MINUTE ITEM
This Calendar Item No. C30 was approved
Minute Item No. 30 by the California State La.
Commission by a vote of 3 to 0 at its
11/07/97 meeting.

CALENDAR ITEM
C30

A 20

S 10

PRC7994

11/07/97
W 25365
J. Lam

GENERAL LEASE - PUBLIC AGENCY USE

APPLICANT:

City of Milpitas
c/o Mr. Mike McNeely
455 East Calaveras Boulevard
Milpitas, California 95035

AREA, LAND TYPE, AND LOCATION:

0.46 acres, more or less, of filled sovereign lands in Coyote Creek, cities of San Jose and Milpitas, Santa Clara County.

AUTHORIZED USE:

Construction and maintenance of a public roadway (McCarthy Boulevard).

LEASE TERM:

49 years, beginning September 1, 1997.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

OTHER PERTINENT INFORMATION:

1. Applicant has a right to use the uplands adjoining the lease premises.

2. A mixture of commercial, residential and industrial park developments are proposed for an area located west of Highway I-880, between State Route 237 and Dixon Landing Road, within the city of Milpitas. In order to accommodate projected traffic generated by this development, the cities of San Jose, Fremont and Milpitas reached an agreement to construct a major public roadway extending north of the existing McCarthy Boulevard from State Route 237. The McCarthy Boulevard extension project will include the construction of three bridge crossings over Coyote Creek west of the Dixon Landing Road/Highway I-880 interchange.

Coyote Creek, at two of the proposed bridge sites, was included within a Compromise Title Settlement and Exchange Agreement (SLL 85) dated September 2, 1983, which contains a provision to allow the construction of two bridge crossings by the upland owner. Coyote Creek at the remaining bridge site is a flood control channel constructed by the Santa Clara Valley Water District in the early 1990s. However, part of the proposed roadway west of the bridge will cross the filled natural bed of Coyote Creek which is under the Commission's leasing jurisdiction.

The proposed roadway will be utilized by four lanes of traffic, with bicycle and pedestrian lanes on both sides of the road.

3. An EIR was prepared and certified for this project by the city of Milpitas. The California State Lands Commission staff has reviewed such document and the Mitigation Monitoring Program adopted by the lead agency.

4. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are contained in Exhibit D, attached hereto.

5. A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093) is contained in Exhibit D, attached hereto.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

Santa Clara Valley Water District, California Department of Fish and Game, United States Army Corps of Engineers, Regional Water Quality Control Board.

EXHIBITS:

A. Land Description
B. Location Map
C. Notice of Determination

D. City Resolution No. 6640
E. Mitigation Monitoring Program

PERMIT STREAMLINING ACT DEADLINE:
February 17, 1998

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY THE CITY OF MILPITAS AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096 (h), AS CONTAINED IN EXHIBIT D, ATTACHED HERETO AND INCORPORATED BY REFERENCE.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT E, ATTACHED HERETO AND INCORPORATED BY REFERENCE.

ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, AS CONTAINED IN EXHIBIT D, ATTACHED HERETO AND INCORPORATED BY REFERENCE.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE ISSUANCE TO THE CITY OF MILPITAS OF A GENERAL LEASE - PUBLIC AGENCY USE, BEGINNING SEPTEMBER 1, 1997, FOR A TERM OF 49 YEARS, FOR CONSTRUCTION AND MAINTENANCE OF A PUBLIC ROADWAY (MCCARTHY BOULEVARD)

ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.

Land Description

Exhibit A

W 25365

That portion of the State owned bed of Coyote Creek, situated within the cities of San Jose and Milpitas, Santa Clara County, California, more particularly described as follows:

> A strip of land 100.00 feet in width, lying 50.00 feet on each side of the following described center line, **COMMENCING** at a point on the general easterly line of that certain parcel of land conveyed to the Santa Clara Valley Water District recorded November 19, 1993 in book N145, Official Records, at Page 0917, Santa Clara County Records, distant thereon South 2°18' 49" West, 26.96 feet from the northerly terminus of that certain course designed as South 2°18' 49" West, 399.01 feet in said Deed, thence from said point of commencement along a curve to the right having a radius of 590.00 feet, from which said radius point bears S 19°27' 10" W, through a central angle of 13°42' 07", an arc length of 141.09 feet; thence S 33°09' 16" W, 40.00 feet to the **TRUE POINT OF BEGINNING** of said strip, thence along the center line of strip, along a curve to the left having a radius of 550 feet, from which said radius point bears S 33°09' 16" W, through a central angle of 16°52' 42" and arc distance of 162.02 feet; thence N 73°43' 24" W, 491.60 feet to the end of said strip.

EXCEPTING THEREFROM those interests, if any, within Rancho Rincon de las Esteros as confirmed to Ellen E. White.

ALSO EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of Coyote Creek within Swamp and Overflowed Land Survey 59, Santa Clara County.

END OF DESCRIPTION

PREPARED 7/20/1997 By SFBCC Boundary Staff.

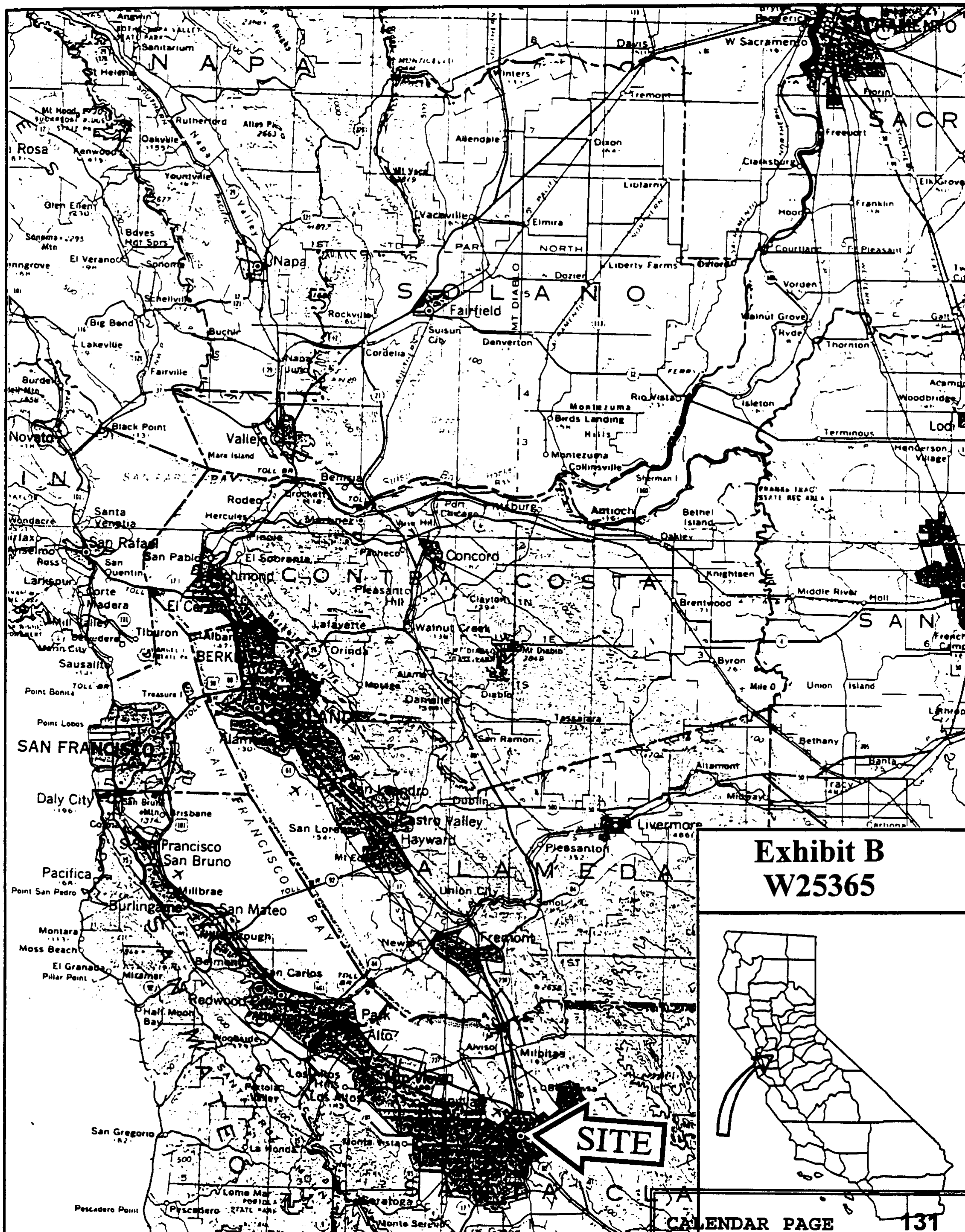

Exhibit B
W25365

CALENDAR PAGE 131

MINUTE PAGE 002323

EXHIBIT "C"

City of Milpitas

455 E. Calaveras Blvd.
Milpitas, California 95035

NOTICE OF DETERMINATION

Project Title: McCarthy Ranch Mixed Use General Plan Amendment and Master Plan

Project Location: Northwest of the intersection of Interstate Route 880 and State Route 237, east of Coyote Creek: City of Milpitas: County of Santa Clara.

Project Description: General Plan Amendment and Mixed Use Master Plan for a 226± acre phased, "mixed use" project consisting of residential, retail, industrial, highway commercial and open space areas. Three alternate "Mixed Use" development plans have been approved as a part of the Master Plan-- these range from a low unit count (895± units) residential alternative with commercial/industrial uses to a high unit count (1,799± units) residential alternative with fewer acres of commercial/industrial use.

Project Proponent: Joseph McCarthy, P.O. Box 361256, Milpitas Ca 95035

The City of Milpitas City Council at its meeting of May 6, 1997:

(a) Adopted a resolution approving General Plan Amendment 1997-1, redesignating the property from "Manufacturing" and "Industrial Park" to "Mixed Use" and making additional text modifications to define the "Mixed Use" land use category and to update charts and statistics to reflect the project;

(c) Reviewed and approved a Mixed Use Master Plan for the subject site which specifies the permitted land use alternatives, deviations from the provisions of the Zoning Code, design guidelines and infrastructure master plans.

This is to advise that the subject project will have a significant effect on the environment. An Environmental Impact Report (EIR) was prepared and certified for this project pursuant to the provisions of CEQA. Findings were made by the City Council pursuant to Section 15091 of the CEQA Guidelines. Mitigation measures found to be feasible and appropriate were made conditions of project approval. In order to approve the project in spite of the existence of unavoidable adverse significant environmental impacts, the City Council adopted a Statement of Overriding Considerations regarding those impacts and the anticipated benefits of the project.

A copy of the EIR and the record of McCarthy Ranch Mixed Use General Plan Amendment and Master Plan approvals may be examined at the Community Development Department, 455 East Calaveras Boulevard, Milpitas, California 95035

Forwarded to the County Clerk on 5/8/97 MAY 0 8 1997 JUN 0 6 1997

by: _____

POSTED ON _____ THROUGH _____
IN THE OFFICE OF THE COUNTY CLERK
STEPHEN V. LOVE, COUNTY CLERK
BY _____ DEPUTY

FILED
MAY 08 1997
STEPHEN V. LOVE
County Clerk
Santa Clara County
BY _____ DEPUTY

E003809

CALENDAR PAGE 132
A. BURDICK
MINUTE PAGE 002324

An Equal Opportunity Employer

EXHIBIT "D"

RESOLUTION NO. 6640

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS CERTIFYING THE FINAL EIR AND MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, MAKING FINDINGS CONCERNING ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS IN ACCORDANCE WITH THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE MCCARTHY RANCH GENERAL PLAN AMENDMENT DEVELOPMENT PROJECT FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED.

WHEREAS, A Notice of Preparation for the Environmental Impact Report ("EIR") for the McCarthy Ranch General Plan Amendment and related actions Project ("Project") was prepared by the City of Milpitas ("City") as the lead agency and was mailed to appropriate governmental agencies, including the State Clearinghouse; and

WHEREAS, the Notice of Preparation included a copy of the initial study that had been prepared by City for the Project; and

WHEREAS, WHEREAS, A Draft Environmental Impact Report ("Draft EIR") was completed and circulated and made available for public review on June 28, 1996; and

WHEREAS, As a result of comments received on the Draft EIR, City determined that additional analysis was needed for two environmental factors: air quality and traffic. City prepared and sent out a revised Notice of Preparation for the revised sections. Based in part on the responses received to the revised Notice of Preparation, City prepared a Revised Draft of the EIR covering the air quality and traffic sections (the "Revised Draft EIR"), and circulated and made available the same for public review on December 26, 1996; and

WHEREAS, Written comments were received from governmental agencies and from the general public on the Draft EIR and on the Revised Draft EIR. Responses have been prepared to all such comments on environmental issues received during the public review period, which responses clarify and amplify the information contained in the Draft EIR, providing good faith, reasoned analysis supported by factual information; and

WHEREAS, A Final Environmental Impact Report ("FEIR") dated April 2, 1997 was prepared, and contains the Draft EIR, the Revised Draft EIR with appropriate changes in response to the comments received, as well as all comments received and written responses thereto; and

WHEREAS, The FEIR was presented to the Planning Commission of City and was considered at a public hearing, following which the Planning Commission recommended to the City Council that the FEIR be certified by the City Council; and

CALENDAR PAGE	133
MINUTE PAGE	[illegible]

WHEREAS, Approval of the Project requires the City to amend the General Plan land use designations for the Project, to rezone the Project site, to enter into a Development Agreement, and to take certain other related actions; and

WHEREAS, The California Environmental Quality Act requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects; and

WHEREAS, The City Council intends to approve a Mitigation Monitoring and Reporting Program for the Project that identifies mitigation measures which the Council will adopt as conditions of approval or which are incorporated into the Development Agreement between the City and the Applicant which the City intends to adopt;

NOW, THEREFORE, BE IT RESOLVED:

(1) The foregoing recitals are true and correct and are made a part of this Resolution; and

(2) The City Council hereby certifies that the FEIR has been presented to it and has been reviewed and considered by the Council, and that the FEIR is complete, adequate and in compliance with the California Environmental Quality Act, and that it reflects the independent judgment of the City Council and of the City as the lead agency.

(3) The City Council hereby finds that it has independently reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project

(4) The City Council designates the Director of Community Development, at his/her office at 455 East Calaveras Boulevard, Milpitas, CA 95035, as the custodian of documents and record of proceedings on which the decision is based; and

(5) The City Council hereby makes the following findings with respect to the significant effects on the environment of such Project, as identified in the FEIR in conformance with CEQA.

I. LAND USE

A. Conflicts with Adjacent Land Uses

1. **Impact:** The Project would create the potential for conflicts between the proposed residential uses and existing municipal uses in the area.

2. **Mitigation:** The following mitigation measures could be implemented:

(a) Restrict land uses in the portion of the Project site potentially impacted to uses which are not considered sensitive to objectionable odors; or

(b) Cause the composting facility to modify its equipment and operating procedures as needed in order to reduce odors detectable on the Project site to levels acceptable to the general public in accordance with procedures in the February, 1996 report commissioned by the composting facility; or

(c) Require all residential deeds to include a disclosure statement regarding the proximity of the composting operations and the Santa Clara/San Jose Water Pollution Control Plant operations and the potential for occasional occurrences of undesirable odors.

(d) Plant trees along the east side of the Coyote Creek levee in order to reduce the direct flow of sludge bed odors to the Project site, particularly in strategic positions opposite openings in the existing creekside vegetation.

(e) Provide an open space buffer between Project residential development and existing odor sources.

(f) Cause the Santa Clara/San Jose Water Pollution Control Plant to modify its operations and/or facilities as needed to reduce off-site odors to levels acceptable to the general public.

Mitigation measure (a) would require a definition of "sensitive receptors" which presumably would include housing, schools, hospitals, restaurants and uses which involve bringing on to the Project site people not contained within buildings with mechanical ventilation and perhaps odor filtering devices. Unless the portion of the site impacted from these odors is restricted to open space or its present agricultural use, mitigation measure (a) would not prevent odors from disturbing those on or traveling through the site and not shielded from the odors and, therefore, it would not mitigate the impacts to a level of less than significant level.

Mitigation measure (b) is within the jurisdiction of the City of San Jose and the State of California.

Mitigation measure (c) would not bind or inform occupants of the impacted portions of the Project site who are not owners of the land, may not be binding upon subsequent owners, and would not have the effect of preventing occupants from coming into contact with offending odors.

Mitigation measure (d) will be implemented through the McCarthy Ranch Design Guidelines include a requirement that a row of Lombardy Poplars be planted 30 feet on center at the base of the levee on the Project site and a double row of street trees, planted 25 feet on center on the east side of the frontage street along the levee.

With respect to mitigation measure (e), based on modeling conducted in connection with the FEIR, a 2,800 foot setback would be required between the drying beds and any residential development. This setback requirement would reduce the area available for development of residential uses to approximately 25 acres in the easternmost portion of the Project site, which area would accommodate approximately 212 single family units or 580 multifamily units.

With respect to mitigation measure (f), possible specific actions include: (i) changes in management practices regarding the timing of the placement and turning of sludge so as not to coincide with meteorological conditions which lead to odor impacts on the Project site, (ii) the use of chemical odor modifier treatments in connection with the sludge production and drying process, and (iii) significant changes in the biosolids processing system which would eliminate odors and is estimated to entail initial costs of approximately $100 million and increases in annual operating costs of approximately $2.2 million.

3. **Findings:** Mitigation measure (a) is infeasible because it would be likely to result in a relative increase in commercial and employment generating uses and an associated decrease in residential development potential which would be likely to exacerbate Project traffic and air quality impacts. In addition, it would not eliminate the on-going odor impacts that the Newby Island landfill and the composting facility operations are having on the existing residential development in the City to the east of I-880.

Mitigation measure (b) is infeasible because it is not within the jurisdiction of the City, but is within the jurisdiction of the City of San Jose. This measure, which consists of changes and alterations which would avoid or substantially lessen the significant environmental effect described in this Section A and in the FEIR, is within the responsibility and jurisdiction of another public agency which can and should adopt such changes.

Mitigation measure (c), while feasible, is only partially effective because it will not prevent the odors from

impacting occupants of the Project site, although it might reduce the number of complaints from owners of portions of the site, and it will not reduce odor impacts upon City residents to the east of I-880. It will be required as a condition of project approval.

Mitigation measure (d) shall be incorporated in the Project through the imposition of the McCarthy Ranch Design Guidelines as a condition of Project approval. While there is evidence that this measure should be effective in reducing odor impacts from the WPCP sludge drying operations on the project, it is not possible to ensure that the reduction will be below the significance criterion of less than one "confirmed" odor complaint per year.

Mitigation measure (e) would reduce the potential for odor impacts on residential development to a less than significant level, although it would not reduce odor impacts on other types of site occupants. Mitigation measure (e) would probably have the effect of precluding any housing development on the Project site, thereby completely frustrating the Project's objective of providing residential development, and it would deny the City's objective to provide additional capacity for residential development. Replacing residential uses on the Project site with the commercial, office and industrial uses which are permitted under present zoning would result in greater impacts to traffic, air quality and the City's jobs/housing imbalance. For all of the foregoing reasons this mitigation measure is considered infeasible.

Mitigation measure (f) is infeasible because implementation of this measure is under the control of another jurisdiction, the City of San Jose. This measure, which consists of changes and alterations which would avoid or substantially lessen the significant environmental effect described in this section A. and in the FEIR is within the responsibility and jurisdiction of another public agency which can and should adopt such changes.

There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This impact, to the extent that developing the Project in a manner that will expose more people to odors is deemed to be an impact, therefore, remains significant and unavoidable.

4. Statement of Overriding Considerations:

The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation

Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

B. Conflicts Between Proposed Project Area Land Uses

1. **Impact:** The mix of land uses in the Project would create the potential for compatibility conflicts between uses, particularly between residential and non-residential uses.

2. **Mitigation:** The Project includes proposed Design Guidelines relating to the treatment of residential perimeter conditions within the Project area in a manner sensitive to minimizing conflicts, including alignment of vehicular and pedestrian circulation, location of open space corridors, placement of parking and building entrances, use of setbacks, landscaping and other design features.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design, will avoid or substantially lessen the significant environmental impact described above to a level of less than significant level.

II. POPULATION, HOUSING AND EMPLOYMENT

A. Population Increase

1. **Impact:** The Project-generated increase in residential population would exceed population levels previously planned for in the City's General Plan.

2. **Mitigation:** The City intends to update its General Plan to ensure that Project related growth is incorporated into the City's long-range planning. According to the April 1994 Milpitas Housing Element, Santa Clara County has experienced housing shortages for the last two decades. In accordance with state legislation (Assembly Bill 2853), ABAG is required to determine each Bay Area city's and county's "fair share" of regional housing needed to accommodate projected employment growth. The Milpitas Housing Element indicates that the identified housing need exceeds the amount of residential capacity currently accommodated in the General Plan by approximately 1,980 dwelling units. The update to the General

Plan to include the Project will provide the opportunity to fulfill a sizable proportion of this housing shortage.

3. **Findings:** The above feasible mitigation measure will avoid or substantially lessen the significant environmental impact described above to a level of less than significant level.

III. TRAFFIC AND CIRCULATION

A. Dixon Landing Road/North Milpitas Boulevard

1. **Impact:** Although it would be operating at LOS F under 2010 No-Build conditions, the Dixon Landing Road/North Milpitas Boulevard intersection would experience increased delays of greater than 4 seconds during the AM peak hour with the buildout of either Alternative 1B or Alternative 4.

2. **Mitigation:** Construct an additional northbound left-turn lane from N. Milpitas Boulevard to westbound Dixon Landing Road.

3. **Findings:** The Project shall be subject to a condition that it contribute its fair share, based on impact relative to that of other anticipated development, equal to 50%, of the cost of such improvements, upon City award of the contract for construction of such improvements. The City is currently in the process of developing a city-wide transportation plan and fee ordinance to allow for the general collection of such fees in accordance with ABAG projections for growth. Although the City believes this mitigation will be funded and constructed, thus reducing the impact to a level of insignificance, it is possible that at the time the improvements are needed there will not be sufficient funds available which, when added to the Project's contribution, will be sufficient to pay for this improvement. In that event, the mitigation may not be constructed, and thus the impact would not be reduced to a level of insignificance. Because the City believes it would not be equitable to require the Project to fund the full cost of these improvements, using a worst-case analysis, the City finds that this mitigation measure is infeasible.

There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This impact is, therefore, significant and unavoidable.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks ~~and Recreation~~

Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

B. Montague Expressway Intersections

1. Impacts: Although they would already be operating at LOS F under 2010 No-Build conditions, the Montague Expressway intersections identified below would experience increased delays of greater than 4 seconds during the peak hours identified below with buildout of either Alternative 1B or Alternative 4: a) McCarthy Boulevard: during AM and PM peak hours; b) Main Street: during AM peak hour, also Alternative 1B buildout would have a significant impact during the PM peak hour; c) Great Mall Parkway: during the PM peak hour; d) McCandless Drive: during AM and PM peak hours but only with buildout of Alternative 1B; and Zanker Road: during AM peak hour, also buildout of Alternative 1B would have a significant impact during the PM peak hour. These are significant impacts.

2. Mitigation: Add an additional through lane in each direction for all Project-impacted intersections along Montague Expressway.

3. Findings: The Project shall be required to participate in the funding of the mitigation of these impacts based on impact relative to that of other anticipated development. Applicants for the first to be issued of subdivision approval or building permits for habitable structures on each legal parcel within the Project area shall be required to pay an area-wide traffic impact fee, calculated on a acreage basis which is proportionate to the average impact per acre, to pay for these improvements. This requirement shall be retroactive, so that if approvals or permits are issued prior to the implementation of this fee, then the Project shall be required to make payment for such portions of the Project when the fee is implemented. In this Resolution this area-wide traffic impact fee is hereafter referred to as the "Traffic Impact Fee." Implementation of this measure, however, will not reduce the Project-related impacts to less than significant for the following reasons:

(a) Although the City believes this mitigation will be funded and constructed, thus reducing the impact to a level of insignificance, it is possible that at the time the improvements are needed there will not be sufficient funds available which,

when added to the Project's contribution, will be sufficient to pay for this improvement. In that event, the mitigation may not be constructed, and thus the impact would not be reduced to a level of insignificance.

(b) The City cannot require that the Project cause the construction of public improvements which are in the jurisdiction of the City of San Jose and the County of Santa Clara, which jurisdictions can and should adopt this mitigation measure.

Certain of the changes or alterations which would avoid or substantially lessen the significant environmental impact identified above and in the FEIR are within the responsibility and jurisdiction of another public agency. Others are within the jurisdiction of the City but it is not equitable to cause the Project to pay the entire cost of such measures. There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This impact, therefore, remains significant and unavoidable.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

C. **Tasman Drive/McCarthy Boulevard**

1. **Impact:** Under Alternative 4, the PM peak hour level of service conditions would decline from LOS C to LOS E. This is a significant impact.

2. **Mitigation:** Construct an eastbound left-turn lane on Tasman Drive at McCarthy Boulevard. If this mitigation proves infeasible due to engineering constraints and/or right of way requirements, then an alternative mitigation shall be required: the addition of a second left turn lane from eastbound Tasman Drive onto northbound Alder.

3. **Findings:** The Project will be required to participate in the funding of the cost of this improvement through the payment of the Traffic Impact Fee Although the City believes this mitigation will be funded and constructed, thus reducing the impact to a level of insignificance, it is possible that at the time the improvements are needed there will not be sufficient funds available which, when added to the Project's contribution, will be sufficient to pay for this improvement. In that event, the mitigation may not be constructed, and thus the impact would not be reduced to a level of insignificance. Because the City believes it would not be equitable to require the Project to fund the full cost of these improvements, using a worst-case analysis, the City finds that this mitigation measure is infeasible.

There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This impact, therefore, remains significant and unavoidable.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

D. Bellew Drive/McCarthy Boulevard.

1. **Impact:** Under Alternative 4, the PM peak hour level of service conditions at the Bellew Drive/McCarthy Boulevard intersection would decline from LOS C under No-Build conditions to LOS E. This is a significant impact.

2. **Mitigation:** Widen the exclusive right turn lane on McCarthy Boulevard at Bellew Drive into a northbound through/shared right turn lane. This improvement will be constructed as part of the Project.

3. **Findings:** The implementation of this feasible mitigation measure, which is incorporated into the Project through the Development Agreement, will avoid or substantially

essen the significant environmental impact described above to a ess than significant level.

V. COMMUNITY SERVICES AND FACILITIES

A. Police Services

1. **Impact:** The increase in residential and mployment populations resulting from buildout of the Project ould increase demand on police services.

2. **Mitigation:**

(a) Applicants for development permits at the Project site shall coordinate with the Milpitas Police Department regarding the timing of proposed development, so the Department can adequately plan for the necessary expansion of services.

(b) Individual development plans within the Project area shall be reviewed by the Department and shall incorporate Department recommendations regarding design aspects of development that affect traffic safety and crime prevention.

(c) Provide additional police personnel and facilities and revise patrol "beats" as needed to establish and maintain City standards for police protection service in the Project Area.

(d) The Project applicant shall make a contribution towards the provision of a police substation to be incorporated into the elementary school proposed within the Project. This contribution is required by the Development Agreement, and consists of the provision of an extra 1,000 square feet of land to the Commons area, and the payment of $50,000 towards improvements to the police substation.

3. **Findings:** The City intends to implement itigation measure (c) above. Measures (a), (b) and (d) are easible and will be incorporated into the Project as conditions f approval and through the Development Agreement. These itigation measures will avoid or substantial lessen the ignificant impact of the Project and the potentially significant umulative impact described above to a level of less than ignificant level.

B. Interim Access Constraints on Fire Protection and Emergency Medical Service

1. **Impact:** During Phase I, before McCarthy Boulevard s extended to Dixon Landing Road, the absence of a through

vehicle connection between State Route 237 and Dixon Landing Road could constrain emergency vehicle access to and from the Project site.

2. **Mitigation:** Extend McCarthy Boulevard to Dixon Landing Road as an emergency roadway, designed to meet the City's Fire Chief approval, prior to the occupancy of residential structures. This has already been accomplished.

3. **Findings:** The above feasible mitigation measure is incorporated into the Project under the Development Agreement and will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

C. Increased Demand for Fire Protection

1. **Impact:** The increase in residential population generated by the Project would result in increased demand for fire protection.

2. **Mitigation:** Construction within the Project shall require compliance with all building and fire codes relating to the provision of built-in fire protection for all buildings within the Project area. These measures can provide early warning and control the spread of fires, thereby minimizing the need for a large manual suppression response. Existing Fire Department fire protection capacity is adequate to serve the Project as fully developed.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

D. Increased Demand for School Facilities

1. **Impact:** Buildout of the Project would result in an increase in a total student enrollment of approximately 285 to 568 students: 164 to 328 elementary school students, 45 to 88 middle school students and 76 to 152 high school students.

2. **Mitigation:**

(a) Require dedication the 12-acre school site and Central Commons designated in the General Plan Amendment Land Use Map to accommodate future development of an elementary school within the Project area.

(b) Applicants for permits for development within the Project shall pay school impact fees of $2.72 per square foot of floor area of residential development in accordance with the recently adopted School District Resolution No. 96.76.

(c) Provide interim portable classrooms until the lementary school is constructed within the Project area.

(d) Development in the Project area shall be oordinated with the Milpitas Unified School District to ensure hat adequate school facilities are available when Project enerated students begin enrolling in the District.

3. **Findings:** The above feasible mitigation measures, hich are incorporated into the Project, will avoid or ubstantially lessen the significant environmental impact escribed above to a less than significant level.

E. Increased Demand for Community Parklands and ecreational Open Space

1. **Impact:** Buildout of the Alternatives 3 and 4 ould generate additional demand for parklands beyond what is roposed by the Project. The shortfall in parklands and/or mprovements would be the equivalent of 11.1 and 15.3 acres espectively.

2. **Mitigation:** Require the additional parkland creage, improvements and/or in-lieu fees necessary to meet the arkland dedication requirements set forth in the City's ubdivision Ordinance.

3. **Findings:** The above feasible mitigation measures, hich are incorporated into the Project design, will avoid or ubstantially lessen the significant environmental impact escribed above to a less than significant level.

F. Increased Demand on Library Service

1. **Impact:** Buildout of the Project and other esidential projects in the City would increase demand for local ibrary services due to the increase in residential population.

2. **Mitigation:** Provide increased library capacity to eet demand from increased residential population in the Project rea and other new residential developments.

3. **Findings:** Implementation of this mitigation easure is infeasible because the provision of library services is within the jurisdiction of the Santa Clara County Library District Joint Powers Authority, which can and should adopt such changes. There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This impact is, therefore, significant and unavoidable.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential

development in order to increase the opportunities for the City to correct its jobs/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

G. Unsatisfactory Library Service to Future Population

1. **Impact:** The Project's location west of I-880 could restrict future residents' use of library services in the main library.

2. **Mitigation:** Ensure adequate library service to Project area residents by extending regular bookmobile service to the Project area or by locating a small branch library within McCarthy Ranch (such as in the elementary school or community center).

3. **Findings:** Implementation of this mitigation measure is infeasible because the provision of library services is within the jurisdiction of the Santa Clara County Library District Joint Powers Authority, which can and should adopt such changes. There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This impact is, therefore, significant and unavoidable.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its jobs/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of

additional park and recreation facilities to serve the Project and the City.

V. INFRASTRUCTURE AND UTILITIES

A. Potential for Flooding

1. **Impact:** The Project area is within Flood Hazard Zones A, A1 and-AH. Development of the Project area under any of the proposed land use scenarios could potentially expose people and property to floodwaters.

2. **Mitigation:** The Santa Clara Valley Water District has already completed all necessary flood control improvements to Coyote Creek from Montague Expressway north to Dixon Landing Road, so the Project area is no longer subject to flooding during 100-year storm events or less. The Proponent shall obtain a Letter of Map Revision from FEMA verifying that the Project area has been removed from the designated Flood Hazard Zones.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

VI. AIR QUALITY

A. Construction Emissions

1. **Impact:** Construction activities in connection with all of Alternatives 1A, 1B, 2, 3 and 4 would generate hydrocarbons and PM-10, creating the potential for nuisance. Dust impacts are considered a significant impact on a localized basis.

2. **Mitigation Measure:** Except when it is raining, the following measures will be required as conditions of Project approval during all phases of Project construction:

(a) Disturbed portions of the Project site shall be watered at least twice a day to reduce dust emissions; on particularly windy days the site shall be watered more frequently, as needed; stockpiles of sand, soil and other such materials shall be covered when not being used; a 15 mile per hour speed limit shall be enforced on all unpaved roads; trucks hauling debris, construction materials or earth shall be covered; and streets surrounding a construction site shall be swept at least once daily. Contractors shall be required to appoint a dust monitor to oversee implementation of these measures.

(b) To minimize wind-blown dust generation, exposed areas should be seeded, treated with soil binders or paved as soon as possible as soon as possible when construction begins.

3. **Findings:** The implementation of these feasible mitigation measures, which are incorporated in the Project as conditions of approval, will avoid or substantially lessen the significant impact describe above to a less than significant level.

B. **Regional Air Quality**

1. **Impact:** New traffic generated by the Project and new area sources associated with residences would increase regional emissions and cause a deterioration in regional air quality. Emissions generated by each alternative would exceed BAAQMD's significance criteria.

2. **Mitigation:**

(a) The McCarthy Ranch Design Guidelines include requirements for physical improvements, such as sidewalks, connections to the Bay Trail, restricted on-street parking, landscaping and the installation of bus shelters and secured covered bicycle parking that will act as incentives for pedestrian and transit modes of travel.

(b) The Project is required to make a contribution in the amount of $20,000 per year (plus inflation adjustments) to the cost of operating a shuttle bus connecting the Project to the light rail system.

(c) The McCarthy Boulevard improvements include connections to the Bay Trail.

(d) The following measures to reduce residential emissions shall be incorporated into the project:

1. Require residential units to use EPA-certified wood stoves, pellet stoves or fireplace inserts. The use of natural gas-fired fireplaces should be encouraged.

2. Require outdoor outlets at residences to allow use of electrical lawn and landscape maintenance equipment, rather than gas or diesel powered.

3. Make natural gas available in residential backyards to allow use of natural gas-fired barbecues.

(e) Project area businesses with more than 100 employees should be required to prepare specific trip reduction goals and implementation programs to reduce daily vehicle trips.

3. **Findings:** As a mixed use development, which combines a wide variety of retail and service uses with a range of housing types and places of employment, the close proximity of this range of uses within the Project will tend to reduce travel, thus reducing regional traffic-related emissions below that of a non mixed-use project. Nevertheless, regional air quality impacts will be significant. Mitigations (a) through (d) above shall be incorporated into the Project as conditions of approval and/or through the development agreement. Due to recent changes in State law, mitigation (e) can not be required by the City, and is thus found to be infeasible. While the above mitigation measures will reduce Project impacts on regional air quality, there are no additional feasible mitigation measures which the City could adopt at this time to reduce impacts by the 60%-80% required to bring Project impacts below a level of significance as determined by BAAQMD guidelines. This impact, therefore, remains significant and unavoidable.

There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

C. Odors - Newby Island Yard Waste Compost Facility

1. **Impact:** The emissions from the yard waste compost operations at the Newby Island Landfill can produce odors in excess of an intensity of 2.0 D/T under certain meteorological conditions over the northern-most portion of the Project site designated as Highway Service Commercial in ~~all five development~~

Alternatives. This is a significant impact of the compost operations on the Project and under one interpretation of applicable law, is a significant impact on future occupants of the Project site.

2. **Mitigation:** The following mitigation measures could be implemented:

(a) Restrict land uses in the portion of the Project site potentially impacted to uses which are not considered sensitive to objectionable odors; or

(b) Cause the composting facility to modify its equipment and operating procedures as needed in order to reduce odors detectable on the Project site to levels acceptable to the general public in accordance with procedures in the February, 1996 report commissioned by the composting facility; or

(c) Require all residential deeds to include a disclosure statement regarding the proximity of the composting operations and the WPCP operations and the potential for occasional occurrences of undesirable odors.

Mitigation measure (a) would require a definition of "sensitive receptors" which presumably would include housing, schools, hospitals, restaurants and uses which involve bringing on to the Project site people not contained within buildings with mechanical ventilation and perhaps odor filtering devices. Unless the portion of the site impacted from these odors is restricted to open space or its present agricultural use, mitigation measure (a) would not prevent odors from disturbing those on or traveling through the site and not shielded from the odors and, therefore, it would not mitigate the impacts to a level of less than significant.

Mitigation measure (b), which would avoid or substantially lessen the significant environmental effect described in this Section C, is within the jurisdiction of the City of San Jose.

Mitigation measure (c) would not bind or inform occupants of the impacted portions of the Project site who are not owners of the land, may not be binding upon subsequent owners, and would not have the effect of preventing occupants from coming into contact with offending odors.

3. **Findings:** Mitigation measure (a) is infeasible because it would be likely to result in a relative increase in commercial and employment generating uses and an associated decrease in residential development potential which would be likely to exacerbate Project traffic and air quality impacts. In addition, it would not eliminate the on-going odor impacts that the Newby Island landfill and the composting facility operations

e having on the existing residential development in the City to e east of I-880.

Mitigation measure (b) is infeasible because it is not thin the jurisdiction of the City, but is within the risdiction of the City of San Jose, which can and should adopt ch changes.

Mitigation measure (c), while feasible, is only partially fective because it will not prevent the odors from impacting cupants of the Project site, although it might reduce the mber of complaints from owners of portions of the site, and it ll not reduce odor impacts upon City residents to the east of 880. It will be required as a condition of project approval.

There are no additional feasible mitigation measures that e City could adopt at this time to reduce the odor impact to a ss than significant level. This impact, to the extent that veloping the Project in a manner that will expose more people the odors is deemed to be an impact, would be significant and avoidable.

4. **Statement of Overriding Considerations:** The oject will contribute significantly to the housing stock of the ty by increasing the area of land zoned for residential velopment in order to increase the opportunities for the City correct its job/resident workers imbalance. In doing so, the oject is consistent with the General Plan Housing Element, Land se Element, Circulation Element and Parks and Recreation acilities Elements' goals and policies. Such goals and policies nclude encouraging variety and mix in housing types and costs, ocating housing in close proximity to new industrial evelopments, encouraging sufficient open space and recreational pportunity within neighborhoods, encouraging high-quality site nd architectural design, providing adequate school facilities or the Project and the community, creating a street network with edestrian and bicycle circulation facilities to connect the mix f land uses within the Project, and creating a range of dditional park and recreation facilities to serve the Project nd the City.

D. Odors - WPCP Sludge Drying Beds

1. **Impact:** Sludge drying bed odors of 2 D/T or reater would be detectable on site during limited periods of the ear. However, the character and intensity of these odors would ause such occurrences to be considered to create a significant mpact on the Project. Under development Alternative 1A pproximately 50 acres of the planned 73 acres of single family esidential land use and approximately 2 acres of land designated or commercial, office and research and development uses would be ffected. Under Alternative 1B approximately 36 acres of single amily residential, 14 acres of multifamily or townhouse esidential, and 2 acres of commercial, office and research and

development land would be affected. Under development Alternatives 2, 3 and 4, approximately 38 acres of single family residential and 14 acres of multifamily/townhouse land would be affected.

2. Mitigation: In addition to the mitigation measure described in subparagraph VI.C.2. (c) above (deed disclosure), the following mitigation measures have been considered:

(a) Plant trees along the east side of the Coyote Creek levee in order to reduce the direct flow of sludge bed odors to the Project site, particularly in strategic positions opposite openings in the existing creekside vegetation.

(b) Provide an open space buffer between Project residential development and existing odor sources.

(c) Cause the Santa Clara/San Jose Water Pollution Control Plant to modify its operations and/or facilities as needed to reduce off-site odors to levels acceptable to the general public.

(d) Restrict development of the Project site to land uses that are not sensitive to objectionable odors.

With respect to mitigation measure (a), the McCarthy Ranch Design Guidelines include a requirement that a row of Lombardy Poplars be planted 30 feet on center at the base of the levee on the Project site and a double row of street trees, planted 25 feet on center on the east side of the frontage street along the levee.

With respect to mitigation measure (b), based on modeling conducted in connection with the FEIR, a 2,800 foot setback would be required between the drying beds and any residential development. This setback requirement would reduce the area available for development of residential uses to approximately 25 acres in the easternmost portion of the Project site, which area would accommodate approximately 212 single family units or 580 multifamily units.

With respect to mitigation measure (c), possible specific actions include: (i) changes in management practices regarding the timing of the placement and turning of sludge so as not to coincide with meteorological conditions which lead to odor impacts on the Project site, (ii) the use of chemical odor modifier treatments in connection with the sludge production and drying process, and (iii) significant changes in the biosolids processing system which would eliminate odors and is estimated to entail initial costs of approximately $100 million and increases in annual operating costs of approximately $2.2 million. There

are associated with the mitigation measure described in paragraph C.2.(c) above the concerns described above.

There are associated with mitigation measure (d) the same concerns which are described above in connection with mitigation measure VI.C.2.(a) above.

3. **Findings:** Mitigation measure (a) shall be incorporated in the Project through the imposition of the McCarthy Ranch Design Guidelines as a condition of Project approval. While there is evidence that this measure should be effective in reducing odor impacts from the WPCP sludge drying operations on the project, it is not possible to ensure that the reduction will be below the significance criterion of less than one "confirmed" odor complaint per year.

Mitigation measure (b) would reduce the potential for odor impacts on residential development to a less than significant level, although it would not reduce odor impacts on other types of site occupants. Mitigation measure (b) would have the effect of precluding any housing development on the Project site, thereby completely frustrating the Project's objective of providing residential development, and it would deny the City's objective to provide additional capacity for residential development. Replacing residential uses on the Project site with the commercial, office and industrial uses which are permitted under present zoning would result in greater impacts to traffic, air quality and the City's jobs/housing imbalance. For all of the foregoing reasons this mitigation measure is considered infeasible.

Mitigation measure (c) is infeasible because implementation of this measure is under the control of another jurisdiction, the City of San Jose. This measure, which consists of changes and alterations which would avoid or substantially lessen the significant environmental effect described in this section D. and in the FEIR are within the responsibility and jurisdiction of another public agency which can and should adopt such changes.

Mitigation measure (d) is infeasible for the same reasons as measure VI.C.2(a). See discussion of that measure above.

The mitigation measure of deed disclosures (VI.C.2.(d) above) is incorporated into the Project.

There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This impact, therefore, remains significant and unavoidable.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City

to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

VII. NOISE

A. Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 1.A - Single Family Residences

1. **Impact:** Under Alternative 1A, single family residences located within 270 feet of the McCarthy Boulevard roadway centerline would be exposed to a Cumulative Buildout Day-Night Average Sound Level (DNL) in excess of 60 decibels, the City's exterior goal for single family residences.

2. **Mitigation:** Assuming single family residences would be located at least 75 feet west of the McCarthy Boulevard centerline, an eight foot sound wall shall be constructed so backyards would meet the City's exterior goal of DNL of 60 decibels. With the wall, sound-rated windows would be necessary only for second floor rooms.

3. **Findings:** The above feasible mitigation measure, which is incorporated into the Project design through the Design Guidelines (which in turn are enforced through conditions of approval of specific development plans), will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

B. Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 1.A. - Motels

1. **Impact:** Under Alternative 1A, motels would be located such that the estimated Cumulative Buildout DNL outside the motels would be 75 decibels. According to the City's Land Use Compatibility Guidelines, a DNL of 75 decibels is considered "normally unacceptable" for lodging land uses.

2. **Mitigation:** Motel rooms having line of sight to I-880 and/or McCarthy Boulevard shall have sound-rated windows to meet the City's interior DNL goal of 45 decibels. ~~As the windows~~

would need to remain closed in order to meet the interior noise goal, an alternative method for ventilating the units shall be provided.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design, through enforcement of the City's Building Code, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

C. **Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 1.B. - Multifamily and Townhomes**

1. **Impact:** Under Alternative 1B, single family residences located within 270 feet of the McCarthy Boulevard roadway centerline would be exposed to a DNL in excess of 60 decibels, the City's exterior goal for single family residences. Apartments and townhomes located between single family residences and McCarthy Boulevard would be exposed to a DNL in excess of 65 decibels, the City's exterior goals for multifamily housing.

2. **Mitigation:**

(a) A six foot sound wall shall be constructed so backyards would meet the City's exterior goal of DNL of 65 decibels if the condominiums and townhomes cannot be used to acoustically shield McCarthy Boulevard traffic noise to outdoor common areas.

(b) The condominium and townhomes shall have sound-rated windows to meet the City's interior DNL goal of 45 decibels. As the windows would need to remain closed in order to meet the interior noise goal, an alternative method for ventilating the units shall be provided.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design through the Design Guidelines (which in turn are enforced through conditions of approval of specific development plans) and the City's Building Code, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

D. **Compatibility of Proposed Residential Land Uses With Future Noise Levels - Alternative 2 - Single Family Residences**

1. **Impact:** Under Alternative 2, the same impacts arise as under Alternative 1B, except single family residences would be located further north along McCarthy Boulevard. Some single family residences would be exposed to a DNL up to 74

decibels due to both McCarthy Boulevard and I-880 traffic noise levels.

2. **Mitigation:** Single family residences located within 200 to 350 feet of the I-880 median centerline may require a sound wall in excess of twelve feet in order to meet the City's exterior goal of DNL of 60 decibels. Other structures located within 350 feet of I-880 could provide some acoustical shielding and thus reduce the sound wall height requirement. Additional mitigation through design, if required, will ensure that the City's standards for outdoor noise levels are met.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design through the Design Guidelines (which in turn are enforced through conditions of approval of specific development plans), the Subdivision Ordinance and the City's Building Code, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

E. Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternatives 3 and 4 - Townhomes

1. **Impact:** Under Alternatives 3 and 4, the impact would be similar to the impact of Alternative 2, except more condominiums and townhomes would located closer to I-880. The estimated DNL exposure for those condominiums and townhomes would exceed 65 decibels, the City's exterior goals for multifamily housing.

2. **Mitigation:**

(a) Mitigation for these condominiums/townhomes would be the same as for the ones described in Alternative 1B, except that sound walls as high as ten to twelve feet shall be required to be constructed so backyards would meet the City's exterior goal of DNL of 65 decibels if the condominiums and townhomes cannot be used to acoustically shield McCarthy Boulevard traffic noise to outdoor common areas.

(b) The condominium and townhome windows shall be sound-rated windows to meet the City's interior DNL goal of 45 decibels. As the windows would need to remain closed in order to meet the interior noise goal, an alternative method for ventilating the units would need to be provided.

(c) Specific wall heights and STC ratings may change due to changes in future grading or building designs. A follow-up acoustical analysis shall be done for each residential portion of the project to assure that the goals of the FEIR and other applicable acoustical standards are met.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design through the Design Guidelines (which in turn are enforced through conditions of approval of specific development plans), the Subdivision Ordinance and the City's Building Code, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

F. Noise from Sewage and Storm Water Pump Stations

1. **Impact:** Under Alternatives 2, 3 and 4, single family residences will be located near existing sewage pump and storm water pump stations. During extended storm periods, the pump station could operate twenty-four hours a day, generating maximum levels of 87 decibels within 50 feet.

2. **Mitigation:** Provide adequate noise attenuation for any single family residences located within 350 feet of the storm water pump station. A follow-up acoustical analysis will be required to identify the potential noise level from the pump station based on the actual location of future homes, and to identify appropriate measures to reduce noise levels to acceptable levels. Both the generator and pumps for the storm water pump station may need an acoustic enclosure or noise barrier. The noise barrier could provide 10 dB of noise reduction while an enclosure could provide up to 30 dB of noise reduction. In both cases, the generator would need a critical grade muffler. The exact design will depend upon the proximity of homes and the need to modify any existing pump structures.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design through the Design Guidelines, the Subdivision Ordinance and the City's Building Code, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

VIII. BIOLOGICAL RESOURCES

A. Potential Loss of Burrowing Owl Habitat

1. **Impact:** Burrowing Owls may either winter or breed on the Project site, and, therefore, could be affected by Project development.

2. **Mitigation:** Conduct pre-construction surveys for Burrowing Owls. Construction activities should be preceded by pre-construction surveys for Burrowing Owls prior to the breeding season (before February 1) by a qualified ornithologist. If no owls are located during these surveys, then no additional action is warranted. However, if owls are located on the site, the lead agency and CDFG will be notified, and the project proponent will

work with CDFG to implement the following avoidance and/or mitigation measures as appropriate:

1. Avoidance. No disturbance within 50 meters of occupied burrows from September 1 through January 31. No disturbance within 75 meters of occupied burrows from February 1 through August 31. A minimum of 6.5 acres of foraging habitat must be preserved contiguous with occupied burrow sites for each pair of breeding owls or single resident bird.

2. On-site mitigation. Passive relocation of owls to alternate natural or artificial burrows which are more than 50 meters from the impact area and are within or contiguous to a minimum of 6.5 acres of foraging habitat for each pair of breeding owls or single resident bird. Relocation should only be implemented during the non-breeding season. On-site habitat must be preserved in a conservation easement and managed to promote burrowing owl use.

3. Off-site mitigation. Off-site habitat must be suitable burrowing owl habitat as defined in the California Burrowing Owl Consortium's Burrowing Owl Survey Protocol. The site must be approved by the Department. Land must be purchased or placed in a conservation easement in perpetuity and managed to promote burrowing owl use. Off-site mitigation ratios are as follows:

a. Replacement of occupied habitat with occupied habitat: 1.5 times 6.5 (9.75) acres per pair or single bird.

b. Replacement of occupied habitat with habitat contiguous to currently occupied habitat: 2 times 6.5 (13) acres per pair or single bird.

c. Replacement of occupied habitat with suitable unoccupied habitat: 3 times 6.5 (19.5) acres per pair or single bird.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

B. Potential Impacts of Project Development on Coyote Creek

1. **Impact:** Development of the Project could affect the aquatic habitat and riparian woodland of Coyote Creek.

2. **Mitigation:**

(a) Planting a ten foot wide strip east of the outboard strip of the flood control levee would provide a sufficient additional buffer between the proposed Project and the riparian habitats of Coyote Creek. The area between the outer edge of the buffer and the toe of the levee should be planted with native shrubs and trees. To the extent possible, Project design should orient homes to front the buffer rather than having backyards facing the levee, as deposition of trash and introduction of pets occurs less frequently with such a design.

(b) Street lights adjacent to the creek corridor shall be equipped with shrouds that direct light away from the riparian corridor.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design through the Design Guidelines (which in turn are enforced through conditions of approval of specific development plans), will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

C. Degradation of Water Quality for Coyote and Penitencia Creeks

1. **Impact:** Stormwater runoff after Project completion would be likely to carry a variety of pollutants into the creeks, which could result in degradation of the aquatic habitat they provide. This degradation could lead to a reduction in the number and diversity of aquatic species, which in turn could reduce the terrestrial vertebrates which prey on them.

2. **Mitigation:** Project developers shall be required to file a Notice of Intent, prepare a Storm Water Pollution Prevention Plan, and implement and monitor construction and post-construction period Best Management Practices(BMP's). The City shall review all BMP's to ensure that they address the following four objectives:

1. Site Planning. The project should minimize long-term water quality impacts associated with project development by incorporating site planning concepts that reduce the volume and rate of runoff (i.e., increase infiltration) and reduce pollutant loading of runoff. To ensure their effectiveness, such concepts should be designed into the project from the earliest planning phases.

2. Erosion. The project should minimize erosion and control sediment during and after construction. This should be done by developing and implementing an erosion control plan, or equivalent plan. This plan, which should be included in the SWPPP, should specify

all control measures that will be used or which are anticipated to be used.

3. Chemical and Waste Management. The project should minimize impacts from chemicals and wastes used or generated during construction. This should be done by developing and implementing a plan or set of control measures. The plan or control measures, which should be included in the SWPPP, should specify all control measures that will be used or which are anticipated to be used.

4. Post-Construction. The project should minimize impacts from other pollutants, which may be generated by the project post-construction. These pollutants may include: sediment, bacteria, metals, solvents, oil, grease, and pesticides, all of which are typically generated during the life of a residential, commercial, or industrial project after construction has ceased. This should be done by developing and implementing a plan or set of control measures. The plan or control measures, which should be included in the SWPPP, should specify all control measures that will be used or which are anticipated to be used.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project design, will avoid or substantially lessen the significant environmental impact described above to a less than significant level.

IX. CUMULATIVE IMPACTS

A. TRAFFIC AND CIRCULATION

1. **Impact:** The cumulative traffic from the Project and all reasonably foreseeable future development as identified in the FEIR would have significant adverse impacts on the following intersection and the freeway segment identified below:

(a) I-880 North of Dixon Landing Road

(b) North Milpitas Boulevard/Dixon Landing Road

2. **Mitigation:** The following mitigation measures would reduce the respective cumulative impacts to a level of less than significant:

(a) Widen I-880 north of Dixon Landing Road to provide an additional travel lane in the southbound direction.

(b) Same as described in paragraph III.A.2. above: i.e., construct an additional northbound left-turn lane from N. Milpitas Boulevard to westbound Dixon Landing Road.

3. **Findings:** Implementation of the measure in paragraph (a) is infeasible for the City of Milpitas because it is under the jurisdiction of the State which can and should adopt this change.

There are no feasible mitigation measures that the City could adopt at this time to reduce these cumulative impacts to a less than significant level. These cumulative impacts, therefore, remain significant and unavoidable.

4. **Statement of Overriding Considerations:**

The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development so that the City can correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

B. AIR QUALITY

1. **Impact:** New traffic generated by the Project and new area sources associated with residences developed as part of the project, in conjunction with other reasonably foreseeable future development in the City and the region will result in a significant adverse impact to local and regional air quality.

2. **Mitigation:** No mitigation measures have been identified which will reduce this adverse cumulative impact to a level of less than significant.

3. **Findings:** Approval of the project, together with all reasonably foreseeable future development will result in adverse cumulative impacts on air quality which are significant and unavoidable. There are no feasible mitigation measures that the City could adopt at this time to reduce this cumulative impact to a less than significant level.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development so that the City can correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

C. **COMMUNITY SERVICES AND FACILITIES - LIBRARY SERVICE**

1. **Impact:** Full buildout of the Project, together with completion of other reasonably foreseeable future development in the City, will result in a significant adverse impact on library service in the City.

2. **Mitigation:** Provide increased library capacity to meet demand generated by additional population in the Project area and other new residential development throughout the City.

3. **Findings:** Library services are provided by the Santa Clara County Library District Joint Powers Authority, which can and should adopt these changes. There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This is, therefore, a significant and unavoidable cumulative impact.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of

additional park and recreation facilities to serve the Project and the City.

D. COMMUNITY SERVICES AND FACILITIES - POLICE, FIRE, SCHOOLS AND PARKS AND RECREATION SERVICES

1. **Impact:** Full buildout of the Project, together with completion of other reasonably foreseeable future development in the City, will result in potentially significant adverse impacts on police, fire, schools and parks and recreation services in the City.

2. **Mitigation:** The mitigation measures for these cumulative impacts are the same as described above for project-related impacts on police, fire, schools and parks and recreation services in the City.

3. **Findings:** The above feasible mitigation measures, which are incorporated into the Project or will be implemented by the City, will avoid or substantially lessen the significant environmental impact described above to a less than significant level

E. INFRASTRUCTURE AND UTILITIES - RUNOFF AND POLLUTANT LOADING

1. **Impact:** Development of the Project Site with urban uses will contribute to cumulative regional increases in runoff volumes and decreases in water quality.

2. **Mitigation:** Project developers shall be required to file a Notice of Intent, prepare a Storm Water Pollution Prevention Plan, and implement and monitor construction and post-construction period Best Management Practices(BMP's). The City shall review all BMP's to ensure that they address the following four objectives:

1. Site Planning. The project should minimize long-term water quality impacts associated with project development by incorporating site planning concepts that reduce the volume and rate of runoff (i.e., increase infiltration) and reduce pollutant loading of runoff. To ensure their effectiveness, such concepts should be designed into the project from the earliest planning phases.

2. Erosion. The project should minimize erosion and control sediment during and after construction. This should be done by developing and implementing an erosion control plan, or equivalent plan. This plan, which should be included in the SWPPP, should specify all control measures that will be used or which are anticipated to be used.

3. Chemical and Waste Management. The project should minimize impacts from chemicals and wastes used or generated during construction. This should be done by developing and implementing a plan or set of control measures. The plan or control measures, which should be included in the SWPPP, should specify all control measures that will be used or which are anticipated to be used.

4. Post-Construction. The project should minimize impacts from other pollutants, which may be generated by the project post-construction. These pollutants may include: sediment, bacteria, metals, solvents, oil, grease, and pesticides, all of which are typically generated during the life of a residential, commercial, or industrial project after construction has ceased. This should be done by developing and implementing a plan or set of control measures. The plan or control measures, which should be included in the SWPPP, should specify all control measures that will be used or which are anticipated to be used.

3. **Findings:** There is no certainty that this mitigation measure will reduce the cumulative impact to a less than significant level. There are no additional feasible mitigation measures that the City could adopt at this time to reduce this impact to a less than significant level. This is, therefore, a significant and unavoidable cumulative impact.

4. **Statement of Overriding Considerations:** The Project will contribute significantly to the housing stock of the City by increasing the area of land zoned for residential development in order to increase the opportunities for the City to correct its job/resident workers imbalance. In doing so, the Project is consistent with the General Plan Housing Element, Land Use Element, Circulation Element and Parks and Recreation Facilities Elements' goals and policies. Such goals and policies include encouraging variety and mix in housing types and costs, locating housing in close proximity to new industrial developments, encouraging sufficient open space and recreational opportunity within neighborhoods, encouraging high-quality site and architectural design, providing adequate school facilities for the Project and the community, creating a street network with pedestrian and bicycle circulation facilities to connect the mix of land uses within the Project, and creating a range of additional park and recreation facilities to serve the Project and the City.

X. FINDINGS CONCERNING ALTERNATIVES

A. NO DEVELOPMENT ALTERNATIVE

1. **Description of Alternative:** Under the "No Development" Alternative, the Project site would remain in its current agricultural use.

2. **Comparison to Project:** This Alternative would avoid all of the identified impacts anticipated to occur as a result of the project. There would be no land use conflicts from placing residential uses and other potentially sensitive receptors adjacent to known odor sources; no increased traffic; no incremental increase in air pollution and no increased demand for library services.

3. **Findings:** This Alternative is the environmentally superior alternative. This Alternative is rejected for the following reasons:

(a) The No Development Alternative would fail to implement the City's General Plan designation of the site for urban development. The site is already zoned for commercial development, so that rejection of the proposed Project will not result in the site remaining undeveloped over the long term, unless the site is rezoned as agricultural. This is especially true because substantial improvements in anticipation of development have already been completed, including the installation of sewer and storm drain lines, a storm drainage pump station and bridges over Coyote Creek to accommodate the north extension of McCarthy Boulevard to connect to Dixon Landing Road. This Alternative would also fail to fulfill the City's goal of correcting the jobs/housing imbalance.

(b) The No Development Alternative would fail to satisfy the following objectives for the Project, as set forth in the FEIR:

(i) provide a flexible mix of land uses which can be developed privately into a successful, profitable, well-planned community which reduces automobile trips by locating interdependent land uses in proximity to each other;

(ii) speed the transition from current agricultural use so that the site is developed as an integrated community by permitting flexible responses to changes in market conditions;

(iii) strengthen the City's tax base and employment base;

(iv) assist in meeting the housing needs and supply requirements of the City's Housing Element; and

(v) develop uses which complement and expand upon the existing McCarthy Ranch Marketplace commercial uses and which provide a critical minimum residential population needed to create a viable neighborhood and to support neighborhood park, school and shopping facilities.

(c) As more fully described below in the Statement of Overriding Considerations, many of the benefits derived from the Project would not be obtained if this Alternative were adopted.

(d) Based upon the foregoing, the City finds that the No Development Alternative is not feasible.

B. NO PROJECT ALTERNATIVE

1. **Description of the Alternative:** Under the "No Project" Alternative, the Project site would remain under the current Milpitas Business Park Phase III approved zoning for a combination of manufacturing, light industrial, research and development and commercial uses. This is the likely future of the Project site if the proposed Project were not to be approved. This Alternative is the environmentally superior alternative among the alternatives other than the "No Development" Alternative.

2. **Comparison to the Project:** As this Alternative does not include residential uses, problems of land use compatibility with adjacent odor sources are likely to be diminished. This Alternative would result in greater AM peak hour traffic impacts and PM peak hour traffic impacts than for Project Alternative 4, but lower than Project Alternatives 1B, 2 and 3. This Alternative would worsen the jobs/housing imbalance in the City, but due to the absence of a residential component it would have substantially less impact on community services and facilities, including libraries. Local and regional air quality impacts are directly related to total daily trip generation rates so that such impacts for this Alternative would fall approximately half way between those of Project Alternatives 3 and 4. Air quality impacts of the No Project Alternative would be approximately 60% of those associated with Project Alternative 1B, which has the greatest impact of the Project Alternatives.

3. **Findings:** This Alternative is rejected for the following reasons:

(a) The No Project Alternative would fail to fulfill the City's goal of correcting the jobs/housing imbalance by zoning more land for residential use.

(b) This Alternative would also fail to fulfill the Project objectives described in the FEIR as set forth in paragraphs X.A.3.(b)(i), (iv) and (v) above.

(c) As more fully described below in the Statement of Overriding Considerations, a significant benefit to be derived from the Project would not be obtained if this Alternative were adopted.

(d) Based upon the foregoing, the City finds that the No-Project Alternative is not feasible.

C. ALTERNATE SITE

1. **Description of Alternative:** Under this Alternative, approximately 150 acres of vacant land currently designated in the General Plan for Industrial Park uses would be the site of the project. This site is surrounded by office and commercial uses.

2. **Comparison to the Project:** This Alternative would affect a smaller area (150 instead of 226 acres), and therefore would generally be expected to result in impacts which are similar in character to those of the project, but of somewhat less intensity than the project's. Potential impacts which would be less under this Alternative than the Project would include traffic and air quality due to the closer proximity of this site to the planned Tasman Corridor light rail line, and biological resources as this site is not as close to the Coyote Creek riparian corridor.

3. **Findings:** This Alternative is rejected for the following reasons:

(a) The alternative site was included in a report prepared by the City in 1993 that identified suitable sites throughout the City that could be redesignated for residential uses. From this report, six sites, including McCarthy Ranch, were selected as being most suitable for consideration of redesignation to residential uses. The City determined that the alternate site should not at that time be studied for residential development. Nevertheless, the City's Housing Element adopted in 1994 states that additional sites could be considered for residential, including the Alternate Site (Housing Element, page 87). The property owner and owners of adjacent properties have publicly indicated that they are opposed to the conversion of the alternate site from Industrial Park to Mixed Use because of incompatibility between existing uses and residential use. Since that time, significant additional commercial and office development has occurred, making the site even less suitable for residential use. Thus, while the alternate site is in fact a possible residential site, the City considers it less suitable for residential use than McCarthy Ranch.

(b) Development of the Project on the alternative site would fail to satisfy the Project objectives described in the FEIR as set forth in paragraphs X.A.3.(b)(i), ~~(ii) and (v) above.~~

(c) As more fully described below in the Statement of Overriding Considerations, a significant benefit to be derived from the Project would not be obtained if this Alternative were adopted.

(d) Based upon the foregoing, the City finds that the Alternate Site Alternative is not feasible.

D. **REDUCED RESIDENTIAL SCALE ALTERNATIVE**

1. **Description of Alternative:** The FEIR analyzed as part of the Project, Alternative 1A, which provides for the development of 625 single-family residential dwelling units and approximately 1,573,000 square feet of R&D retail/highway service commercial uses.

2. **Comparison to the Project:** This Alternative would include a smaller number of dwelling units than the other alternatives which are included within the Project and therefore would generally be expected to result in fewer impacts from adjacency to odor sources and demand for schools and library service. This alternative would be likely to have greater impacts upon traffic and air quality due to the greater number of peak hour trips generated by the non-residential development permitted.

3. **Findings:** This Alternative is rejected for the following reasons:

(a) Alternative 1A would fail adequately to fulfill the City's goal of correcting the jobs/residential workers imbalance by zoning more land for residential use.

(b) This Alternative would also fail to provide for a sufficient number of residential units in the Project area to create a viable and stable residential neighborhood.

(c) As more fully described below in the statement of overriding considerations, a significant benefit to be derived from the Project would not be obtained if this Alternative were adopted.

(d) Based upon the foregoing, the City finds that Project Alternative 1A is not feasible.

XI. STATEMENT OF OVERRIDING CONSIDERATIONS

After extensive review of the entire administrative record, including the FEIR, the staff report, and the oral and written testimony and evidence presented at public hearings, The City Council finds that specific economic, legal, social, technological and other considerations, including a consideration

for the provision of employment opportunities for highly trained workers, justify the approval of this Project in spite of the existence of unavoidable environmental effects that are deemed significant and that cannot be completely mitigated to a level of insignificance.

The City Council of the City of Milpitas adopts and makes the following Statement of Overriding Considerations regarding the significant, unavoidable impacts of the Project and the anticipated benefits of the Project.

A. SIGNIFICANT UNAVOIDABLE IMPACTS

With respect to the foregoing findings and in recognition of those facts which are included in the record, the City has determined that the Project would cause significant unavoidable impacts to land use, traffic, air quality and library service, and would contribute to significant cumulative impacts to traffic, air quality and library service. The finding regarding significant unavoidable adverse impacts to land use and air quality-odors is hereby made if and to the extent that as a matter of law, exposing residents and other occupants of the Project to the odors from the Newby Island Landfill Composting Facility and to the San Jose/Santa Clara Water Pollution Control Plant and the potential hazard of exposure to toxic gasses used and stored at the Water Pollution Control Plant constitute an adverse environmental impact. These impacts cannot be mitigated to a less than significant level by feasible changes or alterations to the project.

B. BENEFITS OF THE PROJECT

The City Council has considered the FEIR, the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:

1. The proposed Project will result in the production of at least 850 new housing units and could result in a total of 1,799 units. Five percent of the housing units will be affordable to low income households. This would implement many of the goals, policies and actions of the City's General Plan Housing Element as listed in the FEIR. These include using zoning for new residential development to encourage variety and mix in housing types and costs; using zoning to consider the location of housing in close proximity to new industrial developments; encouraging General Plan amendments for residential uses, where environmentally acceptable, to help reduce the jobs/resident workers imbalance; encouraging sufficient open space and recreational opportunity within neighborhoods to

provide for the needs of residents; and encouraging high quality site and architectural design for new residential projects.

2. The proposed Project will support the General Plan Land Use Element's goals of providing for a variety of housing types and densities that meet the needs of individuals and families and encouraging economic pursuits which will strengthen and promote development through stability and balance. The substantial landscaping required under the project's Design Guidelines as well as the architectural controls included therein will implement the goal of fostering community pride and growth through beautification of existing and future development. The goal of providing adequate school facilities would be fulfilled by the required donation of a school site and the goal of providing all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas as well as any special needs of the region will be fulfilled through the designation of lands for a school and parks and the requirement of a special monetary contribution towards the funding of a community meeting facility.

3. The Project would foster the Circulation Element's goals of developing a street network integrated with the pattern of living, working and shopping areas which provide for safe, convenient and efficient movement within the City and to other parts of the region. The Project will include a system of sidewalks and bike lanes and pedestrian and bicycle access to the future Bay Trail, all of which connect the mix of land uses within the Project including residential, shopping, employment and a school, all within walking distance or short driving distance. In order to encourage efficient movement within the region, the Project will be required to make an annual contribution towards the cost of operating a shuttle service between the Project and the future light rail system. The Project will contribute to or construct a variety of regional traffic infrastructure improvements including the development of McCarthy Boulevard from Route 237 to Dixon Landing Road as a major regional collector street, as well as to the improvement of a number of off-site street intersections.

4. In addition to meeting the Parks and Recreation Facilities Element's goals of requiring land dedication or in lieu fees to meet City standards, the Project fosters the goals of providing a park and recreation system designed to serve the needs of all residents of the community and developing the Coyote Creek area in a linear park chain connecting with the Coyote Creek Park chain in San Jose and being part of the San Francisco Bay Trail. The Project park and recreation facility Master Plan includes a wide variety of park and recreation facilities including neighborhood parks, large play fields, a par course and a levee top trail system with provision for pedestrian and bicycle crossings over Coyote Creek to connect to the Bay Trail.

C. OVERRIDING CONSIDERATIONS

The City Council finds that each of the overriding considerations set forth above constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the project.

ADOPTED and issued this 6th day of May, 1997, by the following vote:

AYES: (5) Mayor Manayan, Vice Mayor Livengood, and Councilmembers Dixon, Lee, and Lawson

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

Henry C. Manayan, Mayor

ATTEST:

Gail Blalock, City Clerk

APPROVED AS TO FORM:

Linda A. Callon, Interim City Attorney

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
3.A LAND USE					
Mitigation Measure for IM 3.A-2: Conflicts Between Project Area Land Uses MM 3.A-1 Implement proposed design guidelines relating to the treatment of residential perimeter conditions within the project area.	*Responsibility:* Applicant. *Timing:* Include as part of Development Plan submittal.	*Responsibility:* Planning Division. *Type:* Development Plan review. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
3.A TRAFFIC AND CIRCULATION					
Mitigation Measure (Applicable to IM 3.C-1): Dixon Landing Road/North Milpitas Boulevard- Alternative 1B or 4[1] MM 3.C-1 Enter into a Development Agreement requiring the applicant to pay 50% of the cost of providing an additional northbound left-turn lane from North Milpitas Boulevard to westbound Dixon Landing Road.	*Responsibility:* Applicant. *Timing:* As set forth in Development Agreement.	*Responsibility:* Planning Division and Land Development Section. *Type:* Development Agreement. Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

[1] Alternative 1B and Alternative 4 represent the land uses that would generate the highest and the lowest trip generation. They were analyzed in the EIR to estimate the worst and best case scenario. In addition, a baseline 2010 scenario was analyzed to determine how each project alternative impacted the baseline traffic conditions.

CALENDAR PAGE 172
MINUTE PAGE 002364

EXHIBIT "E"

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measures (for all Alternatives) for: • *IM 3.C-2: Montague Expressway/McCarthy Boulevard* • *IM 3.C-3: Montague Expressway/ Main Street* • *IM 3.C-4: Montague Expressway/Great Mall Parkway* • *IM 3.C-5: Montague Expressway/McCandless Drive* • *IM 3.C-6 Montague Expressway/Zanker Road* **MM 3.C-2, 3, 4, 5 & 6** Enter into a Development Agreement requiring the applicant to pay an equitable share of the cost of adding an additional through lane in each direction for the westbound and eastbound directions of travel for all project impacted intersections along Montague Expressway by participating in the Milpitas ~~Business Park~~ Traffic Impact Fee Plan.	*Responsibility:* Applicant. *Timing:* As set forth in Development Agreement.	*Responsibility:* Planning Division and Land Development Section. *Type:* Development Agreement. Conditions of approval. *Sanctions for Non-Compliance:* Building or occupancy permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 173
MINUTE PAGE 002365

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measure Applicable to IM 3.C-7: Tasman Drive/McCarthy Boulevard- Alternative 4 MM 3.C-7 Enter into a Development Agreement requiring the applicant, by participating in the Milpitas Business Park Traffic Impact Fee Plan, to pay an equitable share of the cost of adding either a second left-turn lane from eastbound Tasman Drive onto northbound McCarthy Boulevard or (if this is infeasible due to engineering constraints or right-of-way requirements) a second left turn lane from eastbound Tasman Drive onto northbound Alder Drive.	*Responsibility:* Applicant. *Timing:* As set forth in Development Agreement.	*Responsibility:* Planning Division and Land Development Section. *Type:* Development Agreement. Conditions of approval. *Sanctions for Non-Compliance*: Building or occupancy permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
Mitigation Measure Applicable to IM 3.C-8: Bellew Drive/McCarthy Boulevard- Alternative 4 MM 3.C-8 Enter into a Development Agreement requiring the applicant add a northbound through lane to McCarthy Boulevard.	*Responsibility:* Applicant *Timing:* As set forth in Development Agreement.	*Responsibility:* Planning Division and Land Development Section. *Type:* Development Agreement. Conditions of approval. *Sanctions for Non-Compliance:* Building or occupancy permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 174
MINUTE PAGE 00236

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
3.D COMMUNITY SERVICES					
Mitigation Measures for IM 3.D-1: Increased Demand on Police Services MM 3.D-2 Coordinate with the Milpitas Police Department regarding the timing of proposed development, so the Department can adequately plan for the necessary expansion of services to the area.	*Responsibility:* Applicant. *Timing:* Prior to approval of Development Plans.	*Responsibility:* Planning Division and Police Department. *Type:* Development Plan review. *Sanctions for Non-Compliance:* Development Plan proposals will not be agendized.	_____ initials _____ date	_____ initials _____ date	
MM 3.D-3 Individual development plans within the project area shall be reviewed by the Police Department and shall incorporate Department recommendations regarding design aspects of development that affect traffic safety and crime prevention.	*Responsibility:* Applicant. *Timing:* Prior to approval of Development Plans.	*Responsibility:* Planning Division and Police Department. *Type:* Development Plan review. *Sanctions for Non-Compliance:* Development Plan proposals will not be agendized.	_____ initials _____ date	_____ initials _____ date	
MM 3.D-4 The Project applicant shall make a contribution toward the provision of a Police Substation that would be incorporated into the elementary school proposed within the Project area.	*Responsibility:* Applicant. *Timing:* Prior to approval of Development Plans.	*Responsibility:* Planning Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 175
MINUTE PAGE 002367

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measure for IM 3.D-2: Interim Emergency Access Constraints for Police Services MM 3.D-5 Extend McCarthy Boulevard to Dixon Landing Road as an emergency roadway prior to occupancy of residential structures. The roadway must be designed to meet the approval of the City's Fire Chief.	*Responsibility:* Applicant *Timing:* Road extension is under construction; completion required prior to the issuance of any residential building permits.	*Responsibility:* Planning Division and Police Department *Type:* Development Plan review. *Sanctions for Non-Compliance:* Development Plan proposals will not be agendized.	_____ initials _____ date	_____ initials _____ date	
Mitigation Measure for IM 3.D-3: Increased Demand for Fire Protection Services MM 3.D-6 Require compliance with all building and fire codes relating to the provision of built-in fire protection for all buildings within the project area.	*Responsibility:* Applicant. *Timing:* Building permit plan check.	*Responsibility:* Fire Department and Building Division. *Type:* Code compliance. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
Mitigation Measure for IM 3.D-4: Interim Emergency Access Constraints for Fire Protection and Emergency Medical Services MM 3.D-7 Same as MM 3.D-5.	See MM 3.D-5	See MM 3.D-5	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 176
UNITE PAGE 002368

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measures for IM 3.D-7 (All Alternatives.): Increased Demand for School Facilities MM 3.D-8 Offer for dedication the 12-acre school site and Central Commons designated in the General Plan Amendment Land Use Map to accommodate future development of an elementary school in McCarthy Ranch.	*Responsibility:* Applicant. *Timing:* Implementation of Development Agreement.	*Responsibility:* Public Works Department, Planning Division and MUSD. *Type:* Review Development Plan submittal. Conditions of approval. *Sanctions for Non-Compliance:* Development Plan will not be accepted; building permits for residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	
MM 3.D-9 The project applicant shall pay school impact fees of $2.94/square foot in accordance with the recently adopted School District Resolution No. 96.76.	*Responsibility:* Applicant. *Timing:* Prior to building occupancy.	*Responsibility:* Building Division and MUSD. *Type:* Conditions of Approval. *Sanctions for Non-Compliance:* Occupancy permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 177
MINUTE PAGE 002369

McCarthy-Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
MM 3.D-10 Provide contribution towards interim portable classrooms until elementary school is constructed in the Project area.	*Responsibility:* Applicant. *Timing:* Implementation of School Impact Agreement.	*Responsibility:* Planning Division and MUSD. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
MM 3.D-11 Development in the project area shall be coordinated with the Milpitas Unified School District (MUSD) to ensure that adequate school facilities are available when project-generated students begin enrolling in the District.	*Responsibility:* Applicant. *Timing:* Prior to approval of Development Plans.	*Responsibility:* Planning Division and MUSD. *Type:* Development Plan approval. *Sanctions for Non-Compliance:* Development Plans will not be approved.	_____ initials _____ date	_____ initials _____ date	
Mitigation Measure for IM 3.D-8 (Alternatives. 3, 4): Increased Demand for Community Parklands and Open Space **MM 3.D-12** Provide the additional parkland acreage and fees necessary to meet the parkland dedication requirements set forth in the City's Subdivision Ordinance and Development Agreement.	*Responsibility:* Applicant. *Timing:* As required under the Development Agreement.	*Responsibility:* Planning Division. *Type:* Review of Development Plan; Conditions of approval. *Sanctions for Non-Compliance:* Development Plan not accepted; building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

MINUTE PAGE 002370
CALENDAR PAGE 178

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
3.E INFRASTRUCTURE AND UTILITIES					
Mitigation Measure for IM 3.E-4: Change in Stormwater Quality MM 3.E-1 Project developers shall be required to file a Notice of Intent, prepare a Storm Water Pollution Prevention Plan, and implement and monitor construction and post-construction period Best Management Practices (BMPs). The City shall review all BMPs to ensure that they address the four objectives stated on page 54 of the Volume III (Responses to comments) of the Final EIR.	*Responsibility:* Applicant. *Timing:* Obtain National Pollutant Discharge Elimination System permit prior to construction.	*Responsibility:* Building Division Land Development Section. *Type:* Conditions of Approval. *Sanctions for Non-Compliance*: Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
Mitigation Measure for IM 3.E-4a: Cumulative Increases in Runoff and Pollutant Loading See MM 3.E-1.	See MM 3.E-1.	See MM 3.E-1.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 179
MINUTE PAGE 002371

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measure for IM 3.E-5: Potential for Flooding MM 3.E-2 Obtain a Letter of Map Revision from FEMA, verifying that the project area has been removed from the designated Flood Hazard Zones.	*Responsibility:* Applicant. *Timing*: Include as part of Development Plan submittal.	*Responsibility:* Land Development Section and Building Division. *Type:* Review of Development Plan submittal. *Sanctions for Non-Compliance*: Building permits for residential units not issued.	_____ initials _____ date	_____ initials _____ date	
3.F AIR QUALITY					
Mitigation Measures for IM 3.F-1: Construction Emissions MM 3.F-1 Minimum dust control standards as specified in Section 3.F of the EIR shall be established for all construction occurring within the Project Area. Contractors should be required to appoint a dust control monitor to oversee implementation of these measures.	*Responsibility:* Applicant. *Timing:* Prior to the issuance of a building permit.	*Responsibility:* Land Development Section. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
MM 3.F-2 Exposed areas should be seeded, treated with soil binders, or paved as soon as possible when construction begins.	*Responsibility:* Applicant. *Timing:* Prior to the issuance of a building permit.	*Responsibility:* Land Development Section. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 180
MINUTE PAGE 00 23772

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measures for IM 3.F-3: Impacts on Regional Air Quality MM 3.F-3 The Project includes physical improvements, such as sidewalk improvements, connections to the Bay Trail, restricted on-street parking, landscaping and the installation of bus shelters and covered and secure bicycle parking that would act as incentives for pedestrian and transit modes of travel.	*Responsibility:* Applicant. *Timing:* Include as part of the Development Plan submittals.	*Responsibility:* Land Development Section and Planning Division. *Type:* Review of Development Plan submittals. Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
MM 3.F-5 Measures to reduce residential emissions should be incorporated into the project as described in Section 3.F, pages 3.F-11 &13.F-12.	*Responsibility:* Applicant *Timing:* Prior to issuance of residential building permits.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 181
MINUTE PAGE 002373

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measures for IM 3.F-5: WPCP Sludge Drying Beds MM 3.F-6 Introduce tree plantings along the east side of the Coyote Creek levee in order to reduce the direct flow of sludge drying bed odors to the project site. At a minimum, tree plantings should be strategically placed opposite openings in the existing creekside vegetation. Eucalyptus species are recommended, however, other broad leaf evergreen tree species are also acceptable.	*Responsibility:* Applicant. *Timing:* Include in the Development Plan submittal.	*Responsibility:* Planning Division. *Type:* Development Plan review. Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	
MM 3-F-7 Require all residential deeds to include a disclosure statement regarding the proximity of the sludge drying beds and the potential for occasional occurrences of undesirable odors.	*Responsibility:* Applicant. *Timing:* Approval of Development Plans.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued. Residential subdivision map will not be recorded.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 182
MINUTE PAGE 002374

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
3.G NOISE					
Mitigation Measures for IM 3.G-1: Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 1A MM 3.G-1 Assuming single-family residences would be located at least 75 feet west of the McCarthy Boulevard centerline, an eight-foot sound wall should be constructed so backyards would meet the City's exterior goal of DNL 60 dBs. With the wall, sound-rated windows would be necessary only for second floor rooms.	*Responsibility:* Applicant. *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	
MM 3.G-2 Motel rooms having a line-of-sight to the roadways should be fitted with approximately STC 35 windows to meet the City's interior goal of DNL 45 dB. Since the windows would need to remain closed to meet the interior noise goal, an alternate method for ventilating the units would need to be provided.	*Responsibility:* Applicant. *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for motels will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 183
MINUTE PAGE 002375

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measures for IM 3.G-1: Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 1B MM 3.G-3 A six-foot sound wall should be constructed to meet the City's exterior goal of 65 dB for multi-family housing, if the condominiums/townhouses can not be used to acoustically shield McCarthy Boulevard traffic noise to the outdoor common areas.	*Responsibility:* Applicant. *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for the residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	
MM 3.G-4 The condominium/townhouse windows facing McCarthy Boulevard should be sound-rated to meet the City's interior goal of 45 dB. The window STC ratings would range from 27 to 30. Since the windows would need to remain closed to meet the interior noise goal, an alternate method for ventilating the units would need to be provided.	*Responsibility:* Applicant *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division and Building Division *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for the residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 184
MINUTE PAGE 002376

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measure for IM 3.G-1: Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 2 MM 3.G-5 Single family residences located within 200 to 350 feet of the I-880 median centerline would require a sound wall height in excess of 12 feet to achieve the City's exterior goal of DNL 60 dB. Other structures located between I-880 and the single-family homes located within 350 feet of I-880 could provide some acoustical shielding and thus reduce the sound wall height requirement.	*Responsibility:* Applicant. *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for the residential units would not be issued.	_____ initials _____ date	_____ initials _____ date	
Mitigation Measures for IM 3.G-1: Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 3 MM 3.G-6 Mitigation for these condominiums/townhouses would be the same as described in Alternative 1B, except that sound wall heights to acoustically shield the common outdoor use areas could be as high as 10-12 feet, and window STC ratings would need to be approximately STC 35 for units nearest I-880 to meet the City's interior noise goal.	*Responsibility:* Applicant. *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 185
MINUTE PAGE 002377

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measures for IM 3.G-1: Compatibility of Proposed Residential Land Uses with Future Noise Levels - Alternative 4 MM 3.G-7 Mitigation for residential land uses located at least 200 feet from the centerline of I-880 should be provided as described in Alternative 3. Non-residential land uses should be considered for areas located within 200 feet of the median centerline of I-880.	*Responsibility:* Applicant. *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division and Building Division. *Type:* Conditions of approval. *Sanctions for Non-Compliance*: Building permits for residential units will not be issued.	_____ initials _____ date	_____ initials _____ date	
Mitigation Measure for IM 3.G-3: Noise From Sewage Pump Station and Storm Water Pump Stations - Alternatives. 2, 3 ,4 MM 3.G-8 Provide adequate noise attenuation for any proposed residential development within 350 feet of the storm water pump station. A follow-up acoustical analysis will be required to identify the potential noise level from the pump station based on the actual location of future homes, and to identify appropriate measures to reduce noise to acceptable levels.	*Responsibility:* Applicant. *Timing:* Include with Development Plan submittal.	*Responsibility:* Planning Division, Building Division and Public Works Department. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits for residential development will not be issued.	_____ initials _____ date	_____ initials _____ date	

MINUTE PAGE 0023378
CALENDAR PAGE 186

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
3.I BIOLOGICAL RESOURCES					
Mitigation Measure for IM 3.I-4: Potential Loss of Burrowing Owl Habitat MM 3.I-1 Conduct pre-construction surveys for Burrowing Owls. Construction activities should be preceded by pre-construction surveys prior to the breeding season (February 1) by a qualified ornithologist. If no owls are located during these surveys, then no additional action is warranted. However, if owls are located on the site, the lead agency and CDFG will be notified, and the project proponent will work with CDFG to implement the avoidance and/or mitigation measures stated on page 74 in Volume III (Responses to Comments) of the Final EIR as appropriate.	*Responsibility:* Applicant. *Timing:* Prior to issuance of grading permits.	*Responsibility:* Planning Division and California Department of Fish and Game. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Grading permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 187
MINUTE PAGE 002379

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measures for IM 3.I-5: Potential Impacts on Coyote Creek MM 3.I-2 Planting a 10-foot wide strip east of the outboard side of the flood control levee would provide sufficient additional buffer between the proposed project and the riparian habitats of Coyote Creek. The area between the outer edge of the buffer and the toe of the levee should be planted with native shrubs and trees. To the extent possible, project design should orient homes to front the buffer rather than having backyards facing the levee, since deposition of trash and introduction of pets occurs less frequently under such a design.	*Responsibility:* Applicant. *Timing:* Include as part of Development Plan submittal.	*Responsibility:* Planning Division. *Type:* Development Plan Review. *Sanctions for Non-Compliance:* Development Plan proposals will not be reviewed or agendized.	_____ initials _____ date	_____ initials _____ date	
MM 3.I-3 Street lights adjacent to the creek corridor should be equipped with shrouds which direct light away from the riparian corridor.	*Responsibility:* Applicant. *Timing:* Include as part of Development Plan submittal.	*Responsibility:* Planning Division. *Type:* Development Plan review. *Sanctions for Non-Compliance:* Development Plan proposals will not be reviewed.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 188
MINUTE PAGE 002380

McCarthy Ranch
MITIGATION MONITORING PROGRAM

MITIGATION MEASURES	IMPLEMENTATION RESPONSIBILITY & TIMING	MONITORING RESPONSIBILITY & TYPE	SHOWN ON PLANS	VERIFIED IMPLEMENTATION	REMARKS
Mitigation Measure for IM 3.I-6: Degradation of Water Quality for Coyote and Penitencia Creek MM 3.I-4 Project developers shall be required to file a Notice of Intent, prepare a Storm Water Pollution Prevention Plan, and implement and monitor construction and post-construction period Best Management Practices (BMPs). The City shall review all BMPs to ensure that they address the four objectives noted on page 54 in Volume III (Responses to Comments) of the Final EIR.	*Responsibility:* Applicant. *Timing:* Obtain National Pollutant Discharge Elimination System permit prior to construction.	*Responsibility:* Building Division and Land Development Section. *Type:* Conditions of approval. *Sanctions for Non-Compliance:* Building permits will not be issued.	_____ initials _____ date	_____ initials _____ date	

CALENDAR PAGE 189
MINUTE PAGE 002381