees are collected and administered by the City before the issuance of building permits, and used for acquiring farmland, farmland conservation easements or farmland deed restrictions from willing sellers.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

With implementation of Mitigation Measure 4.9-3, which requires future project applicants to pay the appropriate Agricultural Mitigation Fee to the City, as well as adherence to General Plan Goal OSC-2 and corresponding objectives and policies, impacts associated with agricultural land conversion would still remain significant and unavoidable, which is consistent with the Tracy General Plan EIR.

Impact 4.9-4: Cumulative Impacts

Significant Impact

As presented in and determined by the analysis contained on page 4.9-13 through 4.9-14 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, impacts associated with agricultural land conversion are considered significant and unavoidable. Although the ESP area is approximately 0.78 percent of the total agricultural area located within the City's Planning Area (including SOI and City Limits), any loss of agricultural land (especially Prime Farmland) is considered a significant cumulative impact. In addition, the 2011 General Plan found impacts associated with agricultural land conversion significant and unavoidable even with adherence to the goals, objectives, and policies outlined within the Open Space and Conservation Element and implementation of the City's Agricultural Mitigation Fee (Municipal Code Chapter 13.28). Based on this, impacts associated with cumulative agricultural land conversion associated with implementation of the Modified ESP are considered significant and unavoidable.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Based on the discussion above, impacts associated with cumulative agricultural land conversion associated with implementation of the Modified ESP are considered significant and unavoidable.

Noise

Impact 4.10-1: On-site Long-term Operational Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.10-18 through 4.10-26 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, no detailed site plans, grading plans, floor plans, elevations, building orientation diagrams, building material palettes, or mechanical drawings associated with the Modified ESP are available at this time to determine specific noise impacts to future residential uses. Thus, at this time, noise impacts to future residential uses along the Union Pacific Railroad are considered to be significant.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Despite the implementation of Mitigation Measure 4.10-1g which requires that any residential development located within 260 feet of the Union Pacific Railroad corridor shall have a Focused Acoustical Analysis prepared, railroad train noise would remain significant and unavoidable, as there are no detailed site plans available at this time to determine specific noise impacts to future residential uses. Thus, at this time, noise impacts to future residential uses along the Union Pacific Railroad are considered to be significant.

Impact 4.10-2: Short-term Construction Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.10-26 through 4.10-30 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, in general, most construction noise would exceed the speech interference criterion when heavy equipment is operated within approximately 500 feet of a sensitive receptor (distance ranges between 150 and 500 feet depending on the type of equipment operated). The sleep interference criterion would be exceeded at distances closer than approximately 3,000 feet with windows open or 900 feet with the windows closed (with operation of most types of construction equipment; greater setback distances would be required if trucks and impact equipment were to be operated at night). The nearest sensitive receptors (residential uses) are located approximately 150 feet from the boundaries of the ESP.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Based on the conclusions above, a significant and unavoidable noise impact could occur. However, when construction hours and activities are defined for each site specific phase of the Modified Ellis Specific Plan, additional acoustical analysis would be conducted to determine potential construction noise impacts for specific facility locations and whether impacts could be mitigated to a less-than-significant level. Therefore, impacts currently would remain significant and unavoidable.

Impact 4.10-3: Offsite Long-term Operational (Mobile Source) Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.10-30 through 4.10-33 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, as impacts would also occur on off-site roadways and properties, it is usually infeasible for the applicant to implement these measures. Therefore, impacts to off-site uses from traffic noise would be considered significant and unavoidable since feasible mitigation measures would not be available to mitigate noise levels on all surrounding roadways to below thresholds.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

As stated above, impacts to off-site uses from traffic noise would be considered significant and unavoidable since feasible mitigation measures would not be available to mitigate noise levels on all surrounding roadways to below thresholds. Therefore, impacts would remain significant and unavoidable.

Impact 4.10-4: Cumulative Noise Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.10-33 through 4.10-35 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, Table 4.10-10 of the Draft Revised EIR also compares the “Cumulative Plus Modified ESP” scenario to the “Existing Without Modified ESP” scenario. As indicated in Table 4.10-10 of the Draft Revised EIR, the highest noise level increase of 7.1 dBA would occur on Lammers Road, south of Schulte. This would be considered a significant increase in ambient noise levels. As indicated in Table 4.10-10, noise levels with the implementation of the proposed Project would slightly decrease. Therefore, noise impacts would also decrease. However, as shown in Table 4.10-10, cumulative noise impacts would be considered significant and unavoidable with implementation of the Modified ESP.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

As stated above, cumulative noise impacts would remain significant and unavoidable.

Traffic and Circulation

Impact 4.13-6: Regional Transportation System

Significant Impact

As presented in and determined by the analysis contained on pages 4.13-40 through 4.13-42 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the addition of Modified ESP traffic to the regional transportation system would degrade LOS on I-580 west of I-205 to unacceptable traffic conditions during the AM and PM peak hours. This section of the I-580 traverses the Altamont Pass, which due to the hillside terrain, steep slopes and challenging geometry makes roadway improvements at this location infeasible and

cost prohibitive. Thus no feasible improvements have been identified by Caltrans or any other agency that can mitigate this impact to below the level of significance.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Since no improvements have been identified that could fully mitigate impacts to these regional transportation facilities, several other mechanisms have been identified in the City of Tracy General Plan to address these existing and projected deficiencies. Each of these strategies would provide some benefit to anticipated impacts on regional roadways such as I-580 through the Altamont Pass. However, these mechanisms, even when considered together, would not fully mitigate the impacts of future development projects on the regional roadways including both freeways and surface streets. Mitigation Measure 4.13-6 would require applicants of individual projects within the Modified ESP to pay Regional Transportation Impact Fees. Therefore, the traffic impacts from the Modified ESP on these roadways are identified as significant and unavoidable.

Impact 4.13-7: Tesla Road and Patterson Pass Road

Significant Impact

As presented in and determined by the analysis contained on pages 4.13-42 through 4.13-43 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, implementation of development within the Modified ESP site would increase existing volumes approximately 12 percent during the AM peak hour on westbound Tesla Road and approximately 16 percent during the PM peak hour on eastbound Tesla Road, exacerbating an existing unacceptable traffic condition. Implementation of development within the Modified ESP site would increase existing volumes approximately 7 percent during the AM peak hour on westbound Patterson Pass Road and approximately 18 percent during the PM peak hour on eastbound Patterson Pass Road, further degrading an existing unacceptable traffic condition. Based on Alameda County's LOS C threshold, the Modified ESP contribution to existing traffic on Tesla Road and Patterson Pass Road would be significant and unavoidable.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Mitigation Measure 4.13-7 would require the Project Applicant contribute to payment of funds for regional transportation improvements. These improvements would increase the efficiency of regional transportation networks and improve regional traffic circulation. However, the

implementation of the mitigation measure would not completely reduce potentially significant impacts to less-than-significant levels. While the collection of these fees would be used to fund improvements, the total fee collected to date and the projected fee collected at buildout would be insufficient to offset the estimated impacts on regional facilities. Therefore, impacts to Tesla Road and Patterson Pass Road are identified as significant and unavoidable.

Cumulative Traffic Impacts

Significant Impact

As presented in and determined by the analysis contained on pages 4.13-43 through 4.13-51 of the Draft Revised EIR and in the Final Revised EIR Response to Comments and Errata thereto, the proposed Project would need to contribute to payment of funds for regional transportation improvements. These improvements would increase the efficiency of regional transportation networks and improve regional traffic circulation. However, the implementation of the Mitigation Measure 4.13-6 would not completely reduce potentially significant impacts to less-than-significant levels. Therefore, impacts to these transportation systems are identified as significant and unavoidable.

Finding

The City finds that, pursuant to Section 15091(a)(3) of the CEQA Guidelines, specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final Revised EIR.

Facts in Support of Findings

Mitigation Measure 4.13-7 would require the Project Applicant contribute to payment of funds for regional transportation improvements. These improvements would increase the efficiency of regional transportation networks and improve regional traffic circulation. However, the implementation of the mitigation measure would not completely reduce potentially significant impacts to less-than-significant levels. While the collection of these fees would be used to fund improvements, the total fee collected to date and the projected fee collected at buildout would be insufficient to offset the estimated impacts on regional facilities. Therefore, cumulative traffic impacts are identified as significant and unavoidable.

REVIEW AND REJECTION OF ALTERNATIVES

The State CEQA Guidelines Section 15126.6 mandates that every EIR evaluate a no-project alternative, plus a feasible and reasonable range of alternatives to the Project or its location. The Alternatives were formulated considering the Objectives of the City of Tracy and the Project Applicant Objectives outlined on pages 2-10 through 2-11 of FREIR. Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of a project.

Typically, where a project causes significant impacts and an EIR is prepared, the findings must discuss not only how mitigation can address the potentially significant impacts but whether Project alternatives can address potentially significant impacts. But where all significant impacts can be substantially lessened, in this case to a less-than-significant level, solely by adoption of mitigation measures, the lead agency, in drafting its findings, has no obligation to consider the feasibility that Project alternatives might reduce an impact, even if the alternative would mitigate the impact to a greater degree than the proposed Project, as mitigated (Public Resources Code Section 21002; Laurel Hills Homeowners Association v. City Council (1978 83 Cal.App.3d 515, 521. Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 730-733; Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 400-403).

Because not all significant effects can be substantially reduced to a less-than-significant level either by adoption of mitigation measures or by standard conditions of approval, the following section considers the feasibility of the Project alternatives as compared to the proposed Project.

The City finds that the range of alternatives studied in the FREIR reflects a reasonable attempt to identify and evaluate various types of alternatives that potentially would be capable of reducing the Project's environmental effects, while accomplishing most of the City's and Project Applicant's Objectives (collectively (Project Objectives), as identified in the FREIR. The City finds that the alternatives analysis is sufficient to inform the City, agencies, and the public regarding the tradeoffs between the degree to which alternatives to the Project could reduce environmental impacts and the corresponding degree to which the alternatives would hinder the achievement of the Project Objectives and economic, environmental, social, technological, legal, and other considerations.

The City finds the Project would satisfy the Project Objectives, and is more desirable than the other Alternatives. As set forth in Exhibit A, the City has adopted mitigation measures that avoid or reduce, to the extent feasible, the significant environmental effects of the Project. As also is explained in Exhibit A, which is incorporated by reference, while these mitigation measures will not mitigate all project impacts to a less-than-significant level, they will mitigate those impacts to a level the City finds is acceptable. The City finds the remaining alternatives infeasible. Accordingly, the City has determined to approve the Project instead of approving one for the remaining alternatives.

In making this determination, the City finds that, when compared to the other Alternatives described and evaluated in the Original Ellis EIR and the FREIR, the Project, as mitigated, provides a reasonable balance between satisfying the Project Objectives and reducing potential environmental impacts to an acceptable level. The city further finds and determines that the Project should be approved, rather than one of the alternatives, for the reasons set forth below.

As explained below, these findings describe and reject, for reasons documented in the FREIR and summarized below, each one of the Project alternatives, and the City finds that approval and implementation of the initial Project design is appropriate. The evidence supporting these findings is presented in Chapter 6 of the Draft Revised EIR.

Alternative 4: No Project/No Build (Status Quo)

The No Project/No Build (status quo) Alternative (Alternative 4) would not result in any physical or operational changes to the proposed ESP site. The existing agricultural uses, residences, and open space uses on the ESP site would remain unchanged with this alternative. Amendments to the General Plan and annexation of the ESP site would also not occur under Alternative 4.

Finding

The City hereby rejects Alternative 4, finding it is not feasible, for both of the following independent reasons: (1) it would fail to achieve the Project Objectives; and (2) specific economic, legal and other considerations make Alternative 4, identified in the FREIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

Alternative 4 would avoid most of the potential impacts of the proposed Project since no physical or operational changes to the site and its surroundings would occur beyond existing conditions. However, Alternative 4 would not achieve the potentially beneficial impacts of the proposed ESP related to water quality treatment measures. These measures create an opportunity for pollutants to settle or be intercepted in temporary or permanent detention basins prior to being released into downstream waters. Alternative 4 would not provide the potential benefits of providing additional housing, as this alternative would not include the development of the Ellis community. In addition, Alternative 4 would not be consistent with the General Plan. Alternative 4 would also not meet the objectives of providing \$20 million and dedicate land within the Ellis community for the Swim Center and Community Park. Alternative 4 would not meet any of the basic Project objectives of the City or the Project Applicant.

Alternative 5: No Project/Future Development Under General Plan

The No Project/Future Development Under General Plan Alternative (Alternative 5) would include the development of up to 2,250 homes, 333,000 square feet of commercial uses and 30 acres of parkland but would not include the development of the Modified Ellis Specific Plan site as envisioned under the Project as proposed. This Alternative would not include the development of the Community Park and Swim Center. This Alternative would include approximately 370 residential low, 770 residential medium, and 1,110 residential high dwelling units. In addition, this Alternative would include a 222,000 square foot Village Center and an additional 111,000 square feet of commercial uses, for a total of 333,000 square feet of commercial uses. The residential densities for Alternative 5 would be the same as identified in the proposed Project.

Finding

The City hereby rejects Alternative 5, finding it is not feasible for both of the following independent reasons: (1) it would fail to achieve Project Objectives of obtaining significant funding and other provisions for construction of a family-oriented swim-center; and (2) specific economic, legal and

other considerations make Alternative 5, identified in the FREIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

Implementation of Alternative 5 would generate impacts that are comparatively similar to the proposed ESP. Alternative 5 would slightly reduce impacts of the proposed ESP related to land use and planning, as Alternative 5 would implement the vision for Urban Reserve 10 on the ESP site. In addition, a slight reduction in water demand and GHG production may occur because the Swim Center would not be developed. Although Alternative 5 would meet nearly all of the Project objectives, it would not meet the objective of obtaining funding and other provisions (including the dedication of land) for construction of a family-oriented swim center. Furthermore, as a matter of policy, the City finds that Alternative 5 is less desirable than the Project as proposed, insofar as the Project applicant has come forward with a concrete plan for the development of the Project site consistent with the City's vision for the site as set forth in the General Plan, which thus provides the City with some assurance that the site will be so developed. If the City rejects the present application in favor of alternative 5, there is no way to know whether any future developer will in fact, come forward with any plan for development consistent with the General Plan, let alone a proposal of reflecting the high quality of development set forth in the Project as proposed.

Alternative 6: Reduced Density

The Reduced Density Alternative (Alternative 6) would include the development of a total of 1,224 residential units, but would restrict any development beyond this limit, thus reducing the maximum number of residential units proposed by the Original ESP by 54 percent (no housing would be allowed in the Village Center). Alternative 6 would also include the development of 180,000 square feet of commercial uses, as well as the Swim Center. This Alternative is based on the lowest number of units allowed within each of the residential land use categories for the ESP site. The conclusion of the Original Ellis EIR with regard to Alternative 6 was that it would result in less adverse impacts on air quality, noise, geology, soils and seismicity, public services, and traffic relative to the Original ESP because 54 percent fewer residential units would be constructed. However, the reduction in the significance of environmental impacts would be ultimately marginal compared to the impacts associated with converting undeveloped land to urban uses or inducing growth elsewhere in the City or other areas within the City's SOI. Alternative 6 would meet most of the Original and Modified ESP's basic objectives, including the development of the Swim Center, albeit to a significantly lesser degree (e.g. by the provision of fewer residential units). However, the Project Applicant is not certain that the Original and Modified Project Objective of constructing a family-oriented swim center could be met with this alternative due to economic infeasibility issues.

Finding

The City hereby rejects Alternative 6, finding it is not feasible for both of the following independent reasons: (1) It would not achieve the Project Objectives to nearly the same degree as would the Project as proposed and (2) specific economic considerations make this alternative, identified in the FREIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

Alternative 6 would result in less adverse impacts on air quality, noise, greenhouse gas emissions, geology, soils, seismicity, public services, and traffic relative to the Original and/or Modified ESP, as Alternative 6 would include the construction of 54 percent fewer residential units than the maximum which could be developed under either the Original or Modified ESP. However, given that the level of development potential contemplated by the Modified Project is consistent with the development anticipated, contemplated, and accommodated by the City's adopted General Plan, the reduction in impacts that would result from minimizing the development potential of the site could indirectly result in growth being directed or diverted to other areas in the City or within the City's SOI. In consideration of broader environmental concerns, development of the site at a higher density is preferable to the comparative "sprawl" that would result from restricting development at the Project site and thus inducing more growth to occur in other areas.

It has been argued that Alternative 6 is similar to the proposed Project, insofar as the Modified ESP does allow for a potential range of future development of between 1,000 and 2,250 residential units, and there is thus no guarantee that the Project as proposed will result in more units than what is proposed under Alternative 6. The actual future buildout of the Project will depend on a variety of market-related and other economic conditions. However, one critical difference is that Alternative 6 actually prohibits development of more than 1,224 units, whereas the Project as proposed allows for the development of a maximum of 2,250 units. As a matter of policy, the City finds that it is important to support and allow for the development of a greater number of units than what would be permitted under Alternative 6, while at the same time not unduly restricting the ability of the Project developer to respond and adjust to future market and other conditions. In addition, Alternative 6 prohibits development of any residential units in the commercial areas, thereby prohibiting an important type of high density "mixed use" housing. Because Alternative 6 greatly restricts future flexibility as compared to the Project as proposed, the City Council finds it to be against sound public policy and thus rejects it as infeasible.

Alternative 7: Reduced Swim Center Amenities

The Reduced Swim Center Amenities Alternative (Alternative 7) would include the development of a recreation pool, wet play structures, recreational rivers, support facilities, and associated parking and landscaping. The 50-meter competition pool proposed in the ESP would not be developed. This would allow for more passive open space within the Swim Center. The same number of residential units (up to 2,250) would be developed as the proposed ESP. Similarly, 180,000 square feet of commercial space would be developed.

Finding

The City hereby rejects Alternative 7, finding it is not feasible for both of the following independent reasons: (1) It would not achieve the Project Objective of providing Swim center amenities to the same degree as the Project as proposed and (2) specific economic, legal and other considerations make Alternative 7, identified in the FREIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

Implementation of Alternative 7 would result in impacts that are comparatively similar to the proposed ESP. However, Alternative 7 would result in reduced impacts to public utilities and water supply, as no water would be needed to fill and maintain the 50-foot competition swimming pool planned in the proposed ESP. Additionally, the elimination of the competition pool would reduce greenhouse gases by reducing the amount of electricity and natural gas usage needed for water pumping and heating. Although Alternative 7 would meet nearly all of the Project

objectives, it would not meet the Project Applicant's objective of improving the site with a Community Park and Swim Center that contains a competition pool, and objective which the City also finds to be desirable. As such, additional passive open space would be developed.

Alternative 8: Island Annexation

The Island Annexation Alternative (Alternative 8) would include the annexation of an approximate 120 acres of land directly south of the proposed Project site. Should the proposed Project be implemented, the City of Tracy would annex the Project site into the City. This would create an island directly south of the Project site that would not be a part of the City. Alternative 8 would include the annexation of both the 321-acre Project site as well as the land south of the Project site to ensure no islands would occur. The General Plan designates the land south of the Project site as Urban Reserve 11. Alternative 8 would include the development of 1.7 million square feet of industrial development to capitalize on the area's proximity to I-580 and the Union Pacific Railroad line. In addition, this alternative would include the annexation and development of the Project site as stated in Chapter 2, Project Description.

Finding

The City hereby rejects Alternative 8, finding it not feasible because specific economic, legal and other considerations make Alternative 8, identified in the FREIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

While implementation of Alternative 8 would reduce land use impacts associated with having an island of unincorporated territory within the City, it would otherwise generate impacts that are largely greater than the proposed ESP. Alternative 8 would include the development of the ESP, as well as an additional 1.7 million square feet of industrial uses directly to the south of the ESP. Alternative 8 would result in greater air quality, noise, and traffic impacts. In addition, Alternative 8 would result in significant unavoidable aesthetics impacts. Given that the impact of creating an unincorporated land within the City is not a significant environmental impact, but rather just a policy concern, the City hereby rejects Alternative 8 based upon the greater environmental impacts which would result from its adoption as compared to the Project as proposed.

Alternative 9: No Family Swim Center

The No Family Swim Center Alternative (Alternative 9) would involve the implementation of the Modified ESP as described in Chapter 2 (Project Description), with the exception that the Family Swim Center would not be constructed. Thus, under Alternative 9, the Modified ESP area could develop with a minimum of 1,000 to a maximum of 2,250 residential units under the TR-Ellis (Mixed Residential) designation. The 180,000 square feet of retail, office, and other commercial uses would remain, and consistent with City requirements, a minimum of four acres of parks per 1,000 residents would be dedicated to public use. While three acres of Neighborhood Parks per 1,000 residents would be built throughout Ellis similar to the Modified Project, unlike the Modified Project, the one acre of Community Park per 1,000 residents requirement would only be met with the payment of an in lieu fee and would not have the option of being satisfied with the donation of land from the Project Applicant for a Family Swim Center. Refer to Figure 6-3 (Alternative 9 - No Family Swim Center).

Finding

The City hereby rejects Alternative 9, finding it is not feasible for both of the following independent reasons: (1) it would fail to achieve the Project Objective of obtaining significant funding and other provisions for construction of a family-oriented swim center; and (2) specific economic, legal and other considerations make Alternative 9, identified in the FREIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

Implementation of Alternative 9 would result in impacts that are comparatively similar to the Modified ESP. However, Alternative 9 would result in modest reductions in water demand and supply impacts, as no water would be needed to fill and maintain the Family Swim Center that could be constructed under the Modified ESP. Additionally, the elimination of the Family Swim Center would result in reduced emissions of air pollutants and greenhouse gases, as fewer vehicles would travel to the site and less energy would be required to heat and maintain the facility. Moreover, the reduction in vehicle trips would reduce noise impacts and traffic impacts, but as described above, these reductions would not be substantial enough to reduce the impacts associated with the Modified ESP to a less than significant level. Although Alternative 9 would meet nearly all of the Modified Project objectives, it would not meet the Project Applicant's objective of improving the site with a Swim Center, nor would it meet the City's objective of implementing the TR-Ellis land use designation in its entirety, as the Community Park requirement would be met with the payment of an in lieu fee as opposed to the construction of an active Community Park within the site. In addition, it would not meet the City's objective of obtaining funding for the construction of a family-oriented swim center.

Alternative 10: 1993 ALUCP Runway Length

Under the 1993 ALUCP Runway Length Alternative (Alternative 10), all the same uses would develop as proposed by the Modified ESP (a minimum of 1,000 to a maximum of 2,250 residential units, 180,000 square feet of retail, office, and other commercial uses, and four acres of parks per 1,000 residents). Like the Modified ESP, three acres of Neighborhood Parks per 1,000 residents would be built throughout Ellis, and the one acre of Community Park per 1,000 residents requirement could be met with either the donation of land from the Project Applicant for a Family Swim Center or the payment of an in lieu fee. All underlying zoning would be Residential Mixed (TR-Ellis). However, under Alternative 10, the runway lengths at the Tracy Municipal Airport would be similar to those identified in the 1993 ALUCP, which are shorter than those identified in the 2009 ALUCP. Thus, under Alternative 10, runway 8-26 at the Tracy Municipal Airport would be 3,418 feet long and 100 feet wide and runway 12-30 would be 3,996 feet long and 100 feet wide (or as adjusted by the City's recent survey), as opposed to the 2009 ALUCP runway 8-26 length of 3,438 feet long and 100 feet wide and runway 12-30 length of 4,002 feet long and 100 feet wide. Refer to Figure 6-4 (Alternative 10 - 1993 ALUCP Runway Length).

Finding

The City hereby rejects Alternative 10, finding it is not feasible because specific economic, legal and other considerations make Alternative 10, identified in the FREIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

Alternative 10 (1993 ALUCP Runway Length Alternative) was initially selected for inclusion into the Draft Revised EIR to illustrate to the decision makers the implications of approving the Modified ESP in accordance with the 1993 ALUCP (as amended in 1997). In addition, the result of a recent survey had concluded that Runway 12-30 was shorter (3,996 feet) than the documented

4,002 feet identified in the 2009 ALUCP. The City officially notified the Federal Aviation Administration (FAA) of the change in runway length by filing a NOTAM (Notice to Airmen), which is a notice containing information concerning the establishment, condition, or change in any aeronautical facilities, services, procedures, or hazard, which is essential to personnel concerned with flight operations. As noted in the Draft Revised EIR, if the FAA recognizes the shorter length of the runway, one possibility (among many) is that the 2009 ALUCP ultimately reverts back to its 1997 configuration. The scenarios and/or steps in which this reversion could or would eventually take place were too numerous to speculate at the time of preparation of the EIR. Nonetheless, in the event that such change came to pass, the City and Project Applicant wanted to have CEQA analysis for the Modified Ellis Project documented for this potential alternative scenario.

In light of the above, Alternative 10 was initially considered potentially feasible given both the (then) pending lawsuit, and the fact that the City had pursued an official change of length for Runway 12-30 to the recently documented shorter length (3,996 feet). Alternative 10 was therefore evaluated based on information that was readily available at the time the Draft Revised EIR was prepared.

Subsequent to the release of the Draft Revised EIR for public review, the lawsuit was dismissed pursuant to a settlement agreement dated August 28, 2012. In addition to the lawsuit settlement, and subsequent to preparation of the Draft Revised EIR, additional information pertaining to Alternative 10 was brought forward to City staff that would potentially affect the feasibility of Alternative 10. Based upon a thorough review and analysis of the information, City staff have determined that Alternative 10 is no longer a reasonably feasible alternative to the proposed Project. The foundation for this conclusion is based on the following:

City Council Direction on Runway Restriping

Subsequent to the initial preparation of the Draft Revised EIR, on May 1, 2012, City Council provided direction to City staff to work with the FAA to pursue funding for runway repairs and restriping to restore the runway length to 4,000 feet. Runway repairs have been completed as of October 15, 2012. The City is filing a new NOTAM to notify the FAA of the new runway length of 4,000 feet. For this reason, Alternative 10 is no longer considered potentially feasible as it directly conflicts with City Council's desire to restore the runway measurement to its longer length.

SJCOG ALUC Input

During the public review period for the Draft Revised EIR, the San Joaquin Council of Governments, San Joaquin County Airport Land Use Commission (SJCOG/SJCALUC) submitted a comment letter to the City stating that the SJCALUC would not consider Alternative 10 a viable project alternative for consideration (refer to Comment Letter 5 of this document). The comment letter identified that changes in the length of the runway and filing a NOTAM would not alone result in the proposed Project being subject to the 1993 ALUCP (as amended in 1997). Additionally, the SJCALUC stated that the 1993 ALUCP is a historic document that does not have any relevance to any project not considered an existing land use at the time of the ALUCP adoption in June 2009. Given the feedback from SJCOG/ SJCALUC, as well as direction from City Council, City staff concur that Alternative 10 would no longer be considered a potentially feasible Project alternative for purposes of Draft Revised EIR analysis.

It is also important to note, as should be obvious from the foregoing, that Alternative 10 is not fundamental to the Alternatives Analysis. It's purpose was not directed at avoiding or substantially

lessening any of the significant effects of the project, as is required by CEQA Guidelines Section 15126.6(a), but rather it was added to the already robust range of alternatives to simply address a potential change in land use restrictions posed by a pending lawsuit, and other factual information. Alternative 10 is not considered to be a foundational alternative to the proposed project and the determination that it is no longer potentially feasible does not affect the analysis or integrity of the other alternatives identified in the Draft Revised EIR.

Based on the forgoing information, City staff has determined that Alternative 10 is no longer a potentially feasible Alternative to the proposed Project and is removed from consideration.

STATEMENT OF OVERRIDING CONSIDERATIONS

The City of Tracy is the Lead Agency under the California Environmental Quality Act (CEQA), responsible for preparation, review and certification of the Final Environmental Impact Report (FREIR) for the City of Tracy Modified Ellis Project Revised EIR. As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant. CEQA also requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed action.

In making this determination the Lead Agency is guided by the CEQA Guidelines Section 15093 which provides as follows:

- a) “CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable”
- b) “When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The Statement of Overriding Considerations shall be supported by substantial evidence in the record.”
- c) “If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination.”

In addition, Public Resources Code Section 21082(a) requires that where a public agency finds that economic, legal, social, technical, or other reasons make infeasible the mitigation measures or alternatives identified in the EIR and thereby leave significant unavoidable adverse project effects, the public agency must also find that overriding economic, legal, social, technical or other benefits of the project outweigh the significant unavoidable adverse effects of the project.

The FREIR identified a number of alternatives to the City of Tracy Modified Ellis Specific Plan Project (the proposed Project) to evaluate and determine the extent to which they meet the basic Project objectives, while avoiding or substantially lessening any significant adverse impacts of the proposed Project.

Analysis in the EIR for this Project has concluded that the proposed Project will result in Aesthetics, Agricultural Resources, Air Quality, Greenhouse Gas Emissions, Land Use and Planning (as to agricultural resources only), Noise, and Traffic impacts that cannot be mitigated to a less significant level. All other potential significant adverse Project impacts have been mitigated to a level less than significant based on mitigation measures in the FREIR. All significant unavoidable adverse impacts are identified in the EIR and are described in detail in the Statement of Findings and Facts in Support of the City of Tracy Modified Ellis Project Revised EIR.

In accordance with CEQA Guidelines Section 15093 and other applicable law, the City has, in determining whether or not to approve the Project, balanced the economic, social, technological, and other Project benefits against its unavoidable environmental risks. The City of Tracy has determined that the significant unavoidable adverse Project impacts related to Aesthetics, Agricultural Resources, Air Quality, Greenhouse Gas Emissions, Land Use and Planning, Noise, and Traffic impacts, which will remain after mitigation, are acceptable and are outweighed by specific social, economic and other benefits of the Project. In making this determination, the following factors and public benefits were considered as overriding considerations to the identified unavoidable significant adverse impacts of the proposed Project:

- The Project will provide up to 2,250 additional housing units, including a mix of housing types such as single family dwelling and multi-family dwellings, including modest to compact homes, townhomes, second residential units, apartments, condominiums, and live-work units.
- The Project will promote significant economic development within the City, including substantial construction jobs and long-term jobs associated with the operation of up to 18,000 square feet of new commercial uses.
- The Project will include a substantial financial contribution towards the design, construction, operation, and maintenance of a family-oriented swim center, as well as the dedication of property to locate such a swim center should the Council later choose to accept that dedication.
- The Project will implement the General Plan's policies and vision for TR Ellis, which was the culmination of a planning process that began nearly two decades ago. Specifically, it would further the land planning, architecture, landscape architecture, and urban design goals of the Community Character element and Land Use elements of the General Plan.
- Employing a high quality design, the Project will further the diversity of housing types, lot sizes, and density ranges, creating a series of neighborhoods with a unique identity that is compatible with, but distinguishable from, other areas of the City.
- The Project will preserve and enhance the City of Tracy's unique "hometown" character through quality urban design and application of environmental sustainable features such as walkability, bicycle friendliness, and connectivity to the community.

The Tracy City Council, acting as the Lead Agency and having reviewed the FREIR and public records, adopts this Statement of Overriding Considerations (SOC), which has balanced the benefits of the Project against its significant unavoidable adverse impacts in reaching a decision to approve the Project.

EXHIBIT D
MITIGATION MONITORING AND REPORTING PROGRAM
City of Tracy Modified Ellis Project
City of Tracy, California

Original Ellis EIR Summary of Mitigation Measures

MITIGATION MEASURE	IMPLEMENTATION PROCEDURE	MONITORING RESPONSIBILITY	MONITORING/ REPORTING ACTION & SCHEDULE	NON-COMPLIANCE SANCTION/ ACTIVITY	MONITORING COMPLIANCE RECORD (NAME/DATE)
AESTHETICS					
3B.6-1: ESP design features shall be incorporated by the Project Applicant and future Project Applicants to reduce visibility of the ESP caused by light and glare.	Require as a condition of approval for Subdivision Map Measures to be installed by Project Applicant Implement control measures	Development and Engineering Services Department Project Applicant Planning Division Project Applicant	Draft and incorporate condition as part of project approval Complete site inspections during construction During grading and construction activities	Deny Subdivision Map Approval Halt grading and construction activities until measures are implemented Halt grading and construction until measures are implemented	
3B.6-2: With submittal of a tentative subdivision map application, the Project Applicant shall show the temporary construction equipment staging areas within the ESP site through the duration of construction. These areas shall be clustered in order to minimize visual impacts during construction.	Require as a condition of approval for Subdivision Map Measures to be included in the construction contract by Project Applicant Implement control measures	Development and Engineering Services Department Project Applicant Planning Division Project Applicant	Draft and incorporate condition as part of project approval Prior to approval of Grading Permits During grading and construction activities	Deny Subdivision Map Approval Deny Grading Permit application Halt grading and construction until measures are	

EXHIBIT D
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				implemented	
AGRICULTURAL RESOURCES					
3B.7-2: As construction occurs along the northern Ellis boundary, fencing consistent with the ESP shall be required prior to occupancy of those structures.	Require as a condition of approval for Subdivision Map Measures to be included in the construction contract by Project Applicant Implement control measures	Development and Engineering Services Department Project Applicant Planning Division Project Applicant	Draft and incorporate condition as part of project approval Prior to approval of Grading Permits During grading and construction activities	Deny Subdivision Map Approval Deny Grading Permit application Halt grading and construction until measures are implemented	
3B.7-3: Prior to issuance of building permits, future project applicants shall pay the appropriate Agricultural Mitigation Fee to the City of Tracy, in accordance with Chapter 13.28.	Require as a condition of approval for Tentative Subdivision Map Approval	Building and Safety Division	Draft and incorporate condition as part of project approval	Deny Tentative Subdivision Map Approval	
PUBLIC UTILITIES					
3B.8-3: The Project Applicant shall coordinate with PG&E regarding the proper extension of electrical and natural gas services to the ESP site. This shall include the development of detailed plans for utility placement and the ESP's participation in energy conservation programs provided by PG&E. Utility placement shall not conflict with other	Require as a condition of approval for Subdivision Map Incorporate into demolition, grading and/or construction	Development and Engineering Services Department Project Applicant	Draft and incorporate condition as part of project approval Prior to filing an application for demolition, grading	Deny Subdivision Map Do not issue demolition, grading or	

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<p>planned infrastructure improvements such as water distribution systems and ESP site drainage facilities. Evidence of this coordination with PG&E shall be provided to the City's Department of Development and Engineering Services for review and approval prior to the issuance of grading permits.</p>	<p>plans</p> <p>Construction drawings reviewed by City staff</p> <p>Measures to be installed by Project Applicant</p>	<p>Development and Engineering Services Department Engineering Division</p> <p>Project Applicant Building Division</p>	<p>or building</p> <p>Prior to issuance of demolition, grading, and Building Permits</p> <p>City Staff will verify coordination</p>	<p>building permit</p> <p>Do not issue demolition, grading or building permit</p> <p>Do not issue demolition, grading, and Building Permits</p>	
PUBLIC SERVICES					
<p>3B.9-4: The project applicant of individual projects within the ESP site shall consult with the Police Department during preliminary stages of site design to review safety features, determine their adequacy, and suggest design and/or physical improvements to the proposed site plan and/or to police facilities and equipment to ensure adequate service is maintained. This is achieved through the City's development review process, which currently is coordinated with various City Departments' review of new development proposals.</p>	<p>Require as a condition of approval for Subdivision Map</p> <p>Measures to be included in the construction contract by Project Applicant</p> <p>Implement control measures</p>	<p>Development and Engineering Services Department</p> <p>Project Applicant Planning Division</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to approval of Grading Permits</p> <p>During grading and construction activities</p>	<p>Deny Subdivision Map Approval</p> <p>Deny Grading Permit application</p> <p>Halt grading and construction until measures are implemented</p>	
<p>3B.9-5a: The Project Applicant shall work with the City and the South County Fire Authority to help identify a possible location for a future fire station to serve the ESP site and surrounding areas, per Recommendation Number 32 of the South County Fire Authority Standards of</p>	<p>Require as a condition of approval for Subdivision Map</p> <p>Measures to be</p>	<p>Development and Engineering Services Department</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to approval of</p>	<p>Deny Subdivision Map Approval</p> <p>Deny Grading</p>	

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<p>Response Coverage Review.</p> <p>3B.9-5b: Prior to the issuance of Building Permits beyond the Aquatic Center, the Project Applicant shall work with the City and the South County Fire Authority to establish adequate emergency response services to the ESP site through either the construction of a new fire sub station, and EMT sub station, temporarily stationed emergency response personnel, or other means as reviewed and approved by the South County Fire Authority. The Project FIP shall include a Public Buildings Mitigation Fee and shall pay appropriate assessments to the Tracy Rural Fire District. The Project Applicant shall be entitled to reimbursement for any costs beyond the Project's fair share.</p>	<p>included in the construction contract by Project Applicant</p> <p>Implement control measures</p>	<p>Planning Division and South County Fire Authority</p> <p>Project Applicant</p>	<p>Grading Permits</p> <p>During grading and construction activities</p>	<p>Permit application</p> <p>Halt grading and construction until measures are implemented</p>	
HYDROLOGY, DRAINAGE, AND WATER QUALITY					
<p>3B.10-3a: Prior to approval of Final Subdivision Maps, the Project Applicant shall provide a detailed hydrology report that specifies the expected stormwater volumes, projected peak storage capacity of temporary basins, and percolation characteristics of soil. The hydrology report shall demonstrate that adequate stormwater conveyance and capacity is available in either the region, onsite or offsite basins, depending on the chosen option. The hydrology report would be subject to review and approval by the City engineer.</p>	<p>Require as a condition of approval for Final Subdivision Maps</p> <p>Prepare and submit Hydrology Report</p> <p>Construction drawings reviewed by City staff</p>	<p>Development and Engineering Services Department</p> <p>Project Applicant</p> <p>Development and Engineering Services</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to filing application for grading permit</p> <p>Prior to issuance of a Building Permit</p>	<p>Deny Final Subdivision Map Approval</p> <p>Reject application for grading permit until plans and specifications are submitted</p> <p>Do not issue Building Permit</p>	

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<p>3B.10-3b: Prior to issuance of a grading or building permit, whichever comes first, and following preparation of ESP site grading plan, the Project Applicant shall demonstrate to the City of Tracy compliance with NPDES General Construction Activities Storm Water Permit Requirements established by the Clean Water Act (CWA), including the preparation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall identify specific types and sources of stormwater pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. The SWPPP shall comply with the most current standards established by the Central Valley RWQCB. Best Management Practices shall be selected from a menu according to site requirements and shall be subject to approval by the City Engineer and Central Valley RWQCB.</p> <p>3B.10-3c: Prior to issuance of a grading or building permit, whichever occurs first, and following the preparation of the ESP site grading plan, the Project Applicant shall submit to the City Engineer for review a draft copy of the Notice of Intent (NOI) and SWPPP. After approval by the City, the NOI and SWPPP shall be sent to the State Water</p>	<p>Measures to be installed by Project Applicant</p> <p>Implement control measures</p>	<p>Department Engineering Division</p> <p>Project Applicant Engineering Division and Public Works Department</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Draft and incorporate condition as part of project approval</p>	<p>Deny Subdivision Map</p> <p>Deny Subdivision Map</p>	

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<p>Resources Control Board for approval.</p> <p>3B.10-3d: After Project completion, the Project Applicant or successor shall properly maintain parking lots and other common paved areas, by sweeping or other appropriate means, to prevent the majority of litter from washing into storm drains.</p>					

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GEOLOGY AND SOILS HAZARDS					
<p>3B.12-4: During excavation activities and prior to the placement of fill on the site, a certified geotechnical engineer shall be retained by the Project Applicant/future Project Applicants to evaluate subgrade soils for the extent of their expansive potential. For areas found to contain soft, potentially expansive clays, the soil shall be removed (i.e., over excavated) and/or stabilized prior to the placement and compaction of fill. Stabilization techniques include, but are not limited to, the placement of 18 inches of ½-inch to ¾-inch crushed rock over stabilization fabric (such as Mirafi 500X or equivalent), placement of larger, angular stabilization rock (1-inch to 3-inch, clean) and use of chemical treatments such as lime to reduce the soil’s expansive potential. In addition, building construction alternatives, such as the use of alternative foundation types (i.e., post-tension, piles, etc.) versus end-bearing foundations, shall be considered and implemented where appropriate. Final techniques shall be (a) developed by a certified geotechnical engineer or engineering geologist and (b) reviewed and approved by the City prior to issuance of a grading permit.</p>	<p>Require as a condition of approval for Subdivision Map</p> <p>Monitor grading and construction</p>	<p>Development and Engineering Services Department</p> <p>Qualified Geotechnical Engineer Development and Engineering Services Department Engineering Division</p>	<p>Draft and Incorporate condition as part of Subdivision Map Approval</p> <p>Complete site inspections during grading and construction</p>	<p>Deny application for Subdivision Map</p> <p>Halt grading and construction until appropriate measures are implemented</p>	

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Modified Ellis Project EIR Summary of Impacts and Mitigation Measures

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AIR QUALITY					
<p>4.3-1a: Prior to the issuance of grading permits, the Applicant shall submit a construction emission plan to demonstrate to the City of Tracy how construction activities shall comply with the following emissions control measures:</p> <ul style="list-style-type: none"> ◆ Properly and routinely maintain all construction equipment, as recommended by manufacturer’s manuals, to control exhaust emissions. ◆ Shut down equipment when not in use for extended periods of time, to reduce exhaust emissions associated with idling engines. ◆ Encourage ride-sharing and use of transit transportation for construction employees commuting to the ESP site. ◆ Use electric equipment for construction whenever possible in lieu of fossil fuel-fired equipment. ◆ Curtail construction during periods of high ambient pollutant concentrations. ◆ Construction equipment shall operate no longer than eight cumulative hours per day. 	<p>Require as a condition of approval for Tentative Subdivision Map Approval</p> <p>Incorporate measures into final construction plans</p> <p>Construction drawings reviewed by City staff</p> <p>Measures to be installed by Project Sponsor</p> <p>Implement control measures</p>	<p>Development and Engineering Services Department</p> <p>Development and Engineering Services Department</p> <p>Development and Engineering Services Department</p> <p>Project Applicant Development and Engineering Services Department</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to issuance of a Building Permit</p> <p>Prior to issuance of a Building Permit</p> <p>Complete site inspections during construction</p> <p>During grading and construction activities</p>	<p>Deny Grading Permits</p> <p>Do not issue Building Permit</p> <p>Do not issue Building Permit</p> <p>Halt grading and construction until measures are implemented</p> <p>Halt grading and construction until measures are implemented</p>	

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<ul style="list-style-type: none"> ◆ All construction vehicles shall be equipped with proper emission control equipment and kept in good and proper running order to reduce NOx emissions. ◆ On-Road and Off-Road diesel equipment shall use aqueous diesel fuel if permitted under manufacturer’s guidelines. ◆ On-Road and Off-Road diesel equipment shall use diesel particulate filters if permitted under manufacturer’s guidelines. ◆ On-Road and Off-Road diesel equipment shall use cooled exhaust gas recirculation (EGR) if permitted under manufacturer’s guidelines. ◆ Use of Caterpillar pre-chamber diesel engines or equivalent shall be utilized if economic and available to reduce NOx emissions. ◆ All construction activities within the ESP site shall be discontinued during the first stage smog alerts. ◆ Construction and grading activities shall not be allowed during first stage ozone alerts. First stage ozone alerts are declared when the ozone level exceeds 0.20 ppm (1-hour average). <p>4.3-1b: The Modified Ellis Specific Plan requires the implementation of control measures set forth under Regulation VIII of the San Joaquin Valley Air Pollution Control District (SJVAPCD)</p>					

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<p>Fugitive PM₁₀ Prohibition. The following mitigation measures, in addition to those required under Regulation VIII of the SJVAPCD, shall be implemented by the Project Applicant/future subsequent project applicants to reduce fugitive dust emissions:</p> <ul style="list-style-type: none"> ◆ Water previously disturbed exposed surfaces (soil) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity. ◆ Water all haul roads (unpaved) a minimum of three-times/day or whenever visible dust from such roads is capable of drifting from the site or approaches 20 percent opacity. ◆ All access roads and parking areas shall be covered with asphalt-concrete paving or water sprayed regularly. ◆ Dust from all on-site and off-site unpaved access roads shall be effectively stabilized by applying water or using a chemical stabilizer or suppressant. ◆ Reduce speed on unpaved roads to less than 15 miles per hour. ◆ Install and maintain a trackout control device that meets the specifications of SJVAPCD Rule 8041 if the site exceeds 150 vehicle trips per day or more than 20 vehicle trips per day by vehicle with three 					

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<p>or more axles.</p> <ul style="list-style-type: none"> ◆ Stabilize all disturbed areas, including storage piles, which are not being actively utilized for construction purposes using water, chemical stabilizers, or by covering with a tarp, other suitable cover, or vegetative ground cover. ◆ Control fugitive dust emissions during land clearing, grubbing, scraping, excavation, leveling, grading, or cut and fill operations with application of water or by presoaking. ◆ When transporting materials off-site, maintain a freeboard limit of at least six inches and cover or effectively wet to limit visible dust emissions. ◆ Limit and remove the accumulation of mud and/or dirt from adjacent public roadways at the end of each workday. (Use of dry rotary brushes is prohibited except when preceded or accompanied by sufficient wetting to limit visible dust emissions and use of blowers is expressly forbidden). ◆ Stabilize the surface of storage piles following the addition or removal of materials using water or chemical stabilizer/suppressants. ◆ Remove visible track-out from the site at the end of each workday. ◆ Cease grading activities during periods of high winds (greater than 20 mph over a one-hour period). 					

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<ul style="list-style-type: none"> ◆ Asphalt-concrete paving shall comply with SJVUAPCD Rule 4641 and restrict use of cutback, slow-cure, and emulsified asphalt paving materials. ◆ Grading should be conducted in phases. ◆ ESP site shall not be cleared of existing vegetation cover until required by construction. ◆ The Project Applicant shall revegetate graded areas as soon as it is feasible after construction is completed. 					
<p>4.3-2a: The Modified ESP would meet the LEED for Neighborhood Development (LEED-ND) “Certified” rating criteria, as published for the LEED ND Pilot Program in Fall 2007. All residential development at Ellis will meet the National Association of Home Builders (NAHB) model Green Home Building Guidelines “Bronze” level of Green Building. Project applicants shall provide documentation demonstrating compliance with these NAHB guidelines for City review and approval prior to Building Permit approval. To the extent feasible, as a part of construction and building management contracts, the following additional measures shall be included:</p> <ul style="list-style-type: none"> ◆ Site houses to optimize the use of daylight and to 	Require as a condition of approval for Tentative Subdivision Map Approval	Development and Engineering Services Department Planning Division and Building Division	Draft and incorporate condition as part of project approval	Deny Building Permits	

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<p>allow for the use of passive solar devices;</p> <ul style="list-style-type: none"> ◆ A list of appliances will be submitted to the City that identifies that each appliance used as part of the Modified Project is Energy Star qualified if an Energy Star designation is applicable for that appliance; ◆ Low flow appliances (i.e., toilets, dishwashers, shower heads, washing machines) shall be installed if provided by the builder/applicant; ◆ House tightening measures (such as sealing plumbing and electrical openings) shall be used to reduce energy loss; ◆ Provide parking and power supply for electric vehicles at the Village Center and Family Swim Center; ◆ Use low VOC paint, adhesives, and caulking; and ◆ Provide homeowners and renters a manual that explains proper equipment operation and maintenance procedures, methods to reduce energy and water usage and wastewater generation, and alternatives to toxic cleaning substances. <p>4.3-2b: Prior to issuance of building permits, the Building Division shall verify that the Modified Project complies with SJVAPCD Rule 9510, Indirect Source Review (ISR). The Project</p>					

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<p>Applicant shall coordinate with the SJVAPCD to ensure that the Modified Project meets the requirements of SJVAPCD Rule 9510, which requires the following reductions:</p> <ul style="list-style-type: none"> ◆ 20 percent of construction-exhaust NO_x ◆ 45 percent of construction-exhaust PM₁₀ ◆ 33 percent of operational NO_x over 10 years ◆ 50 percent of operational PM₁₀ over 10 years <p>If feasible measures are not available to meet the emissions reductions targets outlined above, then the Project Applicant shall pay an in lieu mitigation fee to the SJVAPCD to off-set the Modified Project's emissions-related impacts. If in lieu fees are required, the Project Applicant shall coordinate with the SJVAPCD to calculate the amount of the fees required to off-set the Modified Project's impacts.</p>					
BIOLOGICAL RESOURCES					

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<p>4.4-1a: Prior to the approval of grading permits or any ground-disturbing activity, preconstruction surveys, as described in Section 5.2.2.5 of the SJMSCP shall be conducted to determine if Burrowing Owls occupy the Modified ESP area. If Burrowing Owls are observed during those surveys, the following measures described in Section 5.5.9(D) of the SJMSCP shall be implemented:</p> <ul style="list-style-type: none"> ◆ Establish a setback of at least 250 feet from each owl burrow occupied within the past five years. ◆ Preserve 6.5 acres of foraging habitat per burrowing owl pair, contiguous to the owl population. Configurations of foraging habitat in relation to owl burrows requires review and approval by the JPA with the concurrence of the permitting agencies’ representatives on the TAC. ◆ Construction and other ground disturbances shall be prohibited within established setbacks and foraging habitat. Natural vegetation shall be maintained within the setback. The use of insecticides, herbicides, and fertilizers shall be not permitted within established setbacks. ◆ All on-site construction personnel shall be given instruction regarding the presence of listed species and the importance of avoiding impacts to these species and their habitats. ◆ Setbacks shall be marked by brightly colored 	<p>Require as a condition of approval for Subdivision Map</p> <p>Incorporate into demolition, grading and/or construction plans</p> <p>Incorporate results into grading and final construction Permits</p> <p>Construction drawings reviewed by City staff</p> <p>Measures to be installed by Project Applicant</p>	<p>Development and Engineering Services Department Planning Division</p> <p>Project Applicant</p> <p>Project Applicant</p> <p>Development and Engineering Services Department</p> <p>Development and Engineering Services Department</p>	<p>Draft and Incorporate condition as part of Project Approval</p> <p>Draft and incorporate condition as part of Project Approval</p> <p>Prior to issuance of demolition, grading, and Building Permits</p> <p>Prior to issuance of demolition, grading, and Building Permits</p> <p>City Staff completes site inspections</p>	<p>Deny application for Subdivision Map</p> <p>Deny application for Subdivision Map</p> <p>Do not issue demolition, grading, or building permit</p> <p>Do not issue demolition, grading, and Building Permits</p> <p>Halt demolition, grading, or construction</p>	

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<p>fencing or flagging throughout the construction process. Setbacks shall be indicated on recorded maps, whenever projects involve parcel or subdivision maps.</p> <p>◆ All setbacks and foraging habitat shall be preserved in perpetuity via recordation of a conservation easement.</p> <p>4.4-1b: Burrowing Owls may be discouraged from entering or occupying the Modified ESP area prior to construction by discouraging the presence of ground squirrels in accordance with Section 5.2.4.15(A) of the SJMSCP (Appendix D). If Burrowing Owls are known to occupy areas of the Modified ESP area prior to construction, then Sections 5.2.4.15(C) and (D) of the SJMSCP (Appendix D) shall be implemented. This measure may be refined throughout the life of the SJMSCP, pursuant to the SJMSCP's Adaptive Management Plan or to reflect improvements and new discoveries in methods of incidental take minimization or other biological factors.</p> <p>4.4-1c: Prior to the approval of grading permits or any ground-disturbing activity, preconstruction surveys shall be conducted by a qualified biologist to determine if Northern Harrier, Horned Lark, Loggerhead Shrike, Sharp-Shinned Hawk, Cooper's Hawk,</p>					

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<p>White-tailed Kite, or Ferruginous Hawk occupy the Modified ESP area. If any individuals of these species are observed breeding within the Modified ESP area prior to construction, the incidental take minimization measures described in Sections 5.2.4.17, 18, 19, and 22 of the SJMSCP (Appendix D) shall be applied.</p> <p>4.4-1d: Prior to the approval of grading permits or any ground-disturbing activity and in accordance with the SJMSCP, preconstruction surveys shall be conducted for the San Joaquin kit fox as described in Section 5.2.4.25 of the SJMSCP (Appendix D). If surveys identify potential dens as defined by the USFWS's Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (Appendix E), potential den entrances shall be dusted for three calendar days to register tracks of San Joaquin kit foxes that are present.</p> <p>4.4-1e: Prior to the approval of grading permits or any ground disturbing activities, the Project Applicant shall preserve or provide compensation of preserve land at a ratio of one acre for every acre of ruderal and non-orchard agricultural habitat converted from open space use, totaling 262.41 acres.</p>					
GREENHOUSE GAS EMISSIONS					

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<p>4.6-1a: The Modified Project shall include, but not be limited to, the following list of potential design features. These features may be incorporated into the design of the Modified Project to ensure consistency with adopted statewide plans and programs. The Project Applicant shall demonstrate the incorporation of design features of the Modified Project prior to the issuance of building or occupancy permits, as noted below.</p> <p>Transportation</p> <ul style="list-style-type: none"> ◆ Provide pedestrian connections to the off-site circulation network (building permit). ◆ For willing participants, implement a trip reduction program, for which all employees shall be eligible to participate (occupancy permit). ◆ For willing participants, provide a ride sharing program, for which all employees shall be eligible to participate (occupancy permit). ◆ Provide amenities for non-motorized transportation (i.e., secure bicycle storage, changing rooms, and showers) (building permit). <p>Energy Efficiency</p> <ul style="list-style-type: none"> ◆ Design buildings to be energy efficient to Title 24 requirements (building permit). ◆ Install “cool” roofs and cool pavements, and 	<p>Require as a condition of approval for Tentative Subdivision Map Approval</p> <p>Incorporate measures into final construction plans</p> <p>Construction drawings reviewed by City staff</p> <p>Measures to be installed by Project Sponsor</p> <p>Implement control measures</p>	<p>Development and Engineering Services Department</p> <p>Development and Engineering Services Department</p> <p>Development and Engineering Services Department</p> <p>Project Applicant Development and Engineering Services Department</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to issuance of a Building Permit</p> <p>Prior to issuance of a Building Permit</p> <p>Complete site inspections during construction</p> <p>During grading and construction activities</p>	<p>Deny Grading Permits</p> <p>Do not issue Building Permit</p> <p>Do not issue Building Permit</p> <p>Halt grading and construction until measures are implemented</p> <p>Halt grading and construction until measures are implemented</p>	

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MITIGATION MEASURE	IMPLEMENTATION PROCEDURE	MONITORING RESPONSIBILITY	MONITORING/REPORTING ACTION & SCHEDULE	NON-COMPLIANCE SANCTION/ACTIVITY	MONITORING COMPLIANCE RECORD (NAME/DATE)
<p>strategically placed trees (building permit).</p> <ul style="list-style-type: none"> ◆ Install high efficiency lighting, and energy efficient heating and cooling systems (building permit). ◆ Reduce unnecessary outdoor lighting (building permit). <p>Water Conservation and Efficiency</p> <ul style="list-style-type: none"> ◆ Install water-efficient irrigation systems (building permit). ◆ Comply with Municipal Code Section 21.20.050, Efficient Landscape Standards (building permit). ◆ Install water-efficient fixtures (e.g., faucets, toilets, showers) (building permit). <p>Solid Waste</p> <ul style="list-style-type: none"> ◆ Reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard) (building permit). ◆ Provide interior and exterior storage areas for recyclables and adequate recycling containers located in public areas (occupancy permit). 					
HAZARDS AND HAZARDOUS MATERIALS					
<p>4.7-1a: Prior to issuance of grading permits, soil sampling shall occur within the portions of the Modified ESP area that have historically been utilized for agricultural purposes and</p>	<p>Require as a condition of approval for Subdivision Map</p>	<p>Development and Engineering Services Department</p>	<p>Draft and Incorporate condition as part of Subdivision Map</p>	<p>Deny application for Subdivision Map</p>	

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<p>may contain pesticide residues in the soil, as determined by a qualified Phase II/Site Characterization specialist. The sampling, conducted in consultation with the San Joaquin County Environmental Health Department (EHD), shall determine if pesticide concentrations exceed established regulatory requirements and shall identify further site characterization and remedial activities, if necessary. Should further site characterization/remedial activities be required, these activities shall be conducted per the applicable regulatory agency requirements, as directed by the EHD.</p> <p>4.7-1b: A qualified Site Characterization specialist shall conduct updated site characterization at the Modified ESP area prior to issuance of building permits, in consultation with Shell Oil and the San Joaquin Environmental Health Department (EHD), with regard to Shell Oil's abandoned crude oil pipeline. Upon completion of site characterization activities, the Site Characterization specialist shall recommend remedial activities, if necessary, in consultation with EHD.</p> <p>4.7-1c: A qualified Site Characterization specialist shall conduct updated site characterization at the Modified ESP area prior to issuance of building permits, in consultation with PG&E, Chevron, and the San Joaquin Environmental</p>	<p>Preparation of Soil Management Work Plan</p> <p>Monitor grading and construction</p>	<p>Qualified Registered Environmental Assessor Engineering Division</p> <p>Qualified Registered Environmental Assessor Engineering Division</p>	<p>Prior to filing an application for a Grading Permit</p> <p>Complete site inspections during grading and construction</p>	<p>Deny application for Grading Permit</p> <p>Halt grading and construction until appropriate measures are implemented</p>	

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<p>Health Department (EHD), with regard to potential contaminated soils from pipeline leaks. Upon completion of site characterization activities, the Site Characterization specialist shall recommend remedial activities, if necessary, in consultation with EHD.</p>					
<p>4.7-2: Prior to issuance of grading permits, the Project Applicant shall work with PG&E and Chevron to implement and observe a site damage-prevention plan. This may potentially include the following:</p> <ul style="list-style-type: none"> ◆ designing a site development plan incorporating permanent land use over the pipeline right-of-way that minimizes the potential for damage to the lines (as discussed above, this is already an integrated plan design feature, but is listed here because it is an important component of a damage prevention plan); ◆ prominently marking the line locations prior to site development, maintaining markings throughout the development process, and final marking after work is complete; ◆ communicate plans for significant excavation or land contouring work; ◆ identify changes in land contour that could significantly reduce the soil cover over the 	<p>Require as a condition of approval for Subdivision Map</p> <p>Measures to be included in the construction contract by Project Applicant</p> <p>Implement control measures</p>	<p>Development and Engineering Services Department</p> <p>Project Applicant Planning and Engineering Division</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to approval of Grading Permits</p> <p>During grading and construction activities</p>	<p>Deny Subdivision Map Approval</p> <p>Deny Grading Permit application</p> <p>Halt grading and construction until measures are implemented</p>	

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<p>pipelines;</p> <ul style="list-style-type: none"> ◆ evaluate the effects of heavy construction vehicles crossing the lines, designate areas for heavy construction vehicles to cross the lines, and provide temporary fill or other temporary protection over the lines where necessary; ◆ minimize installations of new buried utilities and services across the existing pipelines; ◆ evaluate whether the existing lines should be lowered to increase vertical separation between the pipelines and new surface features; and ◆ develop other damage-prevention measures as may be necessary. <p>In addition to the damage prevention measures listed above, the Project Applicant and the pipeline operators should consider other measures for reducing risk suggested in the Pipelines and Informed Planning Alliance (PIPA) recommended practices on informed land use. Many of PIPA's recommendations appear to already have been accounted for in site plans, but additional details for consideration (if they have not been considered already) include:</p> <ul style="list-style-type: none"> ◆ select landscaping vegetation to avoid root structures that damage pipeline coatings, ◆ avoid planting trees that prevent direct observation of the pipelines by aerial patrol, 					

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<ul style="list-style-type: none"> ◆ manage storm runoff to prevent erosion of pipeline bedding, ◆ consider accessibility to pipeline personnel and first responders in the event of an emergency, ◆ incorporate escape routes from areas within the Potential Impact Radius (PIR). 					
LAND USE AND PLANNING					
<p>4.9-3: Prior to issuance of building permits, future project applicants shall pay the appropriate Agricultural Mitigation Fee to the City of Tracy, in accordance with Chapter 13.28 of the Tracy Municipal Code.</p>	<p>Require as a condition of approval for Building Permits</p> <p>Measures to be included in the construction contract by Project Applicant</p> <p>Implement control measures</p>	<p>Development and Engineering Services Department</p> <p>Project Applicant Building & Safety Division</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to approval of Building Permits</p> <p>Prior to issuance of building permits</p>	<p>Deny Subdivision Map Approval</p> <p>Deny Building Permit application</p> <p>Halt grading and construction</p>	
NOISE					
<p>4.10-1a: Prior to issuance of a Building Permit, the Project Applicant/future applicants shall demonstrate, to the satisfaction of the City of Tracy, that stationary noise sources are placed such that noise levels would not exceed the standards indicated in Tracy Municipal Code Section 4.12.750 (General Sound Level Limits).</p> <p>4.10-1b: Prior to issuance of any Building Permit, the Project Applicant/future applicants shall</p>	<p>Require as a condition of approval for Subdivision Map Approval</p> <p>Prepare and submit plans and specifications addressing attenuation of noise during construction</p>	<p>Development and Engineering Services Department</p> <p>Project Applicant</p>	<p>Draft and incorporate condition as part of project approval</p> <p>Prior to filing application for grading permit</p>	<p>Deny Subdivision Map Approval</p> <p>Reject application for grading permit until plans and specifications are submitted</p>	

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<p>demonstrate, to the satisfaction of the City of Tracy, compliance with the following:</p> <ul style="list-style-type: none"> ◆ To the extent possible, all mechanical equipment shall be oriented away from the nearest noise sensitive receptors; and ◆ All mechanical equipment shall be screened and enclosed to minimize noise. <p>4.10-1c: Where an institutional or commercial zone abuts a residential zone or residential use, all deliveries of goods and supplies, trash pick-up (including the use of parking lot trash sweepers), and the operation of machinery or mechanical equipment which emits noise levels in excess of 65 dBA, as measured from the closest property line to the equipment, shall only be allowed between the hours of 7:00 AM and 10:00 PM, unless otherwise specified in an approved conditional use permit or other discretionary approval.</p> <p>4.10-1d: Directional speakers shall be shielded and/or oriented away from off-site residences to the satisfaction of the City of Tracy.</p> <p>4.10-1e: All feasible sound attenuation shall be incorporated into the parking areas (i.e., landscaping and brushed driving surfaces), such that parking lot noise would not exceed</p>					

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<p>the standards indicated in Tracy Municipal Code Section 4.12.750 (General Sound Level Limits).</p> <p>4.10-1f: Prior to the issuance of Grading Permits, any development along the following segments of Corral Hollow Road and Lammers Road that falls within the 65 and 70 dBA traffic noise contours shall be designed in compliance with the Uniform Building Code (UBC), and an Acoustical Noise Analysis shall be prepared to ensure that the City of Tracy’s exterior and interior noise level standards defined in General Plan Figure 9-3, Land Use Compatibility for Community Noise Environment, are met at all residential, commercial, and recreational land uses:</p> <ul style="list-style-type: none"> ◆ Corral Hollow Road <ul style="list-style-type: none"> – North of I-580 Eastbound Ramps – North of I-580 Westbound Ramps – South of Linne Road – North of Linne Road – South of Valpico Road – South of Valpico Road – North of Grant Line Road ◆ Lammers Road <ul style="list-style-type: none"> – South of Schulte Road – North of Schulte Road ◆ Linne Road 					

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<ul style="list-style-type: none"> - East of Corral Hollow ◆ Grant Line Road - East of Byron Road ◆ Byron Road - South of Grant Line Road <p>Residential buildings or structures shall be designed to ensure interior noise levels do not exceed 45 dBA. In addition, individual developments shall, to the extent feasible, implement site-planning techniques such as the following:</p> <ul style="list-style-type: none"> ◆ Increasing the distance between the noise source and the receiver; ◆ Using non-noise sensitive structures such as garages to shield noise-sensitive areas; ◆ Orienting buildings to shield outdoor spaces from a noise source; ◆ Incorporating architectural design strategies, which reduce the exposure of noise-sensitive spaces to stationary noise sources (i.e., placing bedrooms or balconies on the side of the house facing away from noise sources). These design strategies shall be implemented as required by the City to comply with City noise standards; ◆ Incorporating noise barriers, walls, or other sound attenuation techniques, as required by the City to comply with City noise standards; and 					

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<p>◆ Modifying elements of building construction (i.e., walls, roof, ceiling, windows, and other penetrations) as necessary to provide sound attenuation. This may include sealing windows, installing thicker or double-glazed windows, locating doors on the opposite side of a building from the noise source, or installing solid-core doors equipped with appropriate acoustical gaskets.</p> <p>4.10-1g: Prior to the issuance of Grading Permits, any residential development located within 260 feet of the Union Pacific railroad corridor shall have a Focused Acoustical Analysis prepared to fully analyze acoustical impacts and develop measures, if required, to ensure that the City’s exterior standards of 70 dBA for residential areas, 50 dBA for interior bedrooms, and 55 dBA for other interior rooms would be achieved for the proposed land uses that are subject to noise from train pass-bys.</p> <p>4.10-1h: Prior to the issuance of Building Permits, the Project Applicant/future project applicants shall demonstrate, to the satisfaction of the City of Tracy, that any residential development located within the future 60 to 65 dBA CNEL noise contour area for the Tracy Municipal Airport (as depicted in Exhibit 2TM-3 of the ALUCP) shall adhere to the noise compatibility criteria in ALUCP Table 3B.</p>					

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<p>Specifically, any residential uses within the future 60 to 65 dBA CNEL noise contour area shall:</p> <ul style="list-style-type: none"> ◆ Incorporate sound insulation to reduce exterior to interior noise levels by at least 25 dBA ; ◆ Require an avigation easement as a condition of development approval or building permit issuance; and ◆ Require a fair disclosure statement as a condition of development approval or building permit issuance. <p>4.10-2: Prior to the issuance of Grading Permits and to the satisfaction of the City of Tracy, the Project Applicant/future project applicants shall be required to implement feasible noise control measures to reduce daytime construction noise levels to meet the daytime speech interference criterion of 70 dBA for projects located within 500 feet of any noise-sensitive receptors (e.g., residences, schools, childcare centers, churches, hospitals, and nursing homes). Such control measures could include any of the following, as appropriate:</p> <ul style="list-style-type: none"> ◆ Best available noise control techniques (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) shall be used for all equipment and trucks in order 					

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<p>to minimize construction noise impacts;</p> <ul style="list-style-type: none"> ◆ If impact equipment (e.g., jack hammers, pavement breakers, and rock drills) is used during ESP construction, hydraulically or electric-powered equipment shall be used wherever feasible to avoid the noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used (a muffler can lower noise levels from the exhaust by up to about 10 dBA); ◆ Operation of equipment requiring use of back-up beepers shall be avoided near sensitive receptors to the extent feasible during nighttime hours (10:00 PM to 7:00 AM); ◆ Stationary noise sources shall be located as far from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to ensure local noise ordinance limits are met to the extent feasible. Enclosure opening or venting shall face away from sensitive receptors. If any stationary equipment (e.g., ventilation fans, generators, dewatering pumps) is operated beyond the time limits specified by the pertinent noise ordinance, this equipment shall conform to the affected jurisdiction’s pertinent day and night noise 					

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<p>limits to the extent feasible;</p> <ul style="list-style-type: none"> ◆ Material stockpiles as well as maintenance/equipment staging and parking areas shall be located as far as feasible from residential and school receptors; and ◆ A designated Project liaison shall be responsible for responding to noise complaints during the construction phases. The name and phone number of the liaison shall be conspicuously posted at construction areas and on all advanced notifications. This person shall take steps to resolve complaints, including periodic noise monitoring, if necessary. Results of noise monitoring shall be presented at regular Project meetings with the Project contractor, and the liaison shall coordinate with the contractor to modify any construction activities that generated excessive noise levels to the extent feasible. 					
TRAFFIC AND CIRCULATION					
<p>4.13-5: Applicants of development projects within the Modified ESP shall be subject to the Modified Ellis Finance and Implementation Plan (FIP) to fund their proportionate fair share of Citywide roadway improvements to the Lammers Road/Schulte Road intersection, and Corral Hollow Road/Valpico Road intersection, and to participate in the Modified Ellis Finance and Implementation Plan (FIP) to fund their proportionate fair</p>	<p>Require as a condition of approval for Tentative Subdivision Map Approval</p>	<p>City Council and City of Tracy Development and Engineering Services Division</p>	<p>Draft and incorporate condition as part of project approval</p>	<p>Deny Tentative Subdivision Map Approval</p>	

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<p>share of Citywide cumulative roadway improvements. The Modified Ellis FIP shall be approved by City Council prior to issuance of any building permit for the Modified ESP. The City of Tracy shall be responsible for the construction of these intersection and roadway improvements. The Project Applicant will implement the improvements at the time when the Project traffic triggers the threshold for an impact. The volume threshold at which the Project causes the impact will be determined by the City Engineer at the time of building permit application. If the improvement cost exceeds the fair share payment identified in the FIP, the Project Applicant shall fund the improvement upfront and enter into a reimbursement agreement with the City of Tracy.</p>					
<p>4.13-6: Prior to issuance of building permits for residential units, applicants of individual projects within the Modified ESP site shall be required to pay Regional Transportation Impact Fees.</p>	<p>Require as a condition of approval for Tentative Subdivision Map Approval</p>	<p>Development and Engineering Services Department Engineering Division</p>	<p>Draft and incorporate condition as part of project approval</p>	<p>Deny Building Permits</p>	
<p>4.13-7: Prior to issuance of building permits for residential units, applicants of individual projects within the Modified ESP site shall be required to pay Regional Transportation Impact Fees.</p>	<p>Require as a condition of approval for Tentative Subdivision Map Approval</p>	<p>City Council and Development and Engineering Services Department</p>	<p>Draft and incorporate condition as part of project approval</p>	<p>Deny Building Permits</p>	
WATER SUPPLY AND OTHER PUBLIC UTILITIES					
<p>4.14-2: Prior to approval of any tentative map beyond 800 residential units, the Family</p>	<p>Require as a condition of approval for</p>	<p>Development and Engineering Services</p>	<p>Draft and incorporate</p>	<p>Deny Tentative Map Approval</p>	

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<p>Swim Center, and storage uses within the Modified Ellis Specific Plan area, necessary improvements, if any, beyond those identified in the Ellis Specific Plan or as part of the Ellis Finance and Implementation Plan ("FIP"), shall be determined regarding modifications or expansions to the City's Wastewater Treatment Plant and proposed new connections (from such tentative map development) and then-existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit. Improvements shall be consistent with requirements in the Tracy Wastewater Master Plan subject to the terms of the Ellis Development Agreement and FIP in effect at the time of final map approval. The City Engineer shall verify that any necessary improvements would be available prior to occupation of those land uses for which such improvements are necessary.</p>	<p>Tentative Map</p> <p>Measures to be included in the construction contract by Project Applicant</p> <p>Implement control measures</p>	<p>Department</p> <p>Project Applicant Engineering Division</p> <p>Project Applicant</p>	<p>condition as part of project approval</p> <p>Prior to approval of Grading Permits</p> <p>During grading and construction activities</p>	<p>Deny Grading Permit application</p> <p>Halt grading and construction until measures are implemented</p>	