CEQA Findings and Statement of Overriding Considerations
for the Approval of the
Intermodal Transit Center Project
at Bayfront Boulevard, Hercules, California

I. Introduction

These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code Section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. Title 14, section 15000 et seq.) by the City of Hercules City Council in connection with the Final Environmental Impact Report prepared for the Intermodal Transit Center Project at Bayfront Boulevard, Hercules, California, 94547 ("the Project"), EIR State Clearing House # 2009112087. These findings are based on substantial evidence in the entire administrative record, and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

II. Project Location

The Project, which is the Intermodal Transit Center (ITC), is located within the City of Hercules on the western side of Contra Costa County, one of nine counties comprising the San Francisco Bay Area. The City of Hercules is located along San Pablo Bay, approximately 22 miles northeast of San Francisco. The City of Hercules is a planned community within an urbanized area served by major transportation and utility systems. The City of Hercules is in the path of growth in the Bay area – accessible by freeway to employment areas in West Contra Costa County, northern Alameda County, and the Benicia area. There is a Bay Area Rapid Transit (BART) station in the City of Richmond, nine miles south of Hercules, which provides West Contra Costa County with mass transit service to destinations along the industrial corridor between the Cities of Richmond and Fremont and to the City of San Francisco.

Locally, Hercules is situated along the Interstate 80 Freeway (I-80) corridor, which traverses the City in a northeast to southwest orientation. The Project is located along the Union Pacific Railroad (UPRR) in the Hercules' Waterfront area. Based on the California Environmental Quality Act Guidelines (CEQA), Article 14: "Projects Also Subject to the National Environmental Policy Act (NEPA)," Section 15220 et. seq., "NEPA applies to projects which are carried out, financed, or approved in whole or in part by federal agencies. Accordingly, this article applies to projects which involve one or more state or local agencies and one or more federal agencies." Because the Project is in large part funded by federal agencies, the City—in cooperation with the Federal Transit Administration—has prepared a joint Environmental Impact Report/Environmental Impact Statement for the construction of the proposed Intermodal Transit Center project, which includes a new passenger train station on the Capitol Corridor line, a bus terminal, and parking facilities.

III. Project Description

For the purposes of this Project, the proposed Hercules Intermodal Transit Center (ITC) is described as a passenger train station on the existing Capital Corridor line, a bus terminal, parking facilities, and related improvements, including vehicular access roads, drainage, improvements, open space, and a multi-use pedestrian trail.

The EIR/EIS evaluated two action alternatives and two options for realignment of the Union Pacific Railroad (UPRR) track design. The two alternatives differ in the location of the transit center and station building. Alternative 1 locates the transit center west of Refugio Creek and Alternative 2 locates the transit center east of Refugio Creek. The two Track Options (A and B) differ in the method to relocate the existing UPRR tracks. Track Option A would utilize shoofly (temporary) tracks to allow active rail traffic to bypass work areas during construction of the Hercules ITC. Track Option B would eliminate the need for shoofly tracks and add a third dedicated station track through the Hercules ITC site, which would reduce freight and passenger train conflicts and allow freight trains to bypass the site while passenger trains are at the station.

The City is approving Alternative 1 and Track Option B (the "Project"). Construction of the Hercules ITC west of Refugio Creek will satisfy engineering and design requirements; be consistent with the Waterfront District Master Plan; and provide a safe and secure location for emergency vehicle access to the future ferry terminal while minimizing potential effects to natural resources. Track Option B eliminates the need for the temporary shoofly tracks during construction, which would simplify construction staging and further mitigate associated environmental impacts; shorten the construction duration and reduce the number of piles needed and the duration of pile driving, thereby further reducing noise and vibration impacts and other impacts associated with construction; reduce construction costs; reduce freight/passenger train conflicts, thereby further mitigate safety impacts; and improve on-time train service. The Project has been identified as the 'preferred project' since it would provide the best location for multi-modal transit to meet the goals and objectives of the Project, while minimizing overall impacts to the environment.

A. Project Components

Specific improvements and activities are paraphrased, summarized, and listed as follows:

1. **Railroad Modification/Platform** – realignment of a portion of the existing Union Pacific Railroad track, including construction of a grade-separated passenger platform, retaining walls, and a replacement bridge over Refugio Creek.

2. **Station Building** – construction of a new passenger/commuter train station with grade-separated pedestrian access.

3. **Parking and Vehicular Circulation** – including the extension of John Muir Parkway and the construction of Bayfront Boulevard over Refugio Creek, Transit Loop Drive, and an interim surface parking lot.

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4. **Refugio Creek Improvements** – realignment and restoration of over 1,000 linear feet of Refugio Creek from San Pablo Bay to the existing restored upper segment and including the North Channel.

5. **Bay Trail** – construction of segments of the East Bay Regional Park District's recreational Bay Trail along the shoreline from Pinole to Victoria-by-the-Bay.

6. **Pedestrian Circulation** – construction of a pedestrian walkway/overpass over the railroad track providing access to the future Hercules Point Park and open space area.

7. **Utility Relocation and Drainage Improvements** – relocation of existing utility and fuel pipelines (generally within and following the railroad right-of-way and storm drainage outfall to Refugio Creek).

8. **Transit Bus Terminal** – an open air location for the arriving and departing buses accessible to commuters/riders.

B. Project Exclusions

A number of components related to the ITC are not included in the project and thus would be subject to separate environmental review:

1. **Ferry Service**. The Final EIR does not address environmental impacts related to ferry service contemplated as an potential future integral element of the ITC. The lead agency for the ferry function is the Water Emergency Transit Agency (WETA). Currently, WETA is considering the construction of a ferry terminal for with service to San Francisco, depending upon dredging requirements, financial feasibility, and ridership demand. The Hercules ferry terminal project would include driving support piles, constructing the ferry dock structure, and building the access ramp that ties into the Hercules ITC station building. Depending on the type of ferry boat used (i.e., conventional hull/propulsion vs. hovercraft), the ferry terminal may also require dredging a portion of San Pablo Bay, The Hercules ferry terminal would utilize the transit and support facilities that would be developed as part of the Hercules ITC station. Impacts associated with the construction of the ferry terminal would be addressed in a separate or subsequent environmental review.

2. **Hercules Bayfront Development (HB)** – With the exception of the railroad right-of-way, all of the property comprising the proposed ITC project currently is owned by Hercules Bayfront LLC (HBL). The Waterfront District Master Plan area covers approximately 40 acres and includes the terminal/station site contemplated for the ITC and related improvements. The Hercules Bayfront development proposed by HBL under the WNI is cumulatively addressed in the Final EIR/EIS for the Hercules ITC, and specifically addressed in the *EIR for the Hercules Bayfront Project*.

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IV. Environmental Review/Public Participation of the Project

Pursuant to CEQA and the CEQA Guidelines, the City determined that an EIR would be required for the Project. The City of Hercules conducted an extensive review of this project, which included a Draft EIR/EIS and a Final EIR/EIS, along with a public review and comment period. The following is a summary of the City's environmental review of this project:

A. Pursuant to the provision of Section 15082 of the CEQA Guidelines, as amended, the City circulated a Notice of Preparation and Determination of Scope of EIR/EIS to the Office of Planning and Research, and each Responsible and Trustee Agency, Special Districts, Interested Parties, and property owners within at least 300 feet of the ITC project, and those members of the public who had requested such notice. This notice was also sent to every federal agency involved in approving or funding the project. Sufficient information describing the project was provided to Responsible and Trustee Agencies and to the Office of Planning and Research describing the project and the potential environmental effects to enable the Responsible Agencies to make a meaningful response. At a minimum, this information included:

   1. Description of the project;
   2. Location of the project; and
   3. Probable environmental effects of the project.

B. The Notice of Preparation (NOP) for the Draft EIR portion was sent to the State Clearinghouse, and the Notice of Intent (NOI) was published in the Federal Register for the Draft EIS portion on November 20, 2009. The NOP and NOI announced that the City in coordination with the Federal Transportation Administration (FTA) was preparing a Draft EIR/EIS for the construction of a proposed Intermodal Transit Center project. The announcement described the project background, alternatives considered, and the scoping process, including the location of the public scoping meetings and methods to submit comments on the issues to be addressed in the Draft EIR/EIS.

C. The City and FTA sent joint letters of invitation to public agencies to participate in the project environmental review process.

D. The City held an interagency meeting on November 18, 2009, at the United States Army Corps of Engineers (USACE) offices in San Francisco with state and federal agencies to provide an update on the progress of the project and obtain feedback on the Draft EIR/EIS scope. Meeting attendees included City staff and their consultant team, and several members of the USACE, United States Environmental Protection Agency, San Francisco Regional Water Quality Control Board, Federal Transit Administration, and United States Fish and Wildlife Service. The interagency meeting provided an informal introduction to project scoping and included a presentation followed by discussions focused on issues particularly relevant to the Draft EIR/EIS and possible alternatives. Attendees were informed that in order to

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submit formal scoping comments, they could make a comment at the scoping meeting or submit written comments by December 30, 2009.

E. The City conducted a formal scoping meeting to gather input and comments prior to the development of the Joint Draft EIR/EIS. The public scoping meeting was held on December 8, 2009 at 5:30 p.m. at the Hercules Library, located at 109 Civic Drive. Hercules, CA. Approximately 10 people attended the scoping meeting.

F. The City accepted written comments accepted at the scoping meeting and via mail, electronic fax, and e-mail during the formal comment period, which was extended from November 23, 2009, to December 30, 2009. The scope of the issues identified in the comments included potential impacts associated with traffic and circulation, air quality, water service, wastewater, and fire protection.

G. The Draft EIR/EIS was submitted to the State Clearinghouse (SCH #2009112087), noticed in the Federal Register (on September 17, 2010), and distributed to the public and agencies for a 60-day review period, which ended on November 15, 2010.

H. The City received comments from a combined total of 18 public agencies and members of the public. In accordance with Public Resources Code Section 21092.5, the City provided written responses to public agencies that commented on the Draft EIR/EIS. The comments and responses are contained in the Final EIR/EIS.

V. Independent Judgment and Finding

The City selected and retained HDR Engineering (HDR) to prepare the Hercules Intermodal Transit Center Draft and Final Environmental Impact Report/ Environmental Impact Statement (EIR/EIS). HDR prepared the Draft and Final EIR/EIS under the supervision and direction of the City of Hercules administrative staff. All findings set forth herein are based on substantial evidence in the record, as indicated, with respect to each specific finding.

A. **Independent Judgment**: The Draft and Final Joint EIR/EIS for the ITC project reflects the City's independent judgment. The City has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c)(3) in retaining its own environmental consultant. and directing the consultant in the preparation of the Joint Draft and Final EIR/EIS. The City has independently reviewed and analyzed the Draft and Final EIR/EIS and finds that the report reflects the independent judgment of the City.

B. **Finding**: The City of Hercules has considered all the evidence presented in its consideration of the ITC project and the Final EIR/EIS, including—**but not limited to—the Final** EIR/EIS, written and oral evidence presented at hearings on the project, and written evidence submitted to the City by individuals, organizations, regulatory agencies, and other entities. On the basis of such evidence. the City finds that with respect to each environmental impact identified in the review process, the impact (1) is less than significant and would or would not require mitigation; or (2)

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is potentially significant but would be avoided or reduced to less than a significant level by implementation of identified mitigation measures; or (3) would be significant and not fully mitigated but would be, to the extent feasible, lessened by implementation of identified mitigation measures.

The Final EIR/EIS also identifies certain significant adverse environmental effects of the proposed project which cannot be avoided or substantially lessened. Prior to approving the project, the City of Hercules adopts this Statement of Overriding Considerations which finds, based on specific reasons and substantial evidence in the record (as specified in Section XIV of this document), that certain identified economic, social, or other benefits of the proposed project outweigh such unavoidable adverse environmental effects.

VI. Administrative Record

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

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

The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based in the City Clerk's Office located at the City of Hercules, 111 Civic Drive, Hercules, California, 94547.

VII. Certification of the EIR

A. In accordance with CEQA, the City Council certifies that the EIR has been completed in compliance with CEQA. The City Council has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By these findings, the City Council confirms, ratifies, and adopts the findings and

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conclusions of the EIR. The EIR and these findings represent the independent judgment and analysis of the City and the City Council.

B. The City Council recognizes that the EIR may contain clerical errors. The City Council reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.

C. The City Council certifies that the EIR is adequate to support the approval of the location of the Intermodal Transit Center south of Refugio Creek, and Final Development Plans and Design Review, Vesting Tentative Map, Encroachment Permits, Grading Permits, and taking all other actions and recommendations necessary to implement the Project. The Planning Commission certifies that the EIR is adequate to support approval of the project described in the EIR, each component of the Project described in the EIR, any variant of the Project described in the EIR, any minor modifications to the Project or variants described in the EIR, and the components of the Project.

VIII. Absence of Significant New Information

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

B. The City Council finds that the changes and modifications made to the EIR after the Draft EIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

IX. Mitigation Measures, Conditions of Approval, and Mitigation Monitoring and Reporting Program

A. Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program ("MMRP") is attached and incorporated by reference into the July 13, 2011 staff report prepared

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for the approval of the Project, and is adopted by the City Council. The MMRP satisfies the requirements of CEQA.

B. The mitigation measures set forth in the MMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City of Hercules and/or other identified public agencies of responsibility. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts will result. The MMRP adequately describes implementation procedures, monitoring responsibility, reporting actions, compliance schedule, non-compliance sanctions, and verification of compliance in order to ensure that the Project complies with the adopted mitigation measures.

C. The Planning Commission will adopt and impose the feasible mitigation measures as set forth in the MMRP as enforceable conditions of approval. The City has adopted measures to substantially lessen or eliminate all significant effects where feasible.

D. The mitigation measures incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the EIR. In the event a mitigation measure recommended in the EIR has been inadvertently omitted from the MMRP, that mitigation measure is adopted and incorporated from the EIR into the MMRP by reference and adopted.

X. Findings Regarding Impacts

A. In accordance with Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15092, the City Council adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR and summarized in the MMRP. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments and conclusions of the EIR. The City Council adopts the reasoning of the EIR, staff reports, and presentations provided by the staff and the project sponsor as may be modified by these findings.

B. The City Council recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City Council acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The City Council has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the City Council to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

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C. As a separate and independent basis from the other CEQA findings, pursuant to CEQA Section 21083.3 and Guidelines Section 15183, the City Council finds:

1. The Project is consistent with Land Use and Circulation Elements of the General Plan, for which an EIR was certified on June 9, 1995;

2. Feasible mitigation measures identified in the Land Use and Circulation Elements EIR were adopted and have been, or will be, undertaken;

3. The EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts;

4. Uniformly applied development policies and/or standards have previously been adopted and found to substantially mitigate impacts. To the extent that no such findings were previously made, the City Council hereby finds and determines that the Mitigation Monitoring & Reporting Program substantially mitigates environmental impacts; and

5. Substantial new information does not exist to show that the applied development policies and standards will not substantially mitigate the project and cumulative impacts.

XI. Potentially Significant but Mitigable Impacts

A. Under Public Resources Code Section 21081(a)(1) and CEQA Guidelines Sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR and the MMRP, the City Council finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures, or where indicated through the implementation of development policies (which are treated as mitigation measures and an integral part of the MMRP):

1. Air Quality: The EIR found the Project would generate short-term emissions of criteria pollutants, including suspended and inhalable particulate matter and equipment exhaust emissions. This impact will be reduced to a less than significant level by construction contractors' implementing measures required as part of BAAQMD's basic and enhanced dust control procedures. This potential impact will be reduced to a less than significant level through the implementation of the mitigation measures contained in AIR-1a, and AIR-1b.

2. Biological Resources: The ITC EIR/EIS analyzed impacts associated with the proposed development on biological resources. The ITC project area is predominately urbanized and built-out. The project is located at the former site of an industrial plant that produced explosives, chemicals, and fertilizer. In addition, the project area did not have an adopted Habitat Conservation Plan or Natural Community Conservation Plan. The Final Joint EIR/EIS determined that the

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proposed transit center improvements would result in "Less than Significant Impacts After Mitigation" to Biological Resources. Although additional land is proposed to be included in the Intermodal Transit Center improvements, the additional area is contiguous with the Hercules Bayfront project area and is highly urbanized and surrounded with similar urban development. Implementation of the proposed project would not conflict with any local policies or ordinances that protect biological resources. The project area does not have an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other habitat conservation plan. Twenty-five mitigation measures are proposed to reduce biological resources to a level of no significance.

3. Cultural Resources: The Project could cause substantial adverse changes to the significance of currently unknown cultural resources at the site, potentially including archaeological resources, paleontological resources, and human remains. This impact will be reduced to a less than significant level through the implementation of three mitigation measures.

4. Geology and Soils: Four mitigation measures for Geology and Soils will reduce the impacts of seismic activity, soil erosion of topsoil, liquefaction, landslides or lateral spreading and subsidence damage to a level less than significant.

5. Water Resources: The construction of the Project could create impacts that could violate water quality standards or waste discharge requirements; result in substantial erosion or siltation; create or constitute substantial polluted runoff; or otherwise substantially degrade water quality. This potential impact will be reduced to a less than significant level through the implementation of 5 mitigation measures described in the Mitigation Monitoring program document.

6. Hazards and Hazardous Materials: The Project could potentially create a hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials or through the accidental upset or release of hazardous materials. This impact will be reduced to a less than significant level through the implementation of four mitigation measures which are listed in the Mitigation Monitoring Program document.

7. Public Services: The Project would result in an increase of more construction traffic and other activities that have the potential to adversely disrupt police and fire emergency response times in the Project Area. This potential impact will be reduced to a less than significant level through the mitigation measure PUB SVC-1.

8. Traffic and Transportation Systems: Construction of the Project will introduce additional large haul trucks and other related traffic that could result in potentially adverse safety impacts to pedestrians. This impact will be reduced to less than significant with the implementation of mitigation measure TRANS-4.

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9. Land Use, Plans and Policies: The determination of the potential impacts was extracted from a review of applicable federal, state, and local plans and policies. The land use and zoning designations in the Project site include undeveloped public open space and waterfront commercial land intended primarily for mixed-use development. The EIR analyzed the ITC Project for compatibility with the City of Hercules General Plan, the Hercules Waterfront District Master Plan, and the Bay Area Conservation and Development Commission (BCDC) Bay Plan of 2008. In all cases, no mitigation was required, and no adverse impacts were expected to result from the implementation of the proposed Alternatives 1 or 2.

   However, implementation of Alternative 2 would be inconsistent with the City's zoning regulations set forth in the Waterfront District Master Plan (WDMP). Also, Alternative 2's exclusion of Transit Loop would be inconsistent with the WDMP. The WDMP, as amended by the Waterfront Now Initiative, can only be changed by the consent of the land owner (which the City is not) or a vote of the people in the City.

10. Socioeconomics and Environmental Justice: The construction of a train station and future water ferry service will not generate substantial population growth, displace or create severe hardship for a substantial number of people, housing or businesses, or disrupt or separate a neighborhood, including transportation improvements that could change traffic patterns.

    Social and economic effects typically addressed in NEPA environmental documents include changes to population, employment, tax base, local businesses, housing, communities and community cohesion, and community facilities.

    CEQA Determination: Cumulative impacts associated with socioeconomics and environmental justices from other identified development projects are not considered significant.

11. Cultural Resources: During construction, the Project may adversely affect unidentified archeological resources, unidentified human remains, or unidentified paleontological resources. These impacts are reduced to a less than significant level with three mitigation measures (CULT-1, 2, and 3) contained in the Mitigation Monitoring Program.

12. Parklands and Recreation Facilities: The Intermodal Transit Center project does not generate homes or people who would occupy these homes. The ITC project includes constructing a train station platform and related buildings, but not residential buildings. Therefore, there would not be a need for parks or open space for the transportation-related project. However, the ITC Project plan does include a passive, recreational open space area adjacent to Refugio Creek. The potential impact for parkland and recreational facilities is less than significant.

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XII. Significant and Unavoidable Impacts

Under Public Resources Code Sections 21081(a)(3) and 21081(b), and CEQA Guidelines Sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the MMRP, the Council finds that the following impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible mitigation measures, as set forth below. The City Council also finds that any alternative discussed in the EIR that may reduce the significance of these impacts is rejected as infeasible for the reasons given below.

A. Water Resources: The dredging of Refugio Creek and San Pablo Bay could potentially adversely impact water quality, and is a Significant and Unavoidable impact even after mitigation measures proposed in the MMRP document.

B. Noise and Vibration: Noise generating construction activities will exceed noise levels standards and be at least 5 dBA above the ambient noise environment at adjacent noise-sensitive land uses. This is a Significant and Unavoidable level of significance. The mitigation measure, MM NOI-3, requires the project to implement best-available construction noise control measures.

C. Visual Aesthetics Resources: Sources of light and glare in the Project vicinity would include interior and exterior building lights, as well as light and glare associated with increased vehicular traffic in the Project vicinity. While the Project introduces a new source of light or glare that creates a short-term significant and unavoidable impact, the Project will be required to submit a plan for exterior lighting—and all interior lighting that is visible from the exterior of the buildings—for review and approval by the Planning Commission.

1. Light and Glare: New sources of substantial light and glare, including light from the station and parking areas, lighting used for signs, and vehicle lights—could impact sensitive receptors in the surrounding area. resulting in significant and unavoidable impacts affecting day and night-time views in the area.

2. Cumulative Impacts Related to Visual and Aesthetics Impacts: The anticipated ferry terminal would connect to northern side of the Hercules ITC. The eventual build-out of the Hercules Bayfront project to the east and west of the Hercules ITC complex and the existing residential and commercial development to the south and west would add to the incremental effects of the light and glare emanating from the Hercules ITC and ferry terminal area, and would result in additional light and glare in combination with approved development projects that are scattered throughout the study area. Cumulative development in and around the Hercules ITC site would obstruct and alter views looking west over the Bay. Cumulative visual effects are anticipated to be significant and unavoidable.

Although the impacts are significant and unavoidable, mitigation measures for both impacts are addressed in Visual and Aesthetic Resources Impact #1 and #2 ("MM VAR-1 and MM VAR- 2) as follows:

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"Prior to the approval of the final project design plans, the project applicant shall submit a Final Lighting Plan for review and approval by the City Planning Commission. The Final Lighting Plan shall be in compliance with the General Plan, the WDMP, and all other applicable City Codes, as required by City Planning authorities. The final Lighting Plan shall specify reasonable measures to minimize light spillover and glare from the completed facility, such as screened/hooded lighting, automatic dimmers, or strategically placed landscaping."

XIII. Findings Regarding Alternatives

A. The City Council finds that specific economic, social, environmental, technological, legal, or other considerations make infeasible the alternatives to the Project as described in the EIR/EIS, as more fully set forth in the Statement of Overriding Considerations below. The only remaining significant unavoidable impacts of the Project that cannot be fully mitigated through mitigation measures described in the Mitigation Monitoring & Reporting Program and EIREIS are the Water Resources. Noise and Vibration, and the Visual and Aesthetic Resource impacts as detailed above.

B. The EIR evaluated a reasonable range of alternatives to the original project that was described in the Draft EIR. The DEIR identified seven alternatives to the proposed project. The seven potentially feasible alternatives analyzed in the DEIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project. These alternatives include:

1. The No Action Alternative: As a base scenario for comparison with the Action Alternatives, the No Action Alternative assumes conditions in the waterfront area would remain as they currently exist with no bus service, and without the construction of a train station or a bus terminal. Land-based transit services and roadways would remain in their present state with no new improvements other than those that have already been programmed and funded. In addition, no new roadways would be constructed in the waterfront area, and improvements to Refugio Creek to mitigate flooding would not occur.

2. Action Alternative 1: West of Refugio Creek location. The Hercules ITC would be designed to promote alternative modes of transportation. It would be pedestrian- and bicyclist-oriented, and include walkable streets, trails, and other open space areas. In addition, the Hercules ITC would link passenger rail service and WestCAT bus service through its intermodal transit center, and also be designed to facilitate the development of a future ferry terminal to serve commuters traveling to and from San Francisco.

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3. Action Alternative 2: East of Refugio Creek location. Alternative 2 would route bus traffic through a transit loop located within the Hercules ITC development area. The transit-related facilities would be located east of Refugio Creek on the planned John Muir Parkway extension near its intersection with Bayfront Boulevard. The main difference between this and Action Alternative 1 would be that Alternative 2 would not require construction of the Transit Loop Bridge and that the transit-related facilities would be located east of Refugio Creek.

   The two Track Options (A and B) previously discussed on page 2, Section III, "Project Description" differ in the method to relocate the UPRR tracks. Track Option A would utilize shoofly (temporary) tracks to allow active rail traffic to bypass work areas during construction of the Hercules ITC. Track Option B would eliminate the need for shoofly tracks and add a third dedicated station track through the Hercules ITC site, which would reduce freight and passenger train conflicts and allow freight trains to bypass the site while passenger trains are at the station.

   The City is approving Alternative 1 and Track Option B (the "Project"). Construction of the Hercules ITC west of Refugio Creek will satisfy engineering and design requirements; be consistent with the Waterfront District Master Plan; and provide a safe and secure location for emergency vehicle access to the future ferry terminal while minimizing potential effects to natural resources. Track Option B eliminates the need for the temporary shoofly tracks during construction, which would simplify construction staging and further mitigate associated environmental impacts; shorten the construction duration and reduce the number of piles needed and the duration of pile driving, thereby further reducing noise and vibration impacts and other impacts associated with construction; reduce construction costs; reduce freight/passenger train conflicts, thereby further mitigate safety impacts; and improve on-time train service. The Project has been identified as the 'preferred project' since it would provide the best location for multi-modal transit to meet the goals and objectives of the Project, while minimizing overall impacts to the environment.

4. Alternative 3: Rodeo Station location. Analysis of sites within both Hercules and Rodeo revealed constraints related to land use, policy, and environmental considerations; however, none of the sites for Alternatives 1, 2, or 3 had a fatal flaw that would render it infeasible for locating a train station. The Hercules site was strongly supported by the City's General Plan and the intensity of future development. Ridership projections indicated that the Hercules site would have a higher patronage than the Rodeo site. The proposed Hercules station site is more centrally located with respect to densely populated areas of west Contra Costa County. The transit ridership potential from Hercules would be three times that of Rodeo. At Rodeo, the surrounding property is mostly developed, thus limiting expansion, whereas the site at Hercules is vacant and the development design would provide for future expansion. In every category except cost, the Hercules site was rated superior to the Rodeo site by a Korve Engineering study done in 1999.

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5. Alternative 4: Hercules Point location. This alternative would locate the future ferry terminal on Hercules Point, with the ferry pier located on the north or west side of the point. The new train station would be constructed in the same location as proposed under Alternative 1 and 2 and, as well under Alternative 5 (discussed below). There would be no direct connection between the ferry terminal and the transit station/bus terminal. Buses, private vehicles, and pedestrians/cyclists would gain access to the ferry terminal by way of a separate rail overcrossing. The Hercules Point location would not meet the objectives of providing easy connections among existing and planned ground transit facilities as effectively as Alternatives 1 and 2. This alternative would be inconsistent with the General Plan, as amended by the Waterfront Initiative, and the Waterfront District Master Plan, which designates Hercules Point for open space and recreational uses. Hercules Point is also within the jurisdiction of the BCDC, and siting the facility on the Point would require parking facilities which would be an incompatible use with BCDC guidelines relating to the promotion of visual resources and public access. For these reasons, this alternative was not carried forward for detailed analysis.

6. Alternative 5: Main Street location. This alternative would locate the train station on the Union Pacific Railroad tracks southwest of Hercules Point at a location extending Main Street towards San Pablo Bay. Primary access to the train station would be via John Muir Parkway and Sycamore Avenue. This location would not provide a convenient location to a future ferry terminal, as there would be no direct physical connection between the ferry terminal and the transit station/bus terminal. Immediately adjacent to the proposed location is an existing open space area owned by the California State Lands Commission and leased to the East Bay Regional Parks which inhibits development potential. Most importantly, railroad design restrictions require construction of a passenger platform a minimum length of 800 feet located on a tangent track, that is straight and without curve. Locating a train station at this location would not provide the minimum geometry necessary to meet the design standards established by UPRR, Amtrak, and the Capitol Corridor Joint Powers Authority (CCJPA). For these reasons, this location was not carried further for detailed analysis.

7. Alternative 6: Business Park location. This alternative would locate the train station on the UPRR at a location northeast of Refugio Creek near the Bio-Rad Labs facility. Primary access to the train station would be via John Muir Parkway. This area was not studied further due to the severe elevation differential between the railroad mainline and adjoining property. There is no feasible or practical way to construct the train station and transit improvements and connect a passenger loading platform in the right-of-way. Additionally, similar to Alternative 5, locating a train station at this location would not provide the minimum geometry necessary to meet the design standards established by UPRR, Amtrak, and the CCJPA. For these reasons, this location was not carried further for detailed analysis.

Alternatives 5, 6, and 7 were considered and rejected as infeasible. With respect to the remaining alternatives, CEQA requires the identification of an

environmentally superior alternative. Alternative 1, the train station proposed to be located west of Refugio Creek, and Track Option B, is the environmentally superior alternative as it would result in the fewest environmental effects.

C. The City Council certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the Planning Commission's independent judgment as to alternatives. The Planning Commission finds that the Project provides the best balance between the project sponsor's objectives, the City's goals and objectives, the Project's benefits as described below in the Statement of Overriding Considerations, and mitigation of environmental impacts to the extent feasible. The other alternatives proposed and evaluated in the EIR are rejected for the reasons stated above and in the EIR. Each individual reason presented constitutes a separate and independent basis to reject the project alternatives as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternatives as being infeasible.

XIV. Statement of Overriding Considerations

The Planning Commission finds that each of the following specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh the remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these overriding considerations:

A. The Project will revitalize a currently underutilized site along the Bayfront Boulevard corridor in the City. The Project will play a significant role in the redevelopment of this corridor into a vibrant mixed-use neighborhood in keeping with the City's vision as set forth in the Land Use and Circulation Elements, the Waterfront District Master Plan, and the Waterfront Initiative. The Project will minimize the opportunity for continued blight on the site by providing eyes on the street and reducing the potential for vagrants or squatters to conduct illegal activity on this site.

B. Traffic congestion is an ongoing and steadily increasing problem in the Bay Area. Alternatives to reduce traffic congestion have been explored in numerous previous studies. According to the Metropolitan Transportation Commission (MTC), the Bay Bridge approach corridor along I-80 from State Route 4 (SR-4) in Hercules to the Bay Bridge experiences the worst congestion in the Bay Area. The California Department of Transportation (Caltrans) Bay Area monitoring program found that between 1992 and 2005, traffic delay in the region more than doubled from 64,100 hours to 135,700 hours. According to Caltrans' 2006 report, between 2001 and 2005, traffic delay on the I-80 segment from SR-4 to the Bay Bridge metering lights increased by 16 percent – from 9,410 hours to 10,930 hours (MTC and Caltrans District 4, 2007 report). This segment includes the stretch of I-80 that passes near the proposed Hercules Intermodal Transit Center. MTC projects that traffic congestion will continue to worsen; by 2020, MTC expects that Bay Bridge traffic will increase

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by 50 percent and be "at capacity" for nearly 5 hours a day during the morning and afternoon peak hours. MTC also predicts that, due to high housing costs, many more Bay Area workers will be living far from their jobs, resulting in more commuting time and pollution on roadways. Even during an economic downturn, BART runs at capacity through the Transbay Tube during peak hours. Improvements in commuter bus service are dependent upon traffic flow and limited by the need for more road capacity and more dedicated High Occupancy Vehicle lanes for significant expansion. Increased train and transit services would provide expanded commute capacity while avoiding corresponding increases in traffic congestion.

C. The following are the project objectives for the Hercules Intermodal Transit Center improvements:

1. Reduce vehicle trips on I-80, the most congested freeway in the bay Area, by providing alternatives to commuting in single occupant vehicles.

2. Provide coordinated, intermodal transit connections by bus, train, human-powered connections (bicycling and walking), and a potential future water ferry. for transport to/from jobs, recreational uses, educational opportunities, etc.

3. Improved emergency response by having rail and (ultimately) ferry service available in case of a natural or man-made disaster that disables the Bay Bridge or other highways/roadways. Ferry and rail service could also deliver goods and services in an emergency.

4. Support transit-oriented development (TOD) and "New Urbanist" standards by providing the transportation links within the 51-acre waterfront development, which also includes housing, retail, office, and commercial space.

5. Improve safety along the railroad corridor by providing completely grade-separated access to the railroad tracks from adjacent development by constructing a series of retaining walls and fences for approximately 1 mile along the waterfront and by constructing over-crossings to Hercules Point and the future water ferry terminal.

D. The Hercules Intermodal Transit Center and related project improvements (Refugio Creek, and Bay Trail improvements) are also consistent with and implement the following goals, policies, programs, and concept of the City of Hercules adopted General Plan:

1. "Develop transportation facilities to provide access to the region, particularly public transit systems (buses, ride sharing, rail transit, as well as potential over-water transit)." (Land Use Policy 3A on page 10 of Hercules General Plan)

2. "Provide assistance and support a regional rail transit system and seek funding for a train station in Hercules." (Land Use Program 3A.1 on page 10 of Hercules General Plan)

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3. "The City should actively participate in cooperative efforts to provide effective public transit to the City and adjacent communities, including promote commuter rail and a train station in the City to intercept travelers on I-80." (Circulation Policy E of the Circulation Element of the Hercules General Plan)

4. "Establish a trail linkage between Pinole and Rodeo as part of the regional bay access trail; this trail may encroach upon private property or bluffs within the Hercules industrial area." (Land Use Program 14A.2 on page 17 of the Hercules General Plan)

5. "Continue to `improve Refugio Creek as a major environmental amenity." (Land Use Program 14A.3 on page 17 of Hercules General Plan)

6. "Extending the linear park along Refugio Creek westward from San Pablo Avenue to San Pablo Bay. The creek corridor in the eastern portion of the City provides a major amenity, and extending the corridor to the Bay would provide a similar attraction in the western portion of the City. It would also establish the creek corridor as a major urban design element for the entire community." (Land Use Concept 2 on page 8 of the Hercules General Plan)

E. The Project will provide a high-quality architecture and development design that will improve the streetscape and visual quality of the Hercules Waterfront. The Project is designed to provide an iconic building and civic amenities that break up the massing but yet is consistent with the design and uses of the planned surrounding mixed-used, multi-family atmosphere of the neighborhood. The contemporary design incorporates historical artifacts and features using high-quality materials. The Project also will provide open space in the way of parks, plazas, and trails, which will give the Project a human scale.

F. The Project will provide abundant landscaping. The landscape design will provide adequate screening, shade, delineation of space, and accents and focal points. The landscaping design also will include new trees within the City's right of way to enhance the streetscapes along Bayfront Boulevard, Sycamore Avenue, and John Muir Parkway.

G. The Project will provide construction jobs as well as other long-term employment opportunities for the City of Hercules and surrounding cities.

H. The Project will allow new and future residents and potential customers to support current and potential future businesses within the Hercules Bayfront, along Sycamore Avenue, Railroad Avenue, San Pablo Avenue, Willow Avenue, the North Shore Business Park neighborhood, and elsewhere in Hercules.

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