

REVISED DECEMBER 13, 2022



Agenda Item No. (3)

To: Building and Operating Committee/Committee of the Whole
Meeting of December 15, 2022

From: Raymond A. Santiago, Manager of Traffic Engineering and Transit Facilities
Ron Downing, Director of Planning
Kellee J. Hopper, Deputy General Manager, Administration and Development
Denis J. Mulligan, General Manager

Subject: **APPROVE THE SAN RAFAEL TRANSIT CENTER REPLACEMENT PROJECT; CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE PROJECT; APPROVAL OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS AND MITIGATION MONITORING AND REPORTING PROGRAM**

Recommendation

The Building and Operating Committee recommends that the Board of Directors (Board) approve the San Rafael Transit Center Replacement Project (Project) and take actions relative to the Final Environmental Impact Report (EIR) for the Project. These actions include:

- adopting the Final EIR;
- approving findings and approving a mitigation monitoring and reporting program;
- certifying that the document meets all the requirements of the California Environmental Quality Act (CEQA); and then,
- approving the Project and selecting the Move Whistlestop Alternative as the preferred Project alternative.

This matter will be presented to the Board at its December 16, 2022, meeting for appropriate action.

Summary

The Golden Gate Bridge, Highway and Transportation District (District) prepared a Final Environmental Impact Report (EIR) for the Project pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code §§ 21000 et seq.; 14 California Code of Regulations §§15000 et seq. [“State CEQA Guidelines”]) to evaluate the environmental effects associated with the proposed San Rafael Transit Center Replacement Project. A Draft EIR was prepared and circulated for public review and comment from August 11, 2021, through November 2, 2021.

The Final EIR analyzes a preferred alternative and three other build alternatives: the Move Whistlestop Alternative (the preferred alternative), Adapt Whistlestop Alternative, 4th Street

Gateway Alternative, and Under the Freeway Alternative. The preferred alternative and the three build alternatives would include provisions for 17 bus bays, pick-up/drop-off areas for passenger vehicles or taxis, bicycle parking, customer service and security space, passenger amenities such as weather protection and seating, bus operator restrooms, and parking for operations staff. The project alternatives are not on any list of hazardous materials waste sites compiled pursuant to Section 65962.5 of the Government Code. As required by CEQA, the EIR also analyzes a No-Project Alternative, which would retain the District's San Rafael Transit Center operations at the existing location.

The Final EIR for the SRTC Relocation Project was issued on October 22, 2022 and found that no adverse environmental impact would arise from approving the selection of the "Move Whistlestop" alternative for this project. The release of the FEIR followed an extensive review period that began with the issuance of a Draft Environmental Impact Report (DEIR) for this project on August 11, 2021. Forty letters/emails from agencies, organizations and members of the public were received on the Draft EIR. An additional 21 comments on the Draft EIR were received at the September 14, 2021, public meeting. In particular, the City of San Rafael provided sixteen pages of comments on the draft document. Staff and the consultant team engaged city staff in an extensive series of meetings to address those concerns. That effort culminated with a presentation to the San Rafael City Council on October 17, 2022, where the Council voted unanimously to accept a report from their staff indicating that all outstanding comments and concerns had been addressed.

The District has prepared responses to all comments received consistent with State CEQA Guidelines section §15088. The Final EIR consists of comments received on the Draft EIR and a list of commenters, the District's responses to comments, and changes to the Draft EIR as a result of comments received.

The Final EIR was posted to the District's website on October 22, 2022 and met the ten-day requirement under CEQA for releasing responses to comments before the Board takes action to adopt and certify it. Additionally, San Rafael city staff requested a 30-day review period to allow for them to be able to confirm that their comments from the Draft EIR had been addressed in the FEIR. That request has been accommodated by the action being taken by this staff report.

Required Actions

The Board has discretion to approve the Project. Under CEQA, the lead agency is required to adopt and certify the Final EIR prior to approving the Project. The action by the Board will adopt the Final EIR and certify that it meets all CEQA requirements. The Board must take all other associated actions required by CEQA, including approval of findings and a statement of overriding considerations, and approval of a mitigation monitoring and reporting program, as part of its approval of the Project. The Committee is requested to recommend that the Board take the actions necessary to approve the Project and certify the FEIR.

Next Steps

Following adoption of the Project and certification of the Final EIR, the District plans to begin a community design process during the Spring 2023. This community-based effort is intended to

obtain input from users of the transit center as well as key stakeholders in the San Rafael community on the look and feel of the new transit center. Particular attention will be given to the design of amenities and the transit plaza. Concurrent with obtaining community input, efforts would commence with regard to final design, funding strategies and property acquisition. The District estimates that construction activities would occur over 18 months following property acquisition and approval of the final design. Construction is estimated to start in 2025.

Fiscal Impact

There is no fiscal impact associated with approval and certification of the Final EIR, approval of findings and a statement of overriding considerations, and approval of a mitigation monitoring and reporting program.

Attachments:

1. PowerPoint SRTC Replacement Project Final EIR
2. Findings of Fact (**Added 12/13/2022**)
3. Mitigation Monitoring and Reporting Program (**Added 12/13/2022**)
4. Draft Resolution (**Added 12/13/2022**)

Full report documents may be found online on the District's Website:

<https://www.goldengate.org/district/district-projects/san-rafael-transit-center/project-documents-materials/>

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SAN RAFAEL TRANSPORTATION CENTER



Relocation Analysis, Environmental Clearance, and Preliminary Design

SRTC Replacement Project Final EIR Golden Gate Bridge Highway & Transportation District Building and Operating Committee Meeting December 15, 2022



SAN RAFAEL
THE CITY WITH A MISSION





Agenda

- Project History and Public Engagement Process
- EIR Comments and Subsequent City Coordination
- Resolutions to City Comments
 - Transportation, Safety, and Project Description
 - Document Completeness
 - Request for Recirculation
- Next Steps



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Relocation Analysis, Environmental Clearance, and Preliminary Design



Why a New Transit Center is Needed

Construction of SMART tracks impacted ability to access several bus bays, limiting flexibility and usability of transit center

Transit center has insufficient space for pick-up/drop-off, shuttles, taxis, and bike parking

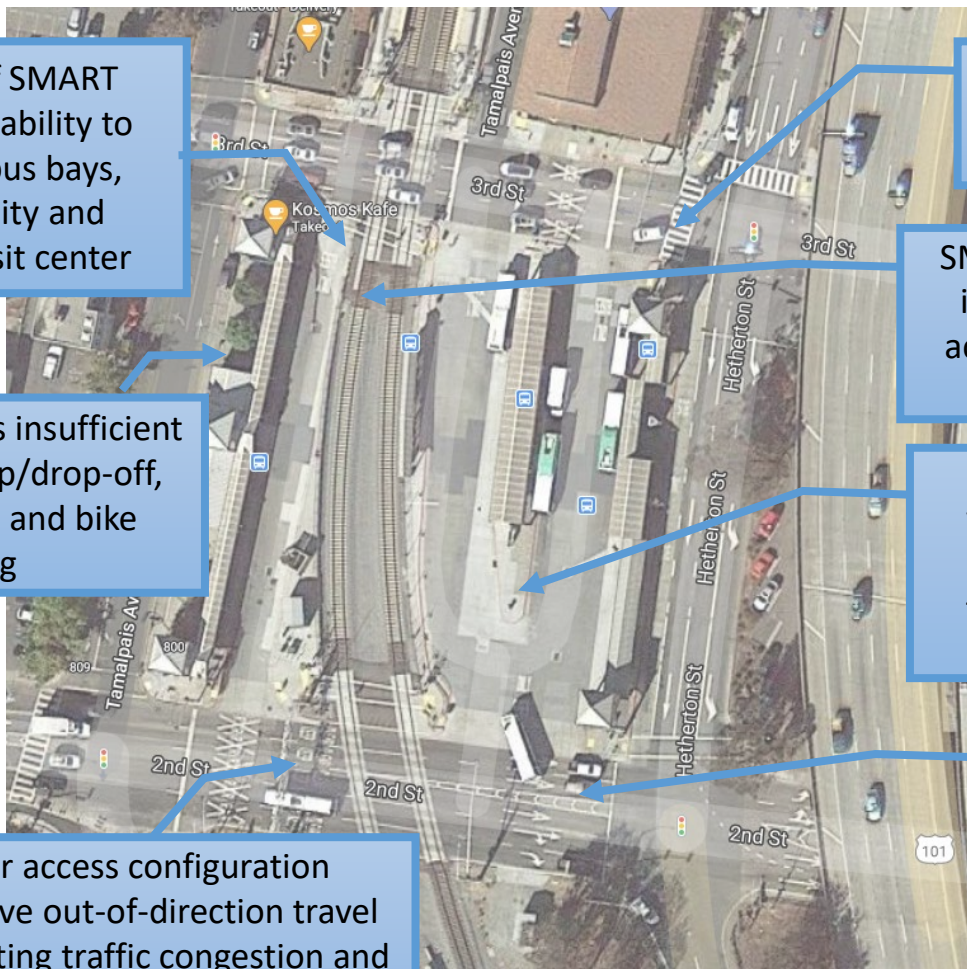
Transit center access configuration requires extensive out-of-direction travel for buses, impacting traffic congestion and increasing operating costs

Third Street serves as a major barrier for pedestrian access and transfers to SMART

SMART tracks bisecting transit center impacts pedestrian circulation and access, increasing transfer times and making wayfinding difficult

Current transit center was built 30 years ago, lacks sufficient space for customer service, and needs technology, sustainability, and user comfort improvements

Congestion on 2nd Street makes it challenging for buses to exit transit center, increasing travel times and impacting reliability





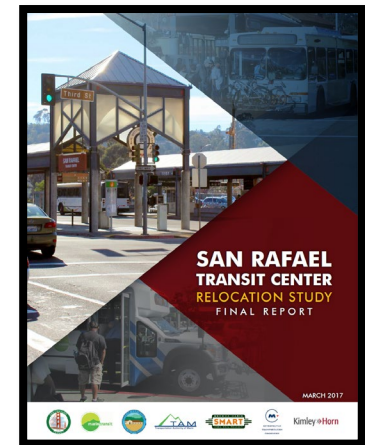
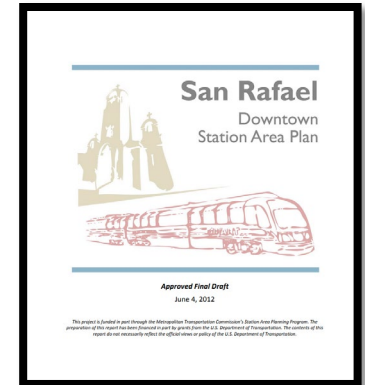
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Project History

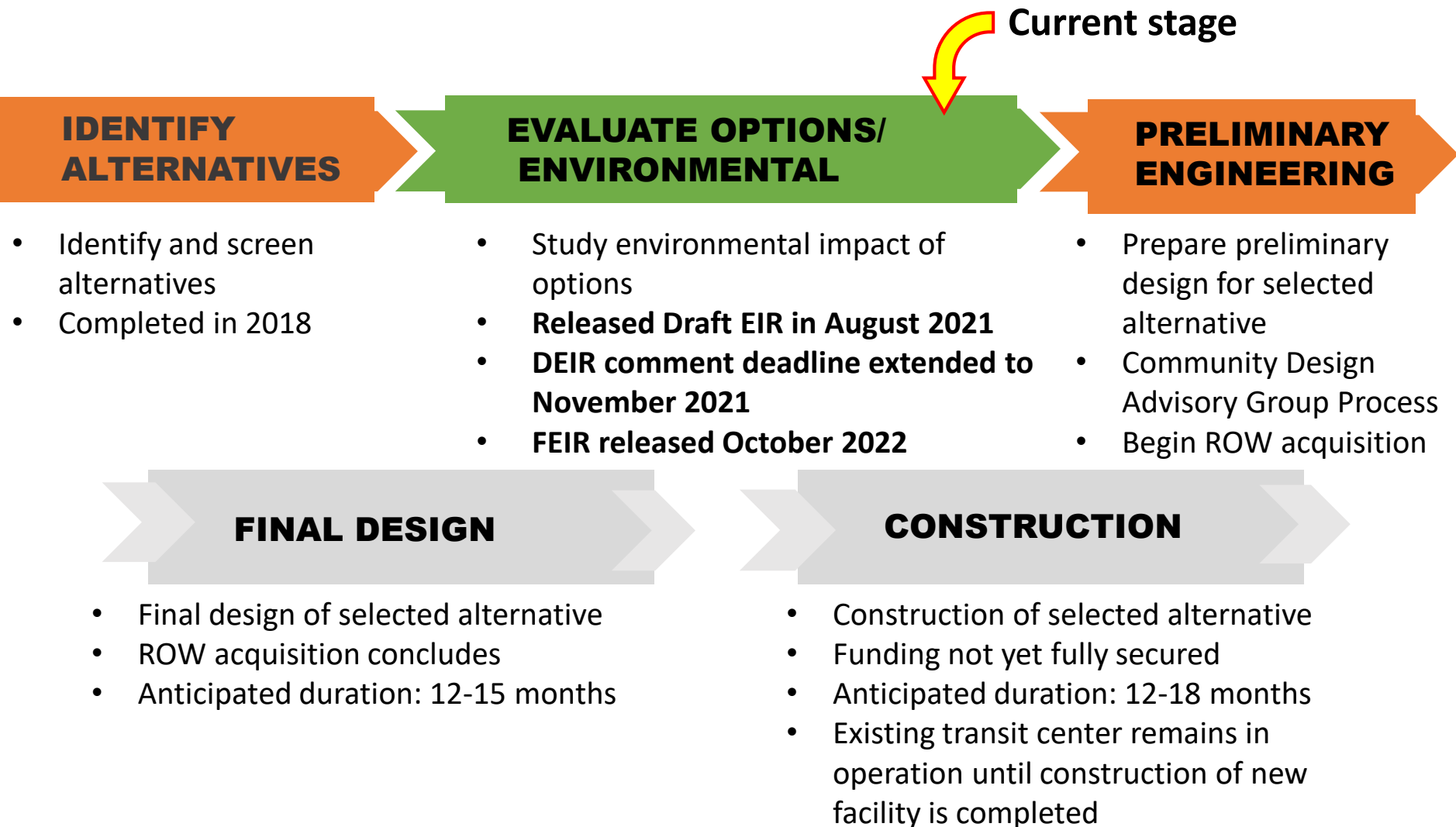
- 2010-2012: City's Downtown Station Area Plan
 - Identified preferred site around SMART station
- 2015-2017: City-led Relocation Study
 - Determined facility requirements
- 2018 – 2022: CEQA Environmental process
 - Upon community request, started with a clean slate on projects
 - Prior to release of DEIR, project included 9 technical meetings with City staff
 - DEIR Released in August 2021
 - FEIR Released October 2022





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Public Engagement Process Since 2018



Over 7,000 total in-person and virtual interactions



Seven (7) community meetings



Two (2) Facebook Live events in Spanish with Canal Alliance



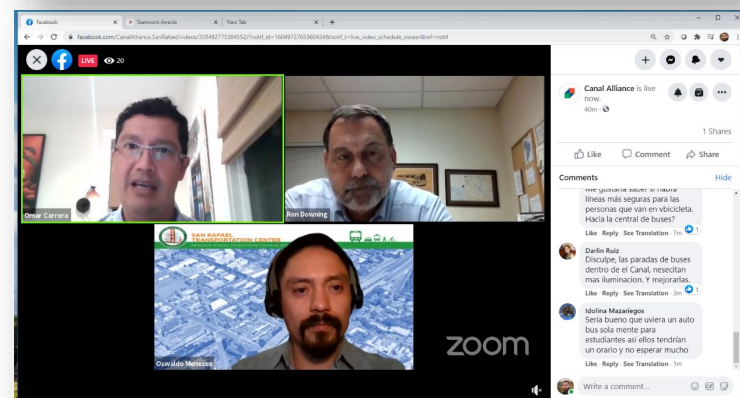
70+ hours tabling at the transit center and food distribution events in Canal neighborhood



Two (2) online/in-person surveys with over 1,200 responses



10 presentations to seven (7) community groups





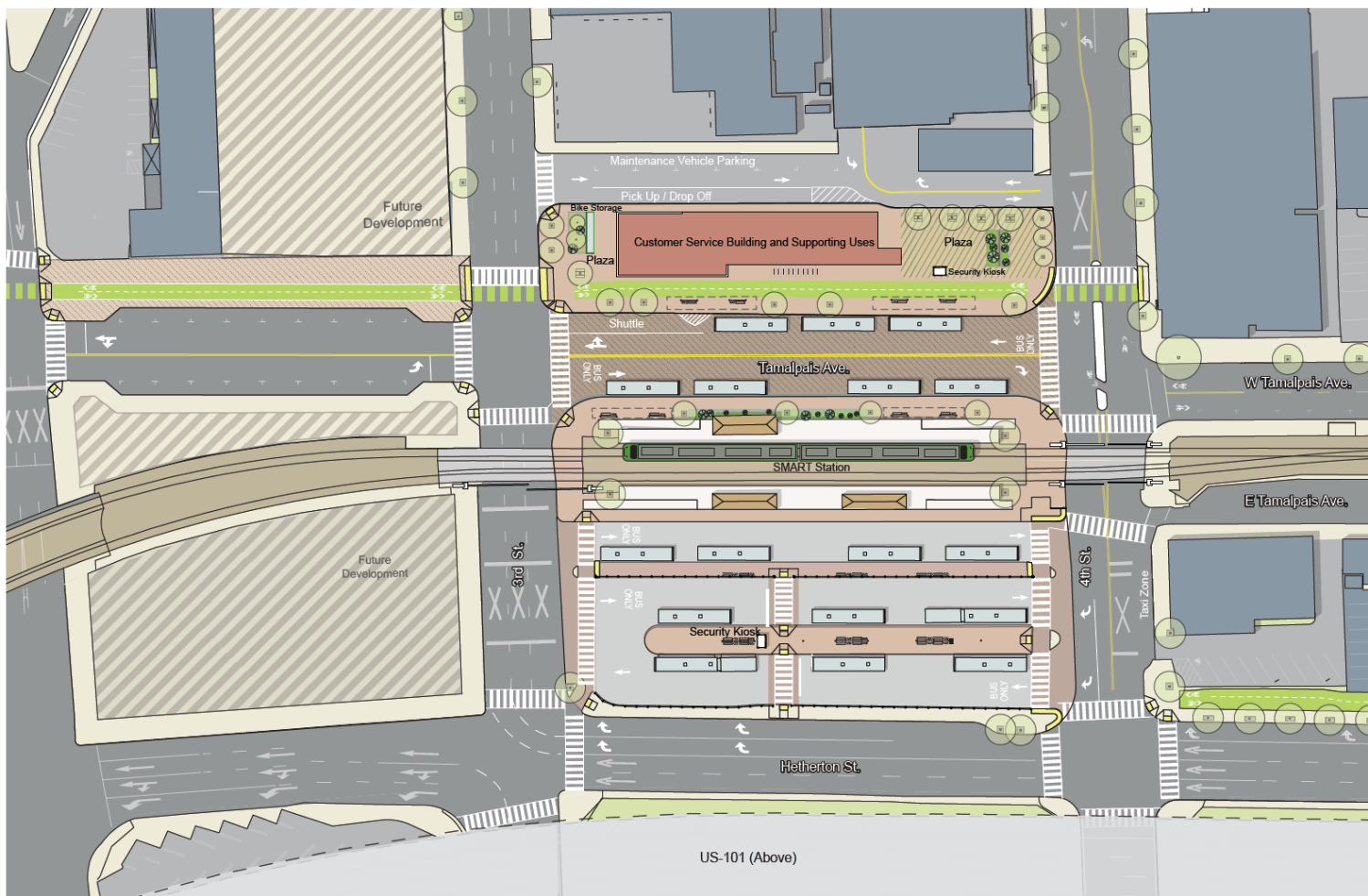
Analyses Used to Select Preferred Alternative

- Technical analysis of transit center usage patterns, pre-COVID, during COVID, and into the future
- Technical analysis of bus operations, traffic circulation, bicycle and pedestrian circulation through downtown San Rafael
- Extensive community engagement and community feedback, particularly from transit riders
- Extensive stakeholder engagement and feedback
- Environmental Analysis



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Legend

- Feature Tree
- Tree with Tree Well
- Tree
- Platform Seating
- Bus Canopy
- Landscaped Area
- Bike Racks
- Secure Bike Parking
- Security Kiosk
- Bike Path
- Canopy Overhead
- Ped Safety Barrier
- Ticket Machine
- Improved Paving
- Typical Paving



Preferred Alternative Concept in FEIR (Move Whistlestop Alternative)



Proposed Transit Center Features Include

- 17 bus bays
- Existing SMART Station
- Security
- Clipper machines
- Covered waiting areas and passenger seating
- Bike parking
- Green (LEED) treatments
- Wayfinding
- Customer service and transit information
- Lighting
- Landscaping and public spaces
- Ancillary retail space
- Maintenance parking
- Pick-up/Drop-off space
- Taxi/TNC and shuttle space
- Driver relief facilities
- Public restrooms
- Consideration for Crime Prevention Through Environmental Design (CPTED) strategies



Benefits of Move Whistlestop Alternative

- Reduction in bus travel time and improvements in bus reliability
- Reduction in amount of bus circulation on local streets
- Operational flexibility to allow for future potential expansion of transit service and schedules
- New transit center facilities, including enlarged customer service, new shelters, integration of technology, green treatments (LEED), improved waiting areas
- Flexible curb for buses, microtransit, shuttles, TNCs, taxis, pick-up/drop-off
- New public spaces that will create a sense of place and entry to downtown San Rafael



Benefits Relative to Other Alternatives

- Better achieves Project Objectives
 - Does not require passengers to cross any auto streets for either transfers between buses or transfers between buses and SMART
 - Most significant benefits to transit travel time and reliability, providing improved transit connections and optimizing operating costs
 - Creates a cohesive transit identity and simplifies wayfinding for transit users
 - Provides clear lines of sight and active public spaces, creating a safe and secure space for patrons



Benefits Relative to Other Alternatives (cont.)

- Implements key tenets of the City's Station Area Plan, including enhancing the public realm
- Implements a key part of the City's Bicycle and Pedestrian Master Plan, the North-South Greenway on Tamalpais Avenue
- Impacts the fewest number of active businesses

"The Move Whistlestop Alternative is the only alternative that offers a truly integrated, multimodal transit facility that addresses the safety and experience of the rider in using and navigating the transit network."

Marin Transit



Environmental Findings for the Move Whistlestop Alternative

- **Avoids and minimizes the most resource impacts relative to the other alternatives, including No-Build**
 - Minimizes impacts to historical resources
 - Avoids impacts to Irwin Creek
- **Resources with impacts requiring mitigation:**
 - Air quality, biological resources, cultural resources, energy, GHGs, hazards and hazardous materials, hydrology and water quality, noise, and tribal cultural resources
- **Resources with less-than-significant impacts or no impact:**
 - Aesthetics, geology and soils, population and housing, public services and recreation, transportation, utilities and service systems, and wildfire
- **No significant and unavoidable impacts**
 - All significant impacts reduced to less than significant with mitigation



Comments from Community and Agencies



- Virtual Public Meetings held on September 14 and 15, 2021
 - One meeting in English and one meeting in Spanish
 - Comments provided at the public meeting were recorded and responded to in the Final EIR



- Comments received on the Draft EIR:
 - Seven (7) letters from state, regional, and local agencies
 - Eleven (11) letters from local environmental groups or community organizations
 - 21 letters from members of the general public



- Common themes in public comments included:
 - Prioritize public, pedestrian, and bicycle safety
 - Cultural resources (e.g., Whistlestop building)
 - Request to continue to engage community, particularly transit center users
 - Excitement for a new transit center facility
 - General support for SRTC project and Preferred Alternative



Comments from Community and Agencies

"A new facility will likely be in service for many years to come, and it is imperative that it provide sufficient capacity and design features to support efficient transit use and operations in the long-term. The Whistlestop Alternatives seem to go farthest toward meeting those goals."

Transportation Authority of Marin (TAM)

"Overall, the League concurs with the analysis and is supportive of either the Move Whistlestop Alternative or the Adapt Whistlestop Alternative."

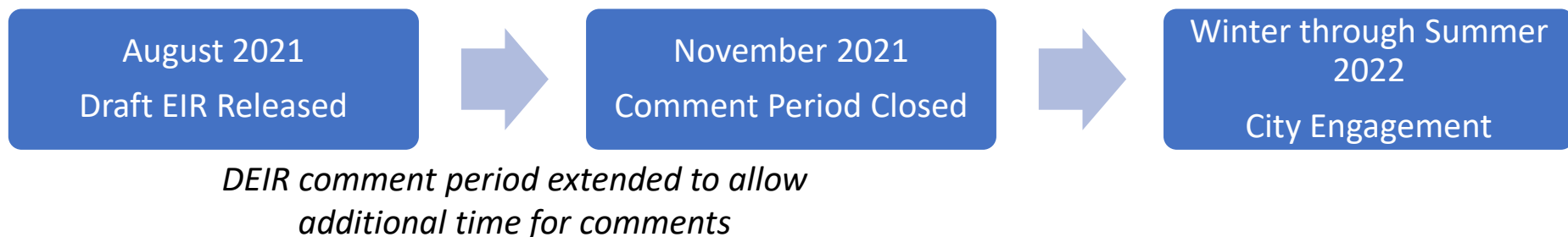
League of Women Voters

"Further, we appreciate that the District has identified the 'Move Whistlestop Alternative' as its preferred alternative. Canal Alliance supports this decision, as this alternative responds to concerns shared by Canal residents during community meetings related to mobility, safety, and efficiency."

Canal Alliance



Coordination with City of San Rafael After DEIR to Address Concerns Raised



- Collaboration resulted in an improved document
- Six (6) meetings were held with Community Development and Public Works staff to discuss City comments, responses, and revisions
- Meeting topics included:
 - Safety, traffic, and circulation
 - General Plan consistency
 - Reference data and project assumptions
 - Extension of FEIR public review period to 30 days to facilitate City review



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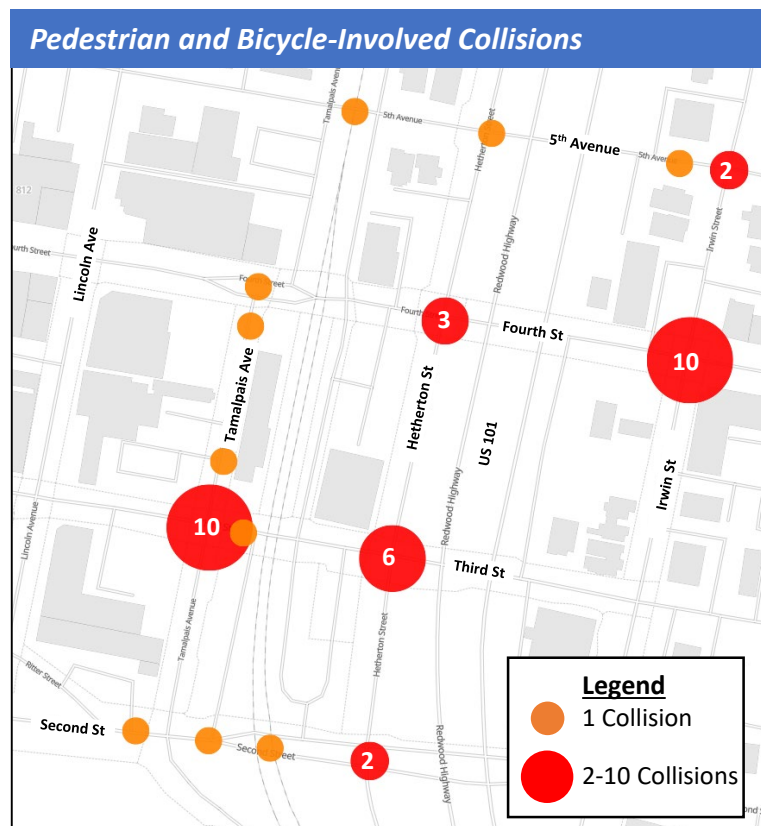
Pedestrian Safety Analysis

Summary of Topic:

- City was concerned there was not an adequate analysis of pedestrian safety and circulation.

Revisions Made:

- Based on further discussion with the City, project team performed additional safety analysis. Additional safety analysis is attached to the FEIR
- Move Whistlestop Alternative is the best performing alternative, including relative to existing conditions (No-Build Alternative), for pedestrian safety:



Data Source: City of San Rafael
January 2015 – September 2021



Pick-Up/Drop-Off Location

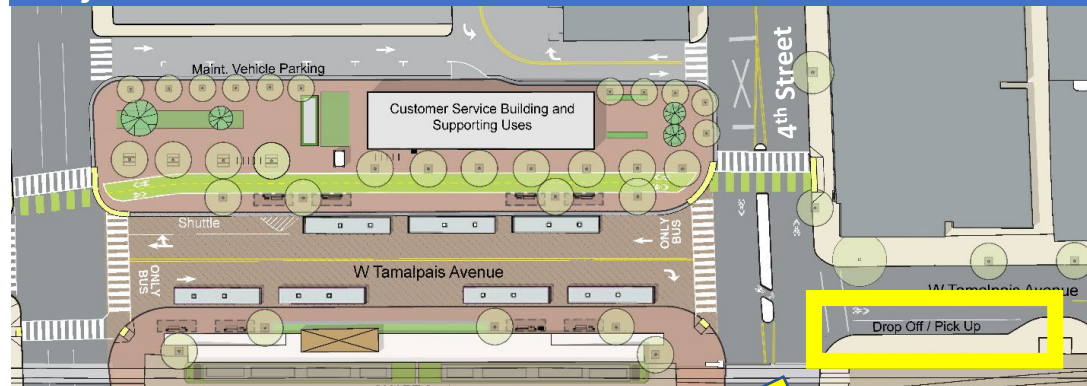
Summary of Topic:

- Community members were concerned about conflicts between the proposed pick-up/drop-off area and the planned North-South Greenway.

Revisions Made:

- Relocated pick-up/drop-off area from north of 4th Street to south of 4th Street via an already-proposed new drive aisle

Draft EIR Site Plan



Final EIR Site Plan





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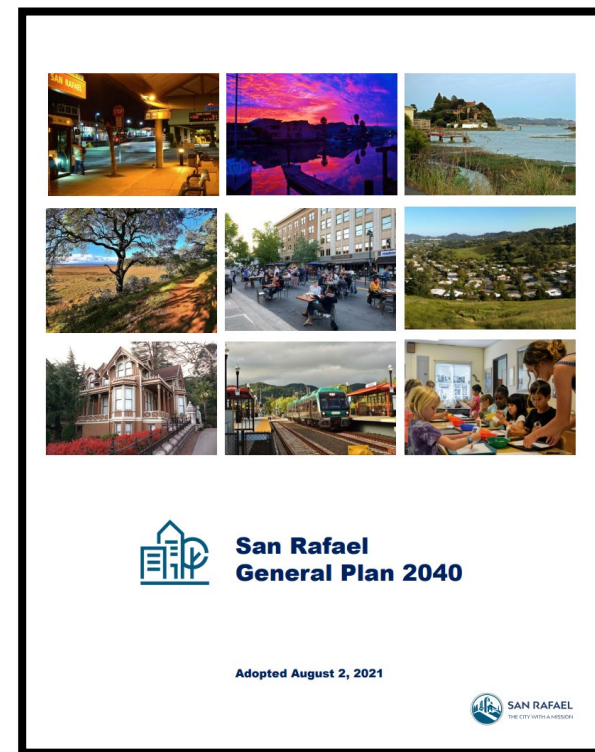
City of San Rafael General Plan 2040

Summary of Topic:

City was concerned that the Draft EIR should have been updated to reflect adoption of the new General Plan 2040.

Response and Revisions Made:

- Draft EIR included Draft General Plan 2040 policies in the Environmental Setting sections
- Worked with City staff to identify any differences between draft and adopted General Plan policies
- Final EIR updated to reflect adopted General Plan 2040 and remove references to General Plan 2020
- **Conclusions of EIR were not affected by these updates. Final EIR is consistent with the General Plan 2040.**





Estimated Project Timeline to Completion

- December 2022
 - Board Adopts Findings of Fact, Selects Alternative to Advance
- Winter-Fall 2023
 - Preliminary Engineering, Community Design Advisory Process, Outreach, and Begin ROW Procurement
- Fall 2023
 - District procures Final Design contract
- Winter 2024 – Spring 2025
 - Final Design and ROW Procurement
- Summer 2025
 - District procures Contractor
- Fall 2025
 - Construction Begins
- Winter/Spring 2027
 - Complete Construction and Transition to New Facility



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Next Steps

- Bridge District Board considers and certifies Final EIR, adopts Findings of Fact
- As a Responsible Agency and under terms of MOU, City Council will consider approval of selected alternative



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Next Steps

- After Board certification, Bridge District commences design
 - Per city request, new visual simulations are included in Final EIR; however, no architectural design has yet been completed
 - District will convene a Community Design Advisory Group, including representation from transit riders and other interested groups
 - Additional stakeholder and community engagement
 - Complete preliminary design (30%)

4th and Tamalpais



GGT building elevation along Tamalpais



**SAN RAFAEL TRANSIT CENTER REPLACEMENT
PROJECT
FINDINGS OF FACT FOR THE FINAL
ENVIRONMENTAL IMPACT REPORT**

Golden Gate Bridge, Highway and Transportation District
1011 Andersen Drive
San Rafael, CA 94901-5318

December 2022



ICF. 2022. *San Rafael Transit Center Replacement Project Findings of Fact for the Final Environmental Impact Report*. December. San Francisco, CA.
Prepared for the Golden Gate Bridge, Highway and Transportation District,
San Rafael, CA.

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Acronyms and Abbreviations

BAAQMD	Bay Area Air Quality Management District
BMP	best management practice
Caltrans	California Department of Transportation
CEQA	California Environmental Quality Act
City	City of San Rafael
dBA	A-weighted decibel
District	Golden Gate Bridge, Highway and Transportation District
EIR	Environmental Impact Report
EPA	U.S. Environmental Protection Agency
Findings	findings of fact
GHG	greenhouse gas
HVAC	heating, ventilation, and air conditioning
LED	light-emitting diode
Marin Transit	Marin County Transit District
MMRP	Mitigation Monitoring and Reporting Program
NAHC	Native American Heritage Commission
PRC	Public Resources Code
proposed project	San Rafael Transit Center Replacement Project
SMART	Sonoma-Marín Area Rail Transit
SWPPP	Stormwater Pollution Prevention Plan
TAM	Transportation Authority of Marin
US-101	U.S. Highway 101

Chapter 1

Introduction

A lead agency must prepare written findings of fact (Findings) for each significant effect on the environment identified in the environmental impact report (EIR) (Section 21081 of the Public Resources Code [PRC]) to support a decision on a project for which the EIR is certified.

The Golden Gate Bridge, Highway and Transportation District (District), as the California Environmental Quality Act (CEQA) lead agency, prepared these Findings for the San Rafael Transit Center Replacement Project (proposed project). The District prepared a Draft EIR in 2021 in accordance with CEQA (PRC 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations 15000 et seq.). The District received comments on the Draft EIR from state, regional, and local agencies, interested organizations, and members of the public. The District has prepared responses to all comments received consistent with State CEQA Guidelines Section 15088. The Final EIR consists of a list of commenters, the text of comments received on the Draft EIR, the District's responses to comments, and changes to the Draft EIR as a result of comments received.

Chapter 2

Project Background and Overview

2.1 Project Background

The District, in coordination with the City of San Rafael (City), Marin County Transit District (Marin Transit), Transportation Authority of Marin (TAM), and Sonoma-Marin Area Rail Transit (SMART), plans to replace the transit center in Downtown San Rafael (known as the San Rafael Transit Center or the C. Paul Bettini Transit Center). The proposed project is needed primarily to replace the existing transit center following the loss of some of the transit center facilities that resulted from the SMART Phase 2 line to Larkspur. A new transit center solution in Downtown San Rafael would address near-term and long-term transit needs while improving the desirability and usability of transit for both local residents and regional commuters.

2.2 Proposed Project

The District has identified the Move Whistlestop Alternative as its proposed project. The project site is generally between West Tamalpais Avenue to the west and Hetherton Street to the east, 4th Street to the north, and 3rd Street to the south. Additional improvements are included to shift West Tamalpais Avenue to the east from 2nd Street to 4th Street. This modification would align West Tamalpais Avenue with the block to the north and include construction of a bike path and sidewalk improvements on the west side of West Tamalpais Avenue from 2nd Street to 4th Street. From 2nd to 3rd Street, this improvement would extend into space occupied by the existing transit center. From 3rd Street to 4th Street, this improvement would extend onto the existing west sidewalk along West Tamalpais Avenue. The project site is on the same block as the existing SMART station. The project site includes several parcels currently occupied by the Whistlestop building, a café, a restaurant, parking spaces, the SMART tracks, and the parcel containing the Citibank building and its affiliated parking lot, also referred to as the “Citibank parcel.” Surrounding the project site are retail, commercial, and office uses to the north, U.S. Highway 101 (US-101) to the east, the existing San Rafael Transit Center to the south, and restaurants and retail facilities to the west.

The proposed project would feature five platforms, A through E, and one District building. It would utilize curbside bays on both sides of West Tamalpais Avenue between 3rd and 4th Streets. West Tamalpais Avenue between 2nd and 4th Streets would be shifted east to be more proximate to the SMART tracks. The Whistlestop building would be relocated to the west side of West Tamalpais Avenue between 3rd and 4th Streets or demolished and a new building constructed utilizing similar façades or architectural elements from structures currently on the Whistlestop site.¹ This building would include District customer service and operations building space. The District building would be one story and an estimated 3,000 square feet. It would include a driver break room with restrooms, District offices and customer support area with restrooms and a kitchen, and a public lobby with a service counter and restrooms. Tamalpais Avenue between 3rd and 4th Streets would

¹ Should relocation become infeasible due to engineering or structural concerns, accessibility concerns, or feedback from the Community Design Advisory Group, the Whistlestop building could also be demolished and a new building constructed at the current location of 703–705 4th Street and 927 Tamalpais Avenue.

be limited to buses only. Bus bays on the Citibank parcel would be accessed via driveways along 3rd and 4th Streets. The area west of West Tamalpais Avenue between 3rd and 4th Streets (i.e., space not utilized by the relocated Whistlestop building) would be provided for public plazas, customer service, bicycle parking, and/or transit-supportive land uses. The existing SMART pick-up/drop-off area on East Tamalpais Avenue between 3rd and 4th Streets would be removed and replaced with a pick-up/drop-off area in a new access alley constructed west of West Tamalpais Avenue between 3rd Street and 4th Street. The new access alley would also contain maintenance vehicle parking for six District vehicles. The access alley would connect to a new driveway on 4th Street between Tamalpais Avenue and Lincoln Avenue that would replace the removed driveway on West Tamalpais Avenue to the condo complex at Lincoln Avenue and 4th Street. Fifty feet of shuttle parking would be provided on West Tamalpais Avenue between 3rd Street and 4th Street. Construction of the bicycle path on Tamalpais Avenue from 2nd Street to 4th Street, as described in Section 2.5.1, *No-Project Alternative*, would reflect implementation of one of the City's planned bicycle infrastructure improvements. This bike path would connect to the Mahon Creek Path. Additionally, the Move Whistlestop Alternative would include new on-street parking on West Tamalpais Avenue between 2nd Street and 3rd Street. Project construction would require removal of existing storm drain infrastructure, relocation of the storm drain infrastructure on West Tamalpais Avenue between 2nd Street and 3rd Street, and installation of new inlets, manholes, and bioretention facilities. The existing sewer infrastructure on West Tamalpais Avenue between 2nd Street and 3rd Street would also require relocation within the same street and right-of-way due to the shift of West Tamalpais Avenue. Utilities, including traffic signal poles, streetlights, overhead power lines, and fire hydrants, would need to be relocated to within the area of the shifted street and/or removed.

A Traffic Control Plan that addresses circulation for transit, bicycles, pedestrians, and private vehicles will be prepared and implemented for the duration of construction of the proposed project. This plan would follow the guidance contained in the California Manual on Uniform Traffic Control Devices on temporary closures of vehicle lanes, bicycle lanes, and sidewalks and appropriate detours for these facilities.

The District estimates construction activities would occur over 18 months after the final design is approved. The construction start date is estimated to be 2025. The construction period would include mobilization, demolition, utility work, civil and vertical structures work, vertical structures finishing and inspections, and close-out.

The District would relocate the existing transit center and dispose of the property where existing facilities are located between 2nd Street, 3rd Street, Tamalpais Avenue, and Hetherton Street. The District does not have any planned use for the existing site/center once the proposed transit center is operational at a new location and there are no plans for the disposition of the site. Therefore, future development of the site is unknown at this time. Any future use or development of the site would conform with City procedures for entitlements, zoning, and land use. The existing transit center was developed using federal funds; therefore, any proceeds from the sale of the property would be allocated to the new transit center. As required by state law, future development of the site would comply with CEQA, the Surplus Lands Act, and other applicable laws. For purposes of this EIR, it is assumed that the existing site would likely be sold and developed as some form of a mixed-use project, subject to more detailed design and approvals and subsequent CEQA review.

2.3 CEQA Process

On October 16, 2018, the District issued the Notice of Preparation for the Draft EIR and Notice of Scoping Meeting. The District conducted a scoping meeting to gather input and comments prior to the development of the Draft EIR. This scoping meeting was held on October 30, 2018, in San Rafael. Written and oral comments received during the scoping process are on file with the District and can be accessed online at <https://www.goldengate.org/district/district-projects/san-rafael-transit-center/project-documents-materials/>.

The Draft EIR was released for public review and comment on August 11, 2021. The comment period was initially scheduled to conclude on October 12, 2021, but was extended to November 2, 2021. The District undertook the following actions to inform the public of the availability of the Draft EIR:

- The Notice of Availability and Draft EIR were published on the District website, posted at the existing transit center, and submitted to the Marin County Clerk for public posting.
- Notification of the availability of the Draft EIR was mailed to members of the public who had indicated interest in the proposed project.
- The Draft EIR was submitted to the State Clearinghouse and to various governmental agencies, organizations, businesses, and individuals
- Copies of the Draft EIR were made available at the Main Branch and Pickleweed Branch of the City of San Rafael Public Library.

All written comments received during this period were compiled and responses provided in Chapter 9, *Responses to Comments*, of the Final EIR. Additionally, the District held two public meetings on the Draft EIR, one in English and one in Spanish, on September 14 and 15, 2021. These meetings included a presentation on the proposed project and the contents of the Draft EIR. Comments were recorded at these meetings and responses to these comments are provided in Chapter 9, *Responses to Comments*, of the Final EIR.

The Final EIR and all documents referenced herein were made available for public review at the District's website on October 27, 2022. In accordance with CEQA and the State CEQA Guidelines, the District has provided written responses to comments made by a public agency at least 10 days prior to certifying the EIR.

2.4 Permits and Approvals

Table 1 identifies the required permits and approvals for the proposed project as evaluated in the Final EIR.

Table 1. Required Permits and Approvals

Agency	Permit/Review Required
San Francisco Bay Regional Water Quality Control Board	Construction General Stormwater Permit
California Department of Transportation	Encroachment Permit

2.5 Alternatives Studied in Final EIR that were Rejected

2.5.1 No-Project Alternative

Under the No-Project Alternative, the District would not relocate the transit center; it would remain at its current location in Downtown San Rafael bounded by 2nd Street, 3rd Street, Tamalpais Avenue, and Hetherton Street and continue to operate as it does currently. The No Build Alternative would avoid impacts listed in Section 3.4.2.1, *Significant Impacts Mitigated to Less-Than-Significant Levels Identified in the Final EIR*.

However, under the No-Project Alternative, the District would not be able to meet the project objectives to maintain or enhance the bus service and transfer capabilities of the existing site while maintaining accessibility and providing a positive passenger experience. The existing transit center, which has been compromised by implementation of the SMART Phase 2 line. The No-Project Alternative would not improve local and regional transit use by enhancing the integration of multiple modes of the transportation network, including the SMART-bus connection. The existing transit center would remain separated from the SMART station by heavily traveled 3rd Street and would require users to navigate between stations. Other improvements to the safety, accessibility, and functionality of transit would not be achieved if the No-Project Alternative were implemented.

Additionally, the No-Project Alternative would not meet the transportation goals established in the *San Rafael Transit Center Relocation Study* (City of San Rafael et al. 2017), the *San Rafael Downtown Station Area Plan* (City of San Rafael 2012), the long-range *Strategic Vision Plan* (Transportation Authority of Marin 2017), *Plan Bay Area 2040* (Metropolitan Transportation Commission and Association of Bay Area Governments 2017). The No-Project Alternative would also not meet goals proposed in the *San Rafael General Plan 2040* (City of San Rafael 2021a) and *Downtown San Rafael Precise Plan* (City of San Rafael 2021b). Therefore, the No-Project Alternative was rejected.

2.5.2 Adapt Whistlestop Alternative

This alternative site is generally between West Tamalpais Avenue to the east, Hetherton Street to the west, 4th Street to the north, and 3rd Street to the south. This alternative would include the construction of a bike path and pedestrian improvements on the west side of West Tamalpais Avenue from 2nd Street to 4th Street. This alternative is on the same block as the existing SMART station. This alternative site crosses nine parcels currently occupied by the Whistlestop building, a café, a restaurant, parking spaces, the SMART tracks, and the Citibank parcel. Uses surrounding the project site include retail, commercial, and office uses to the north, US-101 to the east, the existing San Rafael Transit Center to the south, and restaurants, residential, and retail facilities to the west.

The Adapt Whistlestop Alternative would feature five platforms, A through E, and one District building. There would be 17 straight-curb bus bays to accommodate transit, airport coach services, and Greyhound services at the transit center. Each bus bay would have a minimum 9-foot-wide platform and platforms would provide passenger amenities including weather protection (such as shelters or canopies) and seating. Paratransit, pick-up/drop-off, maintenance vehicle, and shuttle curb space would be provided. Other features would include public art, security, provision for bicycle parking including racks and lockers, and wayfinding signage. The Whistlestop building (minus the Jackson Café) would be renovated or remodeled to serve as District customer service and operations building space. Space would be provided for public plazas, customer service, bicycle

parking, and/or transit-supportive land uses. Construction of the bicycle path on Tamalpais Avenue from 2nd Street to 4th Street would reflect implementation of one of the City's planned bicycle infrastructure improvements. This bike path would connect to the Mahon Creek Path. Additionally, the Adapt Whistlestop Alternative would include new on-street parking on West Tamalpais Avenue between 2nd Street and 3rd Street.

The Adapt Whistlestop Alternative generally meets the project objectives and reduces some impacts of the proposed project (Move Whistlestop Alternative). It is largely similar to the proposed project, but the Adapt Whistlestop Alternative would not include the realignment of Tamalpais Avenue, which would shorten passenger transfer distances, improve visibility, and create a less aligned North-South Greenway between 2nd and 4th Streets relative to the Adapt Whistlestop Alternative. Therefore, the Adapt Whistlestop Alternative less fully meets the project objectives to provide improved transit connectivity and ease of use in and around Downtown San Rafael; create a more accessible transit facility for all users by reducing vehicular, rail, bicycle, and pedestrian conflicts and improving safety; and provide convenient, pedestrian connections to surrounding land uses. Therefore, the Adapt Whistlestop Alternative was rejected.

2.5.3 4th Street Gateway Alternative

This alternative site is bounded by 5th Avenue, 3rd Street, Hetherton Street, and the SMART tracks, as well as curb space along West Tamalpais Avenue.

The 4th Street Gateway Alternative would feature six platforms, A through F, and two District buildings. There would be three on-street bays located curbside on the west side of Hetherton Street between 4th Street and 5th Avenue. In order to accommodate these curbside bays, southbound right turns from Hetherton Street to 4th Street would be precluded. On the east side of both sites, space would be provided for public plazas, customer service, bicycle parking, and/or transit-supportive land uses.

The 4th Street Gateway Alternative would generally meet the project objectives; however, it would result in increased intersection delays, longer corridor travel times for buses and autos, would not include the construction of the North-South Greenway, and would require transferring passengers to cross 4th Street to transfer between buses and SMART. These are all detriments relative to the proposed project, meaning that the 4th Street Gateway Alternative conflicts with the project objective to create a more accessible transit facility for all users by reducing vehicular, rail, bicycle, and pedestrian conflicts. The longer and less reliable travel time for buses conflicts with the project objective to efficiently accommodate transit users and services, optimize operating costs, and improve transit desirability. This alternative would also require the acquisition of additional parcels, which would increase project costs and result in this alternative less fully meeting the project objective to design a cost-effective facility. Additionally, this alternative would cause a significant and unavoidable impact due to loss of historical resources as a result of the potential for inadvertent damage to 633 5th Avenue and 637 5th Avenue during relocation of the residences, as well as the current lack of receiving sites that would ensure successful relocation. This alternative has the potential to materially alter physical characteristics and aspects of setting that qualify the two buildings as CEQA historical resources. Therefore, the 4th Street Gateway Alternative was rejected.

2.5.4 Under the Freeway Alternative

This alternative site is generally located beneath US-101 and bounded by 5th Avenue, south of 4th Street, Irwin Street, and Hetherton Street. Underneath US-101 there is a park-and-ride lot, maintained and operated by the California Department of Transportation (Caltrans). Irwin Creek, underneath US-101, flows parallel to US-101.

The Under the Freeway Alternative would feature six platforms, A through F, and one District building. The affiliated bus bays would be accessed via driveways on 4th Street, Irwin Street, and Hetherton Street. Internal circulation would be provided for the northern block to allow buses accessing bays from either side of the site to egress on either side as well, which is critical given the diverse bus routing accessing the site. Space would be provided for public plazas, customer service, and/or transit-supportive land uses. This would require three bridges/viaducts over Irwin Creek to connect Hetherton Street to the bus bays.

The Under the Freeway Alternative would generally meet the project objectives; however, its location under the freeway would affect site visibility and partially conflict with the objective to provide a secure, safe, and inviting space for transit patrons. Additionally, this alternative would not include the construction of the North-South Greenway bike facility that would be constructed under the proposed project and it does not directly connect to that planned facility, meaning that it less fully meets the project objective to create a more accessible transit facility for all users by reducing vehicular, rail, bicycle, and pedestrian conflicts. This alternative would also locate bus services further from the SMART platform than under the proposed project, requiring transferring passengers to cross Hetherton Street, and for some passengers transferring from bus to bus to cross 4th Street. Locating the transit center east of Hetherton Street would require users accessing Downtown San Rafael, the primary destination for transit center users, to cross Hetherton Street, increasing pedestrian-vehicle conflicts and conflicting with the objective to provide convenient pedestrian connections to surrounding land uses.

Therefore, this alternative less fully meets the objective of bringing together multiple modes of the transportation network—including the SMART-bus connection—into a hub that affords transit users the safest, most efficient means of using bus and rail services. This alternative would also require the construction of bridges or viaducts over Irwin Creek and would require environmental mitigation for these project elements, which would increase project costs and result in this alternative less fully meeting the project objective to design a cost-effective facility. Additionally, this alternative would demolish 1011 Irwin Street, a historical resource, destroying all the characteristics that qualify it for inclusion in the National Register of Historic Places and California Register of Historical Resources. The demolition of would therefore be considered a substantial adverse change in the significance of the historical resource. Therefore, the Under the Freeway Alternative was rejected.

3.1 CEQA Requirements

CEQA (PRC 21002) provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects.”

Regarding these Findings, Section 15091 of the CEQA Guidelines (14 California Code of Regulations) states:

- a. No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 2. Such changes or alternations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- b. The findings required by subsection (a) shall be supported by substantial evidence in the record.

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 [183 Cal.Rptr. 898].) “[F]easibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*Id.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 [29 Cal.Rptr.2d 182])

The CEQA Guidelines do not define the difference between “avoiding” a significant environmental effect and merely “substantially lessening” such an effect. The District must therefore glean the meaning of these terms from the other contexts in which the terms are used. PRC Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term “mitigate” rather than “substantially lessen.” The CEQA Guidelines therefore equate “mitigating” with “substantially lessening.” Such an

understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” (PRC 21002, emphasis added).

For purposes of these Findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less-than-significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that impact to a less-than-significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 519–527 [147 Cal.Rptr. 842], in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant impacts by adopting numerous mitigation measures, not all of which rendered the significant impacts in question (e.g., the “regional traffic problem”) to less than significant.

3.2 Legal Effects of Findings

To the extent that these Findings conclude that various proposed mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the District’s Board of Directors hereby binds itself to implement these measures with the adoption of the Mitigation Monitoring and Reporting Program (MMRP). The MMRP will ensure that the mitigation measures identified in the Final EIR are implemented. These Findings, in other words, are not merely informational, but rather constitute a binding set of obligations.

The documents and other materials that constitute the record upon which the District’s Board of Directors’ decision and these Findings are based can be reviewed at the following location:

Golden Gate Bridge Highway and Transportation District
1011 Anderson Drive
San Rafael, CA 94901

3.3 Findings Regarding Independent Review and Judgement

Each member of the District’s Board of Directors was provided a complete copy of the Final EIR. The District’s Board of Directors hereby finds that the San Rafael Transit Center Replacement Project’s Final EIR meets the requirements of CEQA, reflects its independent judgment on the potential environmental impacts of the proposed project, and that it reviewed and considered the Final EIR prior to taking final action with respect to the proposed project.

3.4 Findings Regarding the Proposed Project

The Findings presented in this document for the proposed project are based on the substantial evidence contained in the Final EIR for the proposed project and in relevant technical studies included as part of the administrative record. The Findings do not attempt to describe the full

analysis of each significant environmental impact contained in the Final EIR. Instead, each Finding provides a summary description of each impact, describes the applicable mitigation measures identified in the Final EIR and adopted by the District's Board of Directors, and states the Findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental Findings and conclusions can be found in the Final EIR and the administrative record.

In making these Findings, the District's Board of Directors ratifies, adopts, and incorporates into these Findings the analysis and explanation in the Final EIR and supporting documents in the administrative record, and ratifies, adopts, and incorporates in these Findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these Findings.

With regard to the mitigation measures referenced in the Findings, the full text of the mitigation measures is contained in Section 3.5, *Mitigation Measures Required to Reduce Significant Impacts to Less-than-Significant Levels*. The full text of the mitigation measures is also contained in the MMRP adopted in conjunction with approval of these Findings.

3.4.1 Findings Regarding Significant and Unavoidable Impacts

The Final EIR **did not** identify any significant and unavoidable impacts of the proposed project. Each of the significant impacts identified under the proposed project were reduced to less than significant with mitigation measures applied. No statement of overriding considerations is required.

3.4.2 Findings Regarding Significant Impacts Mitigated to Less-than-Significant Levels

The District's Board of Directors has determined that, for the following impacts, mitigation measures included in the Final EIR and adopted as part of the proposed project's approval will mitigate the impacts of the proposed project to a less-than-significant level. Section 3.5, *Mitigation Measures Required to Reduce Significant Impacts to Less-than-Significant Levels*, lists the full text of each of the mitigation measures applied to the proposed project's significant impacts.

3.4.2.1 Significant Impacts Mitigated to Less-than-Significant Levels Identified in the Final EIR

Aesthetics: Light or Glare Adversely Affecting Day or Nighttime Views

Significant Impact: Excess lighting during operations

Even with compliance of Section 4.16.227 of the City's Municipal Code, the potential for impacts associated with light-emitting diode (LED) lighting would still exist and could affect sensitive receptors if not properly designed. This would result in a substantial source of nighttime light and glare that could adversely affect nighttime views in the area, resulting in a significant impact.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1, *CEQA Requirements*), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (MM-AES-OP-3: Apply Minimum Lighting Standards) would ensure that lighting impacts associated with the proposed project are reduced to less-than-significant levels with mitigation by employing measures to prevent light pollution, preventing the use of blue-rich white light LED lighting, and preparing a preconstruction lighting study to identify and eliminate areas where there would be excessive lighting or light spill.

Air Quality: Exceedance of Thresholds—Expose Sensitive Receptors to Pollutants

Significant Impact: Cancer risk threshold exceedance under the construction plus operations scenario

Cancer risk was evaluated for two scenarios: (1) construction and operations, and (2) operations only. The Final EIR evaluated the unmitigated health risks for the maximum exposed offsite residential receptor within 1,000 feet of the proposed project. The proposed project would exceed the cancer risk threshold in the construction plus operations scenario.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (MM-AQ-CNST-1: Use Clean Diesel-Powered Equipment during Construction to Control Construction-Related Emissions) would ensure that cancer risk associated with the proposed project would be reduced to levels below the Bay Area Air Quality Management District (BAAQMD) health risk thresholds. MM-AQ-CNST-1 would ensure the use of U.S. Environmental Protection Agency (EPA)-approved Tier 4 Final engines to limit cancer-causing diesel particulate matter emissions, reducing the impact to a less-than-significant level.

Biological Resources: Native Wildlife Nursery Sites

Significant Impact: Reduction of local populations of migratory birds during construction

Construction of the proposed project would result in the removal or trimming of landscape trees associated with commercial properties. Vegetation removal during the nesting season of migratory birds (generally February 15 through August 31) could result in the injury or mortality of nesting birds. Removal or destruction of nests or construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment, potentially resulting in the reduction of local populations of migratory birds.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measures provided (MM-BIO-CNST-1: Conduct Environmental Awareness Training for Construction Employees and MM-BIO-CNST-6: Conduct a Preconstruction Survey for Nesting Birds and Implement Protective Buffers Around Active Nests) would protect nesting birds and habitat. MM-BIO-CNST-1 would lessen the potential impact to a less-than-significant level by requiring environmental awareness training for construction crews, including the steps to be taken to identify avoid active nests of migratory birds. Under MM-BIO-CNST-6, if work is scheduled to begin during the nesting bird season, a qualified biologist would

perform a preconstruction survey for nesting birds, resulting in a no-work buffer around active nests if any are found.

Biological Resources: Tree Removal

Significant Impact: Conflict with local tree ordinance or policy

Construction of the proposed project could potentially damage trees to be retained in the project area. Because the project proponent would be required to obtain a permit from the San Rafael Public Works Department for tree removal, this would be a potentially significant impact.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation provided (MM-BIO-CNST-3: Install Orange Construction Fencing Between the Construction Area and Adjacent Sensitive Biological Resources) would lessen the potential impact to a less-than-significant level by requiring installation of barrier fencing around sensitive biological resource areas prior to equipment staging.

Cultural Resources: Archaeological Resources

Significant Impact: Construction activities would cause a substantial adverse change in the significance of known archaeological resources

Construction activities near the project site would include ground disturbance of known buried cultural resources. As a result, significant impacts could occur on archaeological resources due to project construction activities.

Findings: The District's Board of Directors hereby makes Finding (a)(1) and Finding (a)(2) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation provided (MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan, MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities, and MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan) would protect the known archaeological resources during ground-disturbing activities, lessening the potential impact to a less-than-significant level.

MM-CULT-CNST-4 requires the preparation of an Archaeological Testing Plan, which would be implemented to determine the extent of archaeological resources. A resulting technical document would determine if further studies or mitigation is needed.

MM-CULT-CNST-5 would ensure that all construction workers receive training overseen by a qualified professional archaeologist and a Native American monitor. If tribal cultural or archaeological deposits are encountered, the onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path forward. If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native

American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (PRC 5097). According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American.

MM-CULT-CNST-6 requires the development of a Tribal Cultural and Archaeological Monitoring Plan by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The plan would determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance and include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol.

Cultural Resources: Disturbance of Human Remains during Construction

Significant Impact: Construction activities could disturb undiscovered human remains, including those interred outside of formal cemeteries

Project construction would include disturbance of buried cultural resources. As a result of ground-disturbing activities, human remains could be encountered and adversely affected.

Findings: The District's Board of Directors hereby makes Finding (a)(1) and Finding (a)(2) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation provided (MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan, MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities, MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan, and MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains) establishes response protocols in the event of encountering unknown human remains during ground-disturbing activities, lessening the potential impact to a less-than-significant level.

MM-CULT-CNST-4 requires the preparation of an Archaeological Testing Plan, which would be implemented to determine the extent of archaeological resources. A resulting technical document would determine if further studies or mitigation is needed.

MM-CULT-CNST-5 would ensure that all construction workers receive training overseen by a qualified professional archaeologist and a Native American monitor. If tribal cultural or archaeological deposits are encountered, the onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path forward. If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of NAHC (PRC 5097). According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5

requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American.

MM-CULT-CNST-6 requires the development of a Tribal Cultural and Archaeological Monitoring Plan by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The plan would determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance and include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol.

MM-CULT-CNST-7 outlines the requirements for complying with state laws relating to human remains. If the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of Section 5097.98(a)–(d) of the PRC. The District shall ensure that the remains are not damaged or disturbed further until all stipulations in Section 7050.5 and Section 5097.98 have been met.

Cultural Resources: Disturbance of Human Remains During Operations

Significant Impact: Operations activities could disturb undiscovered human remains, including those interred outside of formal cemeteries

No ground disturbance is anticipated in association with operations and maintenance. While site access and vegetation removal have the potential to affect surface archaeological deposits, human remains tend to be located within subsurface deposits. No excavation is associated with operations and maintenance; therefore, these activities are unlikely to affect human remains. However, due to the sensitive nature of the area, there is the potential to encounter human remains.

Findings: The District's Board of Directors hereby makes Finding (a)(1) and Finding (a)(2) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation provided (MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan and MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities) establishes response protocols in the event of encountering unknown human remains, lessening the potential impact to a less-than-significant level.

MM-CULT-CNST-4 requires the preparation of an Archaeological Testing Plan, which would be implemented to determine the extent of archaeological resources. A resulting technical document would determine if further studies or mitigation is needed.

MM-CULT-CNST-5 would ensure that all construction workers receive training overseen by a qualified professional archaeologist and a Native American monitor. If tribal cultural or archaeological deposits are encountered, the onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path forward. If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of NAHC (PRC 5097). According to California

Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American.

Cultural Resources: Cumulative Impacts on Archaeological Resources

Significant Impact (Cumulative): The contribution of the proposed project to substantial adverse changes in the significance of known archaeological resources

The contribution of the proposed project to impacts on known archaeological resources would be significant.

Findings: The District's Board of Directors hereby makes Finding (a)(1) and Finding (a)(2) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation provided (MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan, MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities, and MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan) would protect the known archaeological resources during ground-disturbing activities and lessen the potential impact to a less-than-significant level by requiring the following actions.

MM-CULT-CNST-4 requires the preparation of an Archaeological Testing Plan, which would be implemented to determine the extent of archaeological resources. A resulting technical document would determine if further studies or mitigation is needed.

MM-CULT-CNST-5 would ensure that all construction workers receive training overseen by a qualified professional archaeologist and a Native American monitor. If tribal cultural or archaeological deposits are encountered, the onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path forward. If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of NAHC (PRC 5097). According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American.

MM-CULT-CNST-6 requires the development of a Tribal Cultural and Archaeological Monitoring Plan by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The plan would determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance and include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol.

Cultural Resources: Cumulative Impacts on Human Resources

Significant Impact (Cumulative): The contribution of the proposed project to impacts on unknown human remains

The contribution of the proposed project to impacts on unknown human remains, including those interred outside of formal cemeteries, would be significant.

Findings: The District's Board of Directors hereby makes Finding (a)(1) and Finding (a)(2) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation provided (MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan, MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities, MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan, and MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains) establishes response protocols in the event of encountering unknown human remains during ground-disturbing activities that would lessen the potential impact to a less-than-significant level.

MM-CULT-CNST-4 requires the preparation of an Archaeological Testing Plan, which would be implemented to determine the extent of archaeological resources. A resulting technical document would determine if further studies or mitigation is needed.

MM-CULT-CNST-5 would ensure that all construction workers receive training overseen by a qualified professional archaeologist and a Native American monitor. If tribal cultural or archaeological deposits are encountered, the onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path forward. If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of NAHC (PRC 5097). According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American.

MM-CULT-CNST-6 requires the development of a Tribal Cultural and Archaeological Monitoring Plan by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The plan would determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance and include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol.

MM-CULT-CNST-7 outlines the requirements for complying with state laws relating to human remains. If the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of Section 5097.98(a)–(d) of the PRC. The District shall ensure that the remains are not damaged or disturbed further until all stipulations in Section 7050.5 and Section 5097.98 have been met.

Energy: Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources

Significant Impact: Wasteful, inefficient, or unnecessary energy use during construction

Construction-related energy usage would include the electricity needed to power electric construction equipment or deliver water to the construction site, the gasoline and diesel fuel used for transporting workers and materials to and from the construction site, and the fuel used for the operation of off-road equipment. Construction-related energy usage and consumption would vary throughout the course of project buildout and depend on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Overall, project construction would consume approximately 8,600 million British thermal units over the approximately 18-month construction period.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (MM-GHG-CNST-1: Implement BAAQMD's Best Management Practices and Applicable California Green Building Code Requirements to Reduce GHG Emissions from Construction) would lessen the potential impact to a less-than-significant level by requiring the following best practices: use alternative-fuel construction vehicles/equipment (at least 15 percent of the fleet), use local building materials (at least 10 percent), and recycle at least 65 percent of construction waste or demolition materials. These best practices would reduce the construction energy consumption to ensure that energy use is not wasteful, inefficient, or unnecessary.

Greenhouse Gases: Generate Direct or Indirect Greenhouse Gas Emissions

Significant Impact: Construction activities would generate greenhouse gas (GHG) emissions in conflict with statewide emission goals

Construction activities would generate emissions of carbon dioxide, methane, and nitrous oxide from off-road construction equipment, construction employees' vehicles, and haul trucks, as well as from indirect GHG emissions from water and electricity consumption. The Final EIR determined the proposed project would generate 611.67 metric tons of carbon dioxide equivalent over the 18-month construction period. The BAAQMD *California Environmental Quality Act: Air Quality Guidelines* recommends that a determination regarding the significance of the GHG emissions be made with respect to whether the project in question is consistent with state goals regarding reductions in GHG emissions. If the proposed project does not implement feasible best management practices (BMPs), it is anticipated that it would conflict with statewide emission goals.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (MM-GHG-CNST-1: Implement BAAQMD's Best Management Practices and Applicable California Green Building Code Requirements to Reduce GHG Emissions from Construction) would lessen the potential impact to a less-than-significant level by requiring the following best practices: use alternative-fuel construction vehicles/equipment (at least 15 percent of the fleet), use local building materials (at least 10

percent), and recycle at least 65 percent of construction waste or demolition materials. These best practices would minimize construction GHG emissions and comply with statewide emission goals.

Hazards and Hazardous Materials: Transport, Use, or Disposal of Hazardous Materials

Significant Impact: Project construction would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials

Project construction would involve routine transport, use, and disposal of hazardous materials such as fuels, lubricants, solvents, and paint. Transport, use, and disposal of these hazardous materials during construction would be required to comply with applicable hazardous materials regulations, such as those discussed under Section 3.8.1.1, *Regulatory Setting*, of the Final EIR. The use of small amounts of hazardous materials during construction is typical to the construction of similar projects. Construction of the proposed project would not be expected to require the transport, use, and disposal of acutely hazardous materials.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (MM-HYD-CNST-1: Prepare and Implement a Stormwater Pollution Prevention Plan) would lessen the potential impact to a less-than-significant level by requiring BMPs, to be finalized by the project contractor, to be employed during construction to prevent spills or release of hazardous materials into the surrounding environment. BMPs may include, but are not limited to, treatment requirements and operating procedures to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage. The Stormwater Pollution Prevention Plan (SWPPP) would also require that equipment and materials for cleanup of spills must be available on site, and spills and leaks must be cleaned up immediately and disposed of in accordance with applicable regulations. In the event of a hazardous material spill or release, project construction staff would follow the procedures outlined in BMPs.

Hazards and Hazardous Materials: Accidental Release of Hazardous Materials into the Environment

Significant Impact: Construction would potentially result in spills or accidental release of hazardous materials

Construction of the proposed project could result in potential spills or accidental release of hazardous materials. Modification or demolition of such structures during construction could release hazardous building materials into the environment and pose a health risk to construction workers and the public, if not handled and disposed of properly. Construction activities also have the potential to disturb hazardous materials from residual groundwater contamination, aerially deposited lead contamination, and soil contamination from railroad corridors.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (Mitigation Measure MM-HAZ-CNST-1: Phase II Site Investigation), in conjunction with compliance with standard safety procedures during construction, would lessen the potential impact to a less-than-significant level by ensuring that a Phase II Site Investigation is performed to further investigate hazardous materials concerns related to soil, groundwater, and building materials that could be disturbed by construction of the proposed project.

Hydrology and Water Quality: Degrade Water Quality during Construction

Significant Impact: Construction would degrade water quality or violate water quality standards

Construction activities may result in temporary increases in sediment loads and potential stormwater contamination, accidental spills of hazardous materials, and surface and groundwater impacts. Grading, excavation, and other earthmoving activities would have the potential to cause substantial erosion and result in sediment transport to roadways or watercourses via storm drains. Additional construction activities could result in soil compaction and wind erosion impacts that could adversely affect soils and reduce the revegetation potential at specific locations.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (Mitigation Measure MM-HYD-CNST-1: Prepare and Implement a Stormwater Pollution Prevention Plan (SWPPP)) would ensure preparation and implementation of a site-specific SWPPP that is consistent with the Construction General Permit. The SWPPP will include project construction features designed to protect the quality of stormwater runoff.

Noise: Construction Noise

Significant Impact: Construction activities would expose persons to or generate noise in excess of City's noise standards

Construction noise would exceed noise criteria for residences and mixed-use office uses located adjacent to the project site. Construction noise levels could be as high as 102 A-weighted decibels (dBA) at a distance of 10 feet during site demolition, which would likely be the loudest phase of construction and would be readily noticeable above ambient noise levels. Utility work may be required at night on an intermittent basis. This would exceed City nighttime noise limits at receptors up to 2,200 feet from the work site.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (Mitigation Measure MM-NOI-CNST-1. Use Best Noise Control Practices During Construction) would lessen the potential impact to a less-than-significant level by reducing noise at the source, reducing noise between the source and receiver and restricting the hours of operation.

Noise: Operational Noise from HVAC system

Significant Impact: Noise from building heating, ventilation, and air conditioning (HVAC) could exceed City's noise standards

The new building in the project area would require HVAC systems. Typical HVAC equipment can produce sound levels in the range of about 70 dBA at 50 feet, depending on the size of the equipment. The HVAC equipment is required to meet City noise standards and should not exceed the applicable noise limits at the property line (65 dBA during daytime hours or 55 dBA during nighttime hours for residential mixed-use properties). Because noise levels from the equipment are not known, additional acoustical treatments are provided to ensure this noise impact is less than significant with mitigation.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measures provided (MM-NOI-OP-2: Provide Acoustical Treatments for Mechanical Equipment as Needed to Comply with City Noise Standards) would ensure that proposed HVAC equipment noise levels do not exceed the nighttime noise limit of 55 dBA equivalent sound level at the property line. Because noise levels from the equipment are not known, the building engineer should confirm that City noise limits would be met, the mitigation measure provides for incorporation of acoustical treatments to not exceed the City's noise limit.

Noise: Construction Groundborne Vibration

Significant Impact: Construction activities would generate vibration in excess of Caltrans vibration standards for fragile buildings

Vibration from heavy equipment would potentially be perceptible within building structures during short intervals when equipment is operated near structures. Construction would require operation of heavy equipment near (possibly as close as 10 feet from) a historic building at 709–711 4th Street. Construction-induced vibration could exceed 0.08 inch per second peak particle velocity at 20 to 25 feet from the building structure, which would exceed Caltrans vibration criteria for fragile buildings. Therefore, vibration levels during use of heavy equipment would potentially exceed annoyance thresholds and building damage thresholds. Mitigation Measure MM-NOI-CNST-3 would reduce these impacts to a less-than-significant level with mitigation.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measures provided (MM-NOI-CNST-3: Implement Vibration-Reducing Practices During Construction) requires that vibration control plan be prepared that will describe the specific methods that the contractor will use to control vibration. Because of the historic status of the 709–711 4th Street building, the plan will provide additional detail on how construction vibration near this building will be addressed. A designated complaint coordinator shall be responsible for handling and responding to any complaints received during such periods of construction. A reporting program will document complaints received, actions taken, and the effectiveness of these actions in resolving disputes.

Noise: Cumulative Impacts related to Construction Noise

Significant Impact (Cumulative): Construction activities may cumulatively contribute to noise levels in the surrounding neighborhood

City daytime noise limits are likely to be exceeded at the nearest receptors during construction. The project site would be near other construction projects, which may produce noise levels during construction that would be cumulatively higher if overlapping with project construction.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measure provided (MM-NOI-CNST-1: Use Best Noise Control Practices During Construction) would lessen the potential impact to a less-than-significant level by reducing noise at the source, reducing noise between the source and receiver and restricting the hours of operation.

Tribal Cultural Resources: Presence of Resources

Significant Impact: Construction activities could disturb tribal cultural resources

The presence of tribal cultural resources in the project area suggests that ground disturbance associated with project construction has the potential to encounter as-yet-undocumented pre-contact archaeological resources.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measures provided (MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan, MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities, MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan, and MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains) establishes response protocols in the event of encountering as-yet-undocumented pre-contact archaeological resources during ground-disturbing activities that would lessen the potential impact to a less-than-significant level. The measures require preparation of a Tribal Cultural and Archaeological Monitoring Plan by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The plan would determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance and include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol.

Tribal Cultural Resources: Cumulative Impacts during Construction

Significant Impact (Cumulative): Construction activities could cumulatively contribute to impacts on tribal cultural resources

The project area is considered sensitive for tribal cultural resources. The past, present, and reasonably foreseeable future projects within and surrounding the project area include 11 projects that will require ground disturbance during project construction and therefore have the potential to affect tribal cultural resources. Taken together, the proposed project and the identified cumulative projects have the potential to result in an overall cumulative impact on tribal cultural resources.

Findings: The District's Board of Directors hereby makes Finding (a)(1) (as described in Section 3.1), as required by PRC Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The mitigation measures provided (MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan, MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities, MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan, and MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains) establishes response protocols in the event of encountering as-yet-undocumented pre-contact archaeological resources during ground-disturbing activities that would lessen the potential impact to a less-than-significant level. The measures require preparation of a Tribal Cultural and Archaeological Monitoring Plan by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The plan would determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance and include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol.

3.5 Mitigation Measures Required to Reduce Significant Impacts to Less-than-Significant Levels

The following section lists the full text of the mitigation measures applied in order to reduce significant impacts to a less-than-significant level. The measures are listed under the resource type for which they are applied; for example, MM-BIO-CNST-5 is listed under Section 3.5.8, *Hydrology and Water Quality*, because that measure is used to reduce a significant hydrological impact.

3.5.1 Aesthetics

MM-AES-OP-3: Apply Minimum Lighting Standards

All artificial outdoor lighting and overhead street lighting shall be designed in accordance with Section 4.16.227, Light and glare, and Section 14.18.170, Lighting, of the City's Municipal Code. In addition, all lighting shall use downcast, cut-off type fixtures that are shielded and direct the light only toward objects requiring illumination. Therefore, lights shall be installed at the lowest allowable height and cast low-angle illumination while minimizing incidental light spill onto adjacent properties or open spaces, or backscatter into the nighttime sky. The lowest allowable wattage shall be used for all lighted areas, and the number of nighttime lights needed to light an area shall be minimized to the highest degree possible. Lighting shall be designed for energy efficiency, with daylight sensors or timers with an on/off program. Lights shall provide good color rendering

with natural light qualities, with the minimum intensity feasible for security, safety, and personnel access. Lighting, including light color rendering and fixture types, shall be designed to be aesthetically pleasing.

LED lighting shall avoid the use of BRWL lamps and use a correlated color temperature that is no higher than 3,000 Kelvin, consistent with the International Dark-Sky Association's Fixture Seal of Approval Program (International Dark-Sky Association 2010a, 2010b, 2015). In addition, LED lights shall use shielding to ensure that nuisance glare and light spill does not affect sensitive residential viewers.

Lights along pathways and bridge safety lighting shall use shielding to minimize offsite light spill and glare and shall be screened and directed away from adjacent uses to the highest degree possible. The number of nighttime lights used along pathways shall be minimized to the highest degree possible to ensure that spaces are not unnecessarily over-lit. For example, the amount of light can be reduced by limiting the amount of ornamental light posts to higher-use areas and by using bollard lighting on travel way portions of pathways.

Technologies to reduce light pollution evolve over time; design measures that are currently available may help but may not be the most effective means of controlling light pollution once the proposed project is designed. Therefore, all design measures used to reduce light pollution shall use the technologies available at the time of project design to allow for the highest potential reduction in light pollution. Further, a pre-construction photometric analysis (i.e., a lighting study) will be prepared to demonstrate foot candle readings to determine how much light is coming from fixtures and lighting the coverage area to help eliminate "hot spots" or areas where there is excessive lighting or light spill. In addition, a post-installation lighting inspection will occur 30 days following installation to allow for adjustments in the intensity of light and glare coming from installed lighting.

3.5.2 Air Quality

MM-AQ-CNST-1: Use Clean Diesel-Powered Equipment during Construction to Control Construction-Related Emissions

The project sponsor shall ensure that all off-road diesel-powered equipment used during construction is equipped with EPA-approved Tier 4 Final engines to reduce diesel particulate matter. The construction contractor shall submit evidence of the use of EPA-approved Tier 4 Final engines or cleaner for project construction to the City prior to the commencement of construction activities.

3.5.3 Biological Resources

MM-BIO-CNST-1: Conduct Environmental Awareness Training for Construction Employees

The project proponent shall retain a qualified biologist to conduct environmental awareness training for construction crews before project implementation. The awareness training shall be provided to all construction personnel and shall brief them on the need to avoid effects on sensitive biological resources (i.e., pallid bat and roosting colonies of bats, Irwin Creek, and active nests of migratory birds) in and adjacent to the construction area. The education program shall include a brief review of pallid bat (including its legal status, life history, habitat requirements, and photographs of the species) and shall identify potential roosting habitats in the project area. The training shall also include information on the locations of any active migratory bird nests in the

project area. The biologist shall describe the protective measures that must be adhered to by all construction personnel to reduce or avoid effects on sensitive biological resources during project implementation. This includes the steps to be taken if a sensitive species or an active migratory bird nest is found within the construction area (i.e., notifying the crew foreman, who will call the City's designated biologist).

In addition, construction employees shall be educated about the importance of controlling and preventing the spread of invasive plant infestations. An environmental awareness handout that describes and illustrates sensitive resources to be avoided during project construction and identifies all relevant permit conditions shall be provided to each crew member. The crew foreman shall be responsible for ensuring that crew members adhere to the guidelines and restrictions. Education programs shall be conducted for appropriate new personnel as they are brought on the job during the construction period.

MM-BIO-CNST-3: Install Orange Construction Fencing Between the Construction Area and Adjacent Sensitive Biological Resources

The project proponent or their contractor shall install orange construction fencing between the construction area and adjacent sensitive biological resource areas. Sensitive biological resources adjacent to the construction area that could be directly affected by the proposed project include Irwin Creek upstream and downstream of the construction area, active nests of migratory birds, and trees to be retained in the project area.

Barrier fencing around sensitive biological resource areas shall be installed as one of the first orders of work and prior to equipment staging. Before construction begins, the construction contractor shall work with the project engineer and a resource specialist to identify the locations for the orange construction fencing and shall place stakes around the sensitive resource sites to indicate these locations. The protected areas shall be designated as environmentally sensitive areas and clearly identified on the construction plans and described in the specifications. To minimize the potential for snakes and other ground-dwelling animals to be caught in the orange construction fencing, the fencing shall be placed with at least a 1-foot gap between the ground and the bottom of the fencing. The exception to this condition is where construction barrier fencing overlaps with erosion control fencing and must be secured to prevent sediment runoff. Barrier fencing shall be installed before construction activities are initiated, maintained throughout the construction period, and removed after completion of construction.

MM-BIO-CNST-6: Conduct a Preconstruction Survey for Nesting Birds and Implement Protective Buffers Around Active Nests

If work is scheduled to begin during the nesting bird season (February 15 through August 31), a qualified biologist shall conduct a preconstruction survey for nesting birds no more than 14 days before any tree or shrub trimming or removal or clearing of ground vegetation. If vegetation trimming, removal, or clearing does not begin within 14 days of the survey, vegetation to be affected shall be resurveyed for active nests. If an active nest is found in the survey area, the biologist shall determine and establish a no-work buffer around the active nest to limit disturbance until the nest is no longer active. The extent of the buffer shall depend on the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. Suitable buffer distances may vary between species. The biologist shall periodically monitor the nest to determine when the nest is no longer active and the buffer can be removed. Should an active bird nest be found in the project area

during work activities, work in that area shall cease and the biologist shall be contacted to establish an appropriate no-work buffer zone.

3.5.4 Cultural Resources

MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan

Due to the presence of known archaeological resources in the proposed work area, archaeological testing should occur prior to construction to determine the extent of the resource as well as its significance under CEQA. An Archaeological Testing Plan should be prepared by a qualified archaeologist and include the following items:

- Background and anticipated resource types
- Research questions that can be addressed by the collection of data from the defined resource types
- Field methods and procedures
- Cataloging and laboratory analysis
- Findings and interpretation

The Archaeological Testing Plan shall be implemented to determine the extent of archaeological resources within any area where there will be ground disturbance. The results of the study shall be summarized into a technical document that shall determine whether further study is necessary. The technical document shall also determine whether additional mitigation will be needed, and can lead to additional studies and, if needed, even further mitigation. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities

Prior to any project-related ground disturbance, the District shall ensure that all construction workers receive training overseen by a qualified professional archaeologist who is experienced in teaching non-specialists to ensure that contractors can recognize archaeological resources in the event that any are discovered during construction. Tribal cultural resource awareness will be provided by a Native American monitor at the same time.

If tribal cultural or archaeological deposits are encountered during project-related ground disturbance, work in the area (100-foot radius) shall stop immediately. The onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path forward. Tribal cultural and archaeological deposits include, but are not limited to, flaked stone or groundstone, midden and shell deposits, historic-era refuse, and/or structure foundations.

If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of the NAHC (PRC 5097). If human remains are discovered or recognized in any location other than a

dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

1. The county coroner has been informed by the District and has determined whether investigation of the cause of death is required
2. If the remains are of Native American origin:
 - a. The descendants of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98; or
 - b. NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.
 - c. NAHC recommends a Most Likely Descendant to make a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.

According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan

Given the reasonable potential for tribal cultural and archaeological resources to be present within the proposed work area, the following measures shall be undertaken to avoid any significant impacts on these potential resources. A Tribal Cultural and Archaeological Monitoring Plan shall be developed by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The Tribal Cultural and Archaeological Monitoring Plan will determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance. The plan shall include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol. The Unanticipated Discovery Protocol shall describe steps to follow if unanticipated archaeological discoveries are made during project work and a chain of contact. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains

As stated above, any human remains and related items discovered during the implementation of this project shall be treated in accordance with the requirements of Section 7050.5(b) of the California Health and Safety Code. If, pursuant to Section 7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of Section

5097.98(a)-(d) of the PRC. The District shall ensure that the remains are not damaged or disturbed further until all stipulations in Section 7050.5 and Section 5097.98 have been met. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

3.5.5 Energy

MM-GHG-CNST-1: Implement BAAQMD's Best Management Practices and Applicable California Green Building Code Requirements to Reduce GHG Emissions from Construction

- Use alternative-fuel (e.g., biodiesel, electric) construction vehicles/equipment (at least 15 percent of the fleet).
- Use local building materials (at least 10 percent).

Recycle at least 65 percent of construction waste or demolition materials.

3.5.6 Greenhouse Gases

MM-GHG-CNST-1: Implement BAAQMD's Best Management Practices and Applicable California Green Building Code Requirements to Reduce GHG Emissions from Construction

- Use alternative-fuel (e.g., biodiesel, electric) construction vehicles/equipment (at least 15 percent of the fleet).
- Use local building materials (at least 10 percent).

Recycle at least 65 percent of construction waste or demolition materials.

3.5.7 Hazards and Hazardous Wastes

MM-HYD-CNST-1: Prepare and Implement a Stormwater Pollution Prevention Plan

The proposed project will be required to implement a site-specific SWPPP that is consistent with the Construction General Permit. The SWPPP will include project construction features designed to protect the quality of stormwater runoff, known as BMPs. Construction BMPs could include, but not be limited to, the following:

- Minimization of disturbed areas to the portion of the project site necessary for construction
- Stabilization of exposed or stockpiled soils and cleared or graded slopes
- Establishment of permanent revegetation or landscaping as early as is feasible
- Removal of sediment from surface runoff before it leaves the project site by silt fences or other similar devices around the site perimeter
- Protection of all storm drain inlets on site or downstream of the project site to eliminate entry of sediment
- Prevention of tracking soils and debris off site through use of a gravel strip or wash facilities, which would be located at all construction exits from the project site
- Proper storage, use, and disposal of construction materials, such as solvents, wood, and gypsum
- Continual inspection and maintenance of all BMPs through the duration of construction

- Treatment requirements and operating procedures to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage

The SWPPP will also contain a site map(s) showing the construction perimeter, existing and proposed buildings, stormwater collection and discharge points, general pre- and post-construction topography, drainage patterns across the site, and adjacent roadways; a visual monitoring program; a chemical monitoring program for “non-visible” pollutants; and a sediment monitoring plan, should the site discharge directly into a waterbody listed on the 303(d) list for sediment. Section A of the Construction General Permit lists all elements that must be contained in a SWPPP. Once grading begins, the SWPPP must be kept on site and updated as needed while construction progresses.

MM-HAZ-CNST-1: Phase II Site Investigation

Prior to construction, a Phase II Site Investigation shall be performed to further investigate hazardous materials concerns related to soil, groundwater, and building materials that could be disturbed by construction of the selected alternative, per the recommendations made in the Phase I Environmental Site Assessment.

3.5.8 Hydrology and Water Quality

MM-HYD-CNST-1: Prepare and Implement a Stormwater Pollution Prevention Plan

The proposed project will be required to implement a site-specific SWPPP that is consistent with the Construction General Permit. The SWPPP will include project construction features designed to protect the quality of stormwater runoff, known as BMPs. Construction BMPs could include, but not be limited to, the following:

- Minimization of disturbed areas to the portion of the project site necessary for construction
- Stabilization of exposed or stockpiled soils and cleared or graded slopes
- Establishment of permanent revegetation or landscaping as early as is feasible
- Removal of sediment from surface runoff before it leaves the project site by silt fences or other similar devices around the site perimeter
- Protection of all storm drain inlets on site or downstream of the project site to eliminate entry of sediment
- Prevention of tracking soils and debris off site through use of a gravel strip or wash facilities, which would be located at all construction exits from the project site
- Proper storage, use, and disposal of construction materials, such as solvents, wood, and gypsum
- Continual inspection and maintenance of all BMPs through the duration of construction
- Treatment requirements and operating procedures to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage

The SWPPP will also contain a site map(s) showing the construction perimeter, existing and proposed buildings, stormwater collection and discharge points, general pre- and post-construction topography, drainage patterns across the site, and adjacent roadways; a visual monitoring program; a chemical monitoring program for “non-visible” pollutants; and a sediment monitoring plan, should the site discharge directly into a waterbody listed on the 303(d) list for sediment. Section A of the

Construction General Permit lists all elements that must be contained in a SWPPP. Once grading begins, the SWPPP must be kept on site and updated as needed while construction progresses.

MM-BIO-CNST-5: Compensate for Temporary and Permanent Loss of Perennial Stream

The project proponent shall compensate for both temporary and permanent loss of perennial stream in compliance with the state (Section 401 Water Quality Certification or waste discharge requirements, Lake and Streambed Alteration Agreement) and federal (Section 404 permit) processes for the work that would occur in Irwin Creek. Specifically, the project proponent shall compensate for temporary impacts (impacts occurring during construction) on up to 0.54 acre of non-wetland waters of the United States in Irwin Creek by restoring the creek bed and bank to pre-project contours when construction is complete. Because there is little to no vegetation in the creek, no revegetation is necessary.

The project proponent shall compensate for the permanent fill of up to 0.27 acre of non-wetland waters of the United States in Irwin Creek by purchasing mitigation bank credits, which can be in the form of preservation and/or creation credits using the following minimum ratios:

A minimum of 2:1 (2 acres of mitigation for each acre filled), for a total of up to 0.54 acre, if credits are for preservation of habitat; or

A minimum of 1:1 (1 acre of mitigation for each acre filled), for a total of up to 0.27 acre if credits are for creation of habitat.

The actual compensation ratios shall be determined through coordination with the San Francisco Bay Regional Water Quality Control Board and California Department of Fish and Wildlife (Section 401 Water Quality Certification or waste discharge requirements, Lake and Streambed Alteration Agreement) and U.S. Army Corps of Engineers (Section 404 permit) as part of the permitting process. The project proponent shall provide written evidence to the resource agencies that compensation has been established through the purchase of mitigation credits.

3.5.9 Noise

MM-NOI-CNST-1. Use Best Noise Control Practices During Construction

Best practices to minimize construction noise include the following:

- Limiting heavy equipment use to daytime hours not regulated by the City, between 7:00 a.m. and 6:00 p.m. Monday to Friday, and 9:00 a.m. to 6:00 p.m. on Saturday
- Locating stationary equipment (e.g., generators, pumps, cement mixers, idling trucks) as far as possible from noise-sensitive land uses
- Requiring that all construction equipment powered by gasoline or diesel engines have sound-control devices such as exhaust mufflers that are at least as effective as those originally provided by the manufacturer and that all equipment be operated and maintained to minimize noise generation
- Using equipment powered by electric motors instead of gasoline or diesel-powered engines
- Preventing excessive noise by shutting down idle vehicles or equipment
- Using noise-reducing enclosures around noise-generating equipment

- Constructing barriers between noise sources and noise-sensitive land uses or taking advantage of existing barrier features (e.g., terrain, structures) to block sound transmission to noise-sensitive land uses. The barriers should be designed to obstruct the line of sight between the noise-sensitive land use and onsite construction equipment.
- Notifying adjacent residents in advance of construction work

MM-NOI-CNST-3: Implement Vibration-Reducing Practices During Construction

During construction, the contractor shall employ best practices to reduce construction vibration at adjacent buildings such that vibration at the building façades does not exceed 0.08 inch per second. Measures that can be used to limit construction vibration include, but are not limited to, the following:

- Locating high-vibration-generating equipment as far as possible from buildings
- Using low-vibration equipment within 45 feet of buildings

A vibration control plan shall be prepared that will describe the specific methods that the contractor will use to control vibration. Because of the historic status of the 709–711 4th Street building, the plan shall provide additional detail on how construction vibration near this building will be addressed. The plan may include the following measures:

- A preconstruction survey of the building to document pre-existing damage such as plaster cracks, shifted foundation, and concrete cracks
- Real-time monitoring of ground vibration
- If vibration monitoring indicates an exceedance of 0.08 inch per second during construction, alternative low-vibration construction methods shall be used, such that any subsequent exceedance is avoided.

A designated complaint coordinator shall be responsible for handling and responding to any complaints received during such periods of construction. A reporting program shall be required that documents complaints received, actions taken, and the effectiveness of these actions in resolving disputes.

MM-NOI-OP-2: Provide Acoustical Treatments for Mechanical Equipment as Needed to Comply with City Noise Standards

The applicant shall provide acoustical treatments as needed for the proposed HVAC equipment to ensure noise levels do not exceed the nighttime noise limit of 55 A-weighted decibels equivalent sound level at the property line. These limits are in accordance with the noise limitations specified in the City Municipal Code. Any required acoustical treatments can be specified by retaining a qualified acoustical consultant. Treatments may include, but are not limited to:

- Installing stationary equipment as far as possible from offsite noise-sensitive land uses and the property line to reduce noise levels at adjacent parcels
- Constructing enclosures around noise-generating mechanical equipment
- Placing barriers around the equipment
- Using mufflers or silencers on equipment exhaust fans
- Orienting or shielding equipment to protect sensitive uses to the greatest extent feasible

3.5.10 Tribal Cultural Resources

MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan

Due to the presence of known archaeological resources in the proposed work area, archaeological testing should occur prior to construction to determine the extent of the resource as well as its significance under CEQA. An Archaeological Testing Plan should be prepared by a qualified archaeologist and include the following items:

- Background and anticipated resource types
- Research questions that can be addressed by the collection of data from the defined resource types
- Field methods and procedures
- Cataloging and laboratory analysis
- Findings and interpretation

The Archaeological Testing Plan shall be implemented to determine the extent of archaeological resources within any area where there will be ground disturbance. The results of the study shall be summarized into a technical document that shall determine whether further study is necessary. The technical document shall also determine whether additional mitigation will be needed, and can lead to additional studies and, if needed, even further mitigation. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities

Prior to any project-related ground disturbance, the District shall ensure that all construction workers receive training overseen by a qualified professional archaeologist who is experienced in teaching non-specialists to ensure that contractors can recognize archaeological resources in the event that any are discovered during construction. Tribal cultural resource awareness will be provided by a Native American monitor at the same time.

If tribal cultural or archaeological deposits are encountered during project-related ground disturbance, work in the area (100-foot radius) shall stop immediately. The onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path forward. Tribal cultural and archaeological deposits include, but are not limited to, flaked stone or groundstone, midden and shell deposits, historic-era refuse, and/or structure foundations.

If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of the NAHC (PRC 5097). If human remains are discovered or recognized in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

1. The county coroner has been informed by the District and has determined whether investigation of the cause of death is required
2. If the remains are of Native American origin:
 - a. The descendants of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98; or
 - b. NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.
 - c. NAHC recommends a Most Likely Descendant to make a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.

According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan

Given the reasonable potential for tribal cultural and archaeological resources to be present within the proposed work area, the following measures shall be undertaken to avoid any significant impacts on these potential resources. A Tribal Cultural and Archaeological Monitoring Plan shall be developed by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The Tribal Cultural and Archaeological Monitoring Plan will determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance. The plan shall include a protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol. The Unanticipated Discovery Protocol shall describe steps to follow if unanticipated archaeological discoveries are made during project work and a chain of contact. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains

As stated above, any human remains and related items discovered during the implementation of this project shall be treated in accordance with the requirements of Section 7050.5(b) of the California Health and Safety Code. If, pursuant to Section 7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of Section 5097.98(a)-(d) of the PRC. The District shall ensure that the remains are not damaged or disturbed further until all stipulations in Section 7050.5 and Section 5097.98 have been met. All work will be

done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021a).

3.6 Findings Regarding Recirculation

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the proposed project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide the following examples of significant new information under this standard:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation is adopted that reduces the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
- The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043).

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The above standard is “not intend[ed] to promote endless rounds of revision and recirculation of EIRs.” (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal. 4th 1112, 1132). “Recirculation was intended to be an exception, rather than the general rule.” (*Ibid.*)

The Final EIR incorporates information since the Draft EIR was completed and contains additions, clarifications, modifications, and other changes to the proposed project. Where changes or additions have been made to information in the Draft EIR, these revisions do not change any conclusions on the significance of impacts presented in the Draft EIR and do not meet any of the standards for recirculation under CEQA Guidelines Section 15088.5.

CEQA case law emphasizes that “[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11). “CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.” [Citation.] In short, a project must be

open for public discussion and subject to agency modification during the CEQA process” (Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 936).

The Final EIR also includes minor edits made in response to various comments on the Draft EIR. These revisions were made for accuracy or providing additional supplemental information to that contained in the Draft EIR and did not change any conclusions of the Draft EIR regarding the proposed project’s impacts. The revisions only constituted minor revisions or augmentations to information in the Draft EIR that did not change any of the determinations regarding the significance of the proposed project’s impacts.

The District’s Board of Directors finds that none of the changes in the Final EIR involves “significant new information” triggering recirculation because neither the additional information nor changes to any mitigation measure resulted in any new significant environmental effects, any substantial increase in the severity of any previously identified significant effects, or otherwise trigger recirculation under CEQA standards. Note that some of the modifications were either environmentally beneficial or environmentally neutral and represent the kind of changes that commonly occur as the environmental review process works towards its conclusion.

3.7 Record of Proceedings

Various documents and other materials constitute the record of proceedings upon which the District’s Board of Directors bases its Findings and decisions contained herein, including, without limitation, the Final EIR (text, appendices and supporting technical reports), the Findings, and the MMRP. All documents related to San Rafael Transit Center Replacement Project are available upon request at the District offices at 1011 Anderson Drive in San Rafael. In accordance with PRC Section 21167.6, subdivision (e), the record of proceedings for District’s Board of Directors’ decision on the proposed project held by the District’s Board Secretary include but is not limited to the following documents along with the associated the District’s Board of Directors’ actions:

- 2022 Final EIR
- 2018 Draft EIR

Chapter 4

References

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ATTACHMENT 3

MITIGATION MONITORING AND REPORTING PROGRAM

**SAN RAFAEL TRANSIT CENTER REPLACEMENT
PROJECT FINAL ENVIRONMENTAL IMPACT
REPORT**

(SCH# 2018102042)

December 2022

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Mitigation Monitoring and Reporting Program

Introduction

The Golden Gate Bridge, Highway and Transportation District (District), as lead agency under the California Environmental Quality Act (CEQA), has prepared the Final Environmental Impact Report (EIR) for the San Rafael Transit Center Replacement Project (project) (SCH # 2018102042) pursuant to CEQA and the State CEQA Guidelines. When a lead agency makes findings on significant effects identified in an EIR, it must also adopt a program for reporting or monitoring mitigation measures that were adopted or made conditions of project approval (Public Resources Code [PRC] Section 21081.6[a]; State CEQA Guidelines Sections 15091[d], 15097).

This document represents the mitigation monitoring and reporting program (MMRP) prepared by the District for the project. This MMRP includes all measures required to reduce potentially significant environmental impacts to a less-than-significant level. It also identifies the timing of implementation, the agency responsible for implementing the mitigation, and the agency responsible for monitoring the mitigation. The mitigation measures, timing, and responsibility are summarized in Table 1, and the full text of the mitigation measures follows. Table 1 lists the mitigation measures required for the proposed project, the Move Whistlestop Alternative (the preferred alternative).

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Table 1. Mitigation Monitoring Report Program Summary of Mitigation Measures for the Project

Environmental Impact	Mitigation Measure	Implementation Responsibility	Method of Compliance/Monitoring Notes	Monitoring Responsibility	Timing of Compliance
Aesthetics					
Impact AES-3	MM-AES-OP-3: Apply Minimum Lighting Standards	District or its contractor(s)	A pre-construction photometric analysis (i.e., a lighting study) will be prepared and a post-installation lighting inspection will occur 30 days following installation.	District	Preconstruction and once operational
Air Quality					
Impact AQ-3	MM-AQ-CNST-1: Use Clean Diesel-Powered Equipment during Construction to Control Construction-Related Emissions	District and construction contractor	The construction contractor shall submit evidence of the use of U.S. Environmental Protection Agency-approved Tier 4 Final engines or cleaner for project construction to the District prior to the commencement of construction activities. The construction contractor shall be contractually bound to comply with these requirements during final design.	District	Construction
Biological Resources					
Impact BIO-4	MM-BIO-CNST-1: Conduct Environmental Awareness Training for Construction Employees	District, a qualified biologist, and crew foreman	The District shall retain a qualified biologist to conduct environmental awareness training for construction crews before project construction. The crew foreman shall be responsible for ensuring that crew members adhere to the guidelines and restrictions. Education programs shall be conducted for appropriate new personnel as they are brought on the job during the construction period.	District	Prior to construction
	MM-BIO-CNST-6: Conduct a Preconstruction Survey for Nesting Birds and Implement	District and a qualified biologist	If work is scheduled to begin during the nesting bird season (February 15 through August 31), a qualified biologist shall conduct a preconstruction survey for nesting birds no more than 14 days before any tree or shrub trimming or	District	Prior to construction

Environmental Impact	Mitigation Measure	Implementation Responsibility	Method of Compliance/Monitoring Notes	Monitoring Responsibility	Timing of Compliance
	Protective Buffers Around Active Nests		removal or clearing of ground vegetation. A no-work buffer zone may be installed, monitored, and removed upon the direction of the biologist if an active nest is found in the project area.		
Impact BIO-5	MM-BIO-CNST-3: Install Orange Construction Fencing Between the Construction Area and Adjacent Sensitive Biological Resources	District or its contractor(s), including the construction contractor, project engineer, and a resource specialist	Barrier fencing shall be installed before construction activities are initiated, maintained throughout the construction period, and removed after completion of construction. The construction contractor shall be contractually bound to comply with these requirements during final design.	District	Prior to construction
Cultural Resources					
Impact CUL-2	MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan	District and a qualified archaeologist	A qualified archaeologist shall prepare an Archaeological Testing Plan. Archaeological testing should occur prior to construction as per an Archeological Testing Plan. The results of the testing shall be summarized into a technical document that shall determine whether additional testing and mitigation is needed. The District shall also coordinate with the appropriate tribal parties and incorporate feedback into the Archaeological Testing Plan.	District	Prior to construction
	MM-CULT-CNST-5: Conduct Cultural and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are	District, a qualified professional archaeologist, an onsite Native American monitor, an onsite qualified archaeologist, and construction contractors	Prior to any project-related ground disturbance, the project proponent shall ensure that all construction workers receive training overseen by a qualified professional archaeologist who is experienced in teaching non-specialists to ensure that contractors can recognize archaeological resources in the event that any are discovered during construction. Tribal cultural resource awareness will be	District, Native American Heritage Commission	

Environmental Impact	Mitigation Measure	Implementation Responsibility	Method of Compliance/Monitoring Notes	Monitoring Responsibility	Timing of Compliance
	Encountered During Ground-Disturbing Activities		provided by a Native American monitor at the same time. MM-CULT-CNST-5 details specific instructions for if and when tribal cultural, archeological deposits, or human remains are discovered during ground-disturbing activities. The construction contractor shall be contractually bound to implement these requirements during final design, and they will be verified following construction.		
	MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan	District and a qualified archaeologist. An onsite Native American and qualified archaeological monitor, if required by Tribal Cultural and Archaeological Monitoring Plan.	A Tribal Cultural and Archaeological Monitoring Plan shall be developed by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance. The Tribal Cultural and Archaeological Monitoring Plan will determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance.	District and onsite Native American (if required by Tribal Cultural and Archaeological Monitoring Plan)	
Impact CUL-3	MM-CULT-CNST-4 MM-CULT-CNST-5 MM-CULT-CNST-6	See above	See above	See above	Construction
	MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains	District	Any human remains and related items discovered during the implementation of this project shall be treated in accordance with the requirements of Section 7050.5(b) of the California Health and Safety Code.	District, county coroner/medical examiner	
Impact CUL-3	MM-CULT-CNST-4 MM-CULT-CNST-5	See above	See above	See above	Operations
Cumulative (archaeological resources)	MM-CULT-CNST-4 MM-CULT-CNST-5 MM-CULT-CNST-6	See above	See above	See above	Construction

Environmental Impact	Mitigation Measure	Implementation Responsibility	Method of Compliance/Monitoring Notes	Monitoring Responsibility	Timing of Compliance
Cumulative (human remains)	MM-CULT-CNST-4 MM-CULT-CNST-5 MM-CULT-CNST-6 MM-CULT-CNST-7	See above	See above	See above	Both
Energy					
Impact EN-1	MM-GHG-CNST-1: Implement BAAQMD's Best Management Practices to Reduce GHG Emissions from Construction	District, its construction contractor(s)	Construction contractor(s) shall follow the best practices and code requirements detailed in the mitigation measure. The construction contractor shall be contractually bound to implement these requirements during final design.	District	Construction
Greenhouse Gas Emissions					
Impact GHG-1	MM-GHG-CNST-1	See above	See above	See above	Construction
Hazards and Hazardous Materials					
Impact HAZ-1	MM-HYD-CNST-1: Prepare and Implement a Stormwater Pollution Prevention Plan	District, its construction contractor(s)	A site-specific Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the Construction General Permit shall be implemented. Once grading begins, the SWPPP must be kept on site and updated as needed while construction progresses. The construction contractor shall be contractually bound to implement these requirements during final design, and they will be verified following construction.	District	Prior to construction and once operational
Impact HAZ-2	MM-HAZ-CNST-1: Phase II Site Investigation	District, its construction contractor(s)	A Phase II Site Investigation shall be performed prior to construction per the recommendations made in the Phase I Environmental Site Assessment. The construction contractor shall be contractually bound to comply with these requirements.	District	Prior to construction
	MM-HYD-CNST-1	See above	See above	See above	

Environmental Impact	Mitigation Measure	Implementation Responsibility	Method of Compliance/Monitoring Notes	Monitoring Responsibility	Timing of Compliance
Hydrology and Water Quality					
Impact HYD-1	MM-BIO-CNST-5	See above	See above		
Impact HYD-1	MM-HYD-CNST-1	See above	See above	See above	Construction
Noise					
Impact NOI-1	MM-NOI-CNST-1: Use Best Noise Control Practices During Construction	District, its construction contractor(s)	This mitigation measure lists best practices to minimize construction noise, including constructing noise barriers and staging equipment as far as possible from noise-sensitive land uses. The construction contractor shall be contractually bound to implement these requirements during final design.	District	Construction
Impact NOI-1	MM-NOI-OP-2: Provide Acoustical Treatments for Mechanical Equipment as Needed to Comply with City Noise Standards	District, its construction contractor(s), a qualified acoustical consultant	The District shall provide acoustical treatments for the proposed HVAC equipment as specified by a qualified acoustical consultant. Acoustical treatments should ensure noise levels do not exceed the nighttime noise limit of 55 A-weighted decibels equivalent sound level (L_{eq}) at the property line. The construction contractor shall be contractually bound to implement these requirements during final design, and they shall be verified following construction.	District	Prior to construction and monitored periodically during operations.
Impact NOI-2	MM-NOI-CNST-3: Implement Vibration-Reducing Practices During Construction	District, its construction contractor(s)	Construction contractor(s) shall employ best practices to reduce construction vibration such that vibration at adjacent building façades does not exceed 0.08 inch per second. A vibration control plan shall be prepared and it may include a preconstruction survey of the building to document pre-existing damage, real-time monitoring of ground vibration, and alternative low-vibration construction	District, a designated noise complaint coordinator	Construction

Environmental Impact	Mitigation Measure	Implementation Responsibility	Method of Compliance/Monitoring Notes	Monitoring Responsibility	Timing of Compliance
			methods if vibration monitoring indicates exceedance. A designated complaint coordinator shall be responsible for handling and responding to any complaints received during such periods of construction. A reporting program shall be required that documents complaints received, actions taken, and the effectiveness of these actions in resolving disputes. The construction contractor shall be contractually bound to implement these requirements during final design.		
Cumulative Impacts	MM-NOI-CNST-1	See above	See above	See above	Construction
Tribal Cultural Resources					
Impact TCR-1	MM-CULT-CNST-4 MM-CULT-CNST-5 MM-CULT-CNST-6 MM-CULT-CNST-7	See above	See above	See above	Construction
Cumulative Impacts	MM-CULT-CNST-4 MM-CULT-CNST-5 MM-CULT-CNST-6 MM-CULT-CNST-7	See above	See above	See above	Construction

Mitigation Measures

As stated in the Introduction, this MMRP includes all measures required to reduce potentially significant environmental impacts to a less-than-significant level. The full text of the mitigation measures, as found in the Final EIR and adopted in the Findings of Fact, is provided in the following sections.

Aesthetics

MM-AES-OP-3: Apply Minimum Lighting Standards

All artificial outdoor lighting and overhead street lighting shall be designed in accordance with Section 4.16.227, Light and glare, and Section 14.18.170, Lighting, of the City's Municipal Code. In addition, all lighting shall use downcast, cut-off type fixtures that are shielded and direct the light only toward objects requiring illumination. Therefore, lights shall be installed at the lowest allowable height and cast low-angle illumination while minimizing incidental light spill onto adjacent properties or open spaces, or backscatter into the nighttime sky. The lowest allowable wattage shall be used for all lighted areas, and the number of nighttime lights needed to light an area shall be minimized to the highest degree possible. Lighting shall be designed for energy efficiency, with daylight sensors or timers with an on/off program. Lights shall provide good color rendering with natural light qualities, with the minimum intensity feasible for security, safety, and personnel access. Lighting, including light color rendering and fixture types, shall be designed to be aesthetically pleasing.

LED lighting shall avoid the use of BRWL lamps and use a correlated color temperature that is no higher than 3,000 Kelvin, consistent with the International Dark-Sky Association's Fixture Seal of Approval Program (International Dark-Sky Association 2010a, 2010b, 2015). In addition, LED lights shall use shielding to ensure that nuisance glare and light spill does not affect sensitive residential viewers.

Lights along pathways and bridge safety lighting shall use shielding to minimize offsite light spill and glare and shall be screened and directed away from adjacent uses to the highest degree possible. The number of nighttime lights used along pathways shall be minimized to the highest degree possible to ensure that spaces are not unnecessarily over-lit. For example, the amount of light can be reduced by limiting the amount of ornamental light posts to higher-use areas and by using bollard lighting on travel way portions of pathways.

Technologies to reduce light pollution evolve over time; design measures that are currently available may help but may not be the most effective means of controlling light pollution once the proposed project is designed. Therefore, all design measures used to reduce light pollution shall use the technologies available at the time of project design to allow for the highest potential reduction in light pollution. Further, a pre-construction photometric analysis (i.e., a lighting study) will be prepared to demonstrate foot candle readings to determine how much light is coming from fixtures and lighting the coverage area to help eliminate "hot spots" or areas where there is excessive lighting or light spill. In addition, a post-installation lighting inspection will occur 30-days following installation to allow for adjustments in the intensity of light and glare coming from installed lighting.

Air Quality

MM-AQ-CNST-1: Use Clean Diesel-Powered Equipment during Construction to Control Construction-Related Emissions

The project sponsor shall ensure that all off-road diesel-powered equipment used during construction is equipped with U.S. Environmental Protection Agency (EPA)-approved Tier 4 Final engines to reduce diesel particulate matter. The construction contractor shall submit evidence of the use of EPA-approved Tier 4 Final engines or cleaner for project construction to the City prior to the commencement of construction activities.

Biological Resources

MM-BIO-CNST-1: Conduct Environmental Awareness Training for Construction Employees

The project proponent shall retain a qualified biologist to conduct environmental awareness training for construction crews before project implementation. The awareness training shall be provided to all construction personnel and shall brief them on the need to avoid effects on sensitive biological resources (i.e., pallid bat and roosting colonies of bats, Irwin Creek, and active nests of migratory birds) in and adjacent to the construction area. The education program shall include a brief review of pallid bat (including its legal status, life history, habitat requirements, and photographs of the species) and shall identify potential roosting habitats in the project area. The training shall also include information on the locations of any active migratory bird nests in the project area. The biologist shall describe the protective measures that must be adhered to by all construction personnel to reduce or avoid effects on sensitive biological resources during project implementation. This includes the steps to be taken if a sensitive species or an active migratory bird nest is found within the construction area (i.e., notifying the crew foreman, who will call the City's designated biologist).

In addition, construction employees shall be educated about the importance of controlling and preventing the spread of invasive plant infestations. An environmental awareness handout that describes and illustrates sensitive resources to be avoided during project construction and identifies all relevant permit conditions shall be provided to each crew member. The crew foreman shall be responsible for ensuring that crew members adhere to the guidelines and restrictions. Education programs shall be conducted for appropriate new personnel as they are brought on the job during the construction period.

MM-BIO-CNST-3: Install Orange Construction Fencing Between the Construction Area and Adjacent Sensitive Biological Resources

The project proponent or their contractor shall install orange construction fencing between the construction area and adjacent sensitive biological resource areas. Sensitive biological resources adjacent to the construction area that could be directly affected by the proposed project include Irwin Creek upstream and downstream of the construction area, active nests of migratory birds, and trees to be retained in the project area.

Barrier fencing around sensitive biological resource areas shall be installed as one of the first orders of work and prior to equipment staging. Before construction begins, the construction contractor shall work with the project engineer and a resource specialist to identify the locations for the orange construction fencing and shall place stakes around the sensitive resource sites to indicate these locations. The protected areas shall be designated as environmentally sensitive areas and clearly identified on the construction plans and described in the specifications. To minimize the potential for snakes and other ground-dwelling animals to be caught in the orange construction fencing, the fencing shall be placed with at least a 1-foot gap between the ground and the bottom of the fencing. The exception to this condition is where construction barrier fencing overlaps with erosion control fencing and must be secured to prevent sediment runoff. Barrier fencing shall be installed before construction activities are initiated, maintained throughout the construction period, and removed after completion of construction.

MM-BIO-CNST-5: Compensate for Temporary and Permanent Loss of Perennial Stream

The project proponent shall compensate for both temporary and permanent loss of perennial stream in compliance with the state (Section 401 Water Quality Certification or waste discharge requirements, Lake and Streambed Alteration Agreement) and federal (Section 404 permit) processes for the work that would occur in Irwin Creek. Specifically, the project proponent shall compensate for temporary impacts (impacts occurring during construction) on up to 0.54 acre of non-wetland waters of the United States in Irwin Creek by restoring the creek bed and bank to pre-project contours when construction is complete. Because there is little to no vegetation in the creek, no revegetation is necessary.

The project proponent shall compensate for the permanent fill of up to 0.27 acre of non-wetland waters of the United States in Irwin Creek by purchasing mitigation bank credits, which can be in the form of preservation and/or creation credits using the following minimum ratios:

- A minimum of 2:1 (2 acres of mitigation for each acre filled), for a total of up to 0.54 acre, if credits are for preservation of habitat; or
- A minimum of 1:1 (1 acre of mitigation for each acre filled), for a total of up to 0.27 acre if credits are for creation of habitat.

The actual compensation ratios shall be determined through coordination with the San Francisco Bay Regional Water Quality Control Board and California Department of Fish and Wildlife (Section 401 Water Quality Certification or waste discharge requirements, Lake and Streambed Alteration Agreement) and U.S. Army Corps of Engineers (Section 404 permit) as part of the permitting process. The project proponent shall provide written evidence to the resource agencies that compensation has been established through the purchase of mitigation credits.

MM-BIO-CNST-6: Conduct a Preconstruction Survey for Nesting Birds and Implement Protective Buffers Around Active Nests

If work is scheduled to begin during the nesting bird season (February 15 through August 31), a qualified biologist shall conduct a preconstruction survey for nesting birds no more than 14 days before any tree or shrub trimming or removal or clearing of ground vegetation. If vegetation trimming, removal, or clearing does not begin within 14 days of the survey,

vegetation to be affected shall be resurveyed for active nests. If an active nest is found in the survey area, the biologist shall determine and establish a no-work buffer around the active nest to limit disturbance until the nest is no longer active. The extent of the buffer shall depend on the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. Suitable buffer distances may vary between species. The biologist shall periodically monitor the nest to determine when the nest is no longer active and the buffer can be removed. Should an active bird nest be found in the project area during work activities, work in that area shall cease and the biologist shall be contacted to establish an appropriate no-work buffer zone.

Cultural Resources

MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan

Due to the presence of known archaeological resources in the proposed work area, archaeological testing should occur prior to construction to determine the extent of the resource as well as its significance under CEQA. An Archaeological Testing Plan should be prepared by a qualified archaeologist and include the following items:

- Background and anticipated resource types
- Research questions that can be addressed by the collection of data from the defined resource types
- Field methods and procedures
- Cataloging and laboratory analysis
- Findings and interpretation

The Archaeological Testing Plan shall be implemented to determine the extent of archaeological resources within any area where there will be ground disturbance. The results of the study shall be summarized into a technical document that shall determine whether further study is necessary. The technical document shall also determine whether additional mitigation will be needed, and can lead to additional studies and, if needed, even further mitigation. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021).

MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits Are Encountered During Ground-Disturbing Activities

Prior to any project-related ground disturbance, the District shall ensure that all construction workers receive training overseen by a qualified professional archaeologist who is experienced in teaching non-specialists to ensure that contractors can recognize archaeological resources in the event that any are discovered during construction. Tribal cultural resource awareness will be provided by a Native American monitor at the same time.

If tribal cultural or archaeological deposits are encountered during project-related ground disturbance, work in the area (100-foot radius) shall stop immediately. The onsite Native American monitor and onsite qualified archaeologist shall assess and determine the path

forward. Tribal cultural and archaeological deposits include, but are not limited to, flaked stone or groundstone, midden and shell deposits, historic-era refuse, and/or structure foundations.

If any human remains are discovered during ground-disturbing activities, an evaluation shall be performed to assess likely age and provenance in a manner that is respectful of the disturbed remains. If determined to be, or likely to be, Native American, the District shall comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (PRC Section 5097). If human remains are discovered or recognized in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

1. The county coroner has been informed by the District and has determined whether investigation of the cause of death is required
2. If the remains are of Native American origin:
 - a. The descendants of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98; or
 - b. NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.
 - c. NAHC recommends a Most Likely Descendant to make a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.

According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that excavation be stopped in the vicinity of the discovered human remains until the coroner can determine whether the remains are those of a Native American. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021).

MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan

Given the reasonable potential for tribal cultural and archaeological resources to be present within the proposed work area, the following measures shall be undertaken to avoid any significant impacts on these potential resources. A Tribal Cultural and Archaeological Monitoring Plan shall be developed by a qualified archaeologist in consultation with local tribes prior to any project-related ground disturbance to determine specific areas of archaeological sensitivity within proposed work areas. The Tribal Cultural and Archaeological Monitoring Plan will determine whether an onsite Native American and qualified archaeological monitor are required during project-related ground disturbance. The plan shall include protocol that outlines tribal cultural and archaeological monitoring best practices, anticipated resource types, and an Unanticipated Discovery Protocol. The Unanticipated Discovery Protocol shall describe steps to follow if unanticipated archaeological discoveries are made during project work and a

chain of contact. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021).

MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains

As stated above, any human remains and related items discovered during the implementation of this project shall be treated in accordance with the requirements of Section 7050.5(b) of the California Health and Safety Code. If, pursuant to Section 7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of Section 5097.98(a)-(d) of the PRC. The District shall ensure that the remains are not damaged or disturbed further until all stipulations in Section 7050.5 and Section 5097.98 have been met. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021).

Energy

MM-GHG-CNST-1: Implement BAAQMD's Best Management Practices and Applicable California Green Building Code Requirements to Reduce GHG Emissions from Construction *(See Greenhouse Gas Emissions)*

Greenhouse Gas Emissions

MM-GHG-CNST-1: Implement BAAQMD's Best Management Practices and Applicable California Green Building Code Requirements to Reduce GHG Emissions from Construction

- Use alternative-fuel (e.g., biodiesel, electric) construction vehicles/equipment (at least 15 percent of the fleet).
- Use local building materials (at least 10 percent).
- Recycle at least 65 percent of construction waste or demolition materials.

Hazards and Hazardous Materials

MM-HAZ-CNST-1: Phase II Site Investigation

Prior to construction, a Phase II Site Investigation shall be performed to further investigate hazardous materials concerns related to soil, groundwater, and building materials that could be disturbed by construction of the selected alternative, per the recommendations made in the Phase I Environmental Site Assessment.

Hydrology and Water Quality

MM-HYD-CNST-1: Prepare and Implement a Stormwater Pollution Prevention Plan

The proposed project will be required to implement a site-specific Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the Construction General Permit. The SWPPP will include project construction features designed to protect the quality of stormwater runoff, known as best management practices (BMPs). Construction BMPs could include, but not be limited to, the following:

- Minimization of disturbed areas to the portion of the project site necessary for construction
- Stabilization of exposed or stockpiled soils and cleared or graded slopes
- Establishment of permanent revegetation or landscaping as early as is feasible
- Removal of sediment from surface runoff before it leaves the project site by silt fences or other similar devices around the site perimeter
- Protection of all storm drain inlets on site or downstream of the project site to eliminate entry of sediment
- Prevention of tracking soils and debris off site through use of a gravel strip or wash facilities, which would be located at all construction exits from the project site
- Proper storage, use, and disposal of construction materials, such as solvents, wood, and gypsum
- Continual inspection and maintenance of all BMPs through the duration of construction
- Treatment requirements and operating procedures to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage

The SWPPP will also contain a site map(s) showing the construction perimeter, existing and proposed buildings, stormwater collection and discharge points, general pre- and post-construction topography, drainage patterns across the site, and adjacent roadways; a visual monitoring program; a chemical monitoring program for “non-visible” pollutants; and a sediment monitoring plan, should the site discharge directly into a waterbody listed on the 303(d) list for sediment. Section A of the Construction General Permit lists all elements that must be contained in a SWPPP. Once grading begins, the SWPPP must be kept on site and updated as needed while construction progresses.

Noise

MM-NOI-CNST-1. Use Best Noise Control Practices During Construction

Best practices to minimize construction noise include the following:

- Limiting heavy equipment use to daytime hours not regulated by the City, between 7:00 a.m. and 6:00 p.m. Monday to Friday, and 9:00 a.m. to 6:00 p.m. on Saturday
- Locating stationary equipment (e.g., generators, pumps, cement mixers, idling trucks) as far as possible from noise-sensitive land uses

- Requiring that all construction equipment powered by gasoline or diesel engines have sound-control devices such as exhaust mufflers that are at least as effective as those originally provided by the manufacturer and that all equipment be operated and maintained to minimize noise generation
- Using equipment powered by electric motors instead of gasoline or diesel-powered engines
- Preventing excessive noise by shutting down idle vehicles or equipment
- Using noise-reducing enclosures around noise-generating equipment
- Constructing barriers between noise sources and noise-sensitive land uses or taking advantage of existing barrier features (e.g., terrain, structures) to block sound transmission to noise-sensitive land uses. The barriers should be designed to obstruct the line of sight between the noise-sensitive land use and onsite construction equipment.
- Notifying adjacent residents in advance of construction work

MM-NOI-OP-2: Provide Acoustical Treatments for Mechanical Equipment as Needed to Comply with City Noise Standards

The applicant shall provide acoustical treatments as needed for the proposed HVAC equipment to ensure noise levels do not exceed the nighttime noise limit of 55 A-weighted decibels equivalent sound level at the property line. These limits are in accordance with the noise limitations specified in the City Municipal Code. Any required acoustical treatments can be specified by retaining a qualified acoustical consultant. Treatments may include, but are not limited to:

- Installing stationary equipment as far as possible from offsite noise-sensitive land uses and the property line to reduce noise levels at adjacent parcels
- Constructing enclosures around noise-generating mechanical equipment
- Placing barriers around the equipment
- Using mufflers or silencers on equipment exhaust fans
- Orienting or shielding equipment to protect sensitive uses to the greatest extent feasible

MM-NOI-CNST-3: Implement Vibration-Reducing Practices During Construction

During construction, the contractor shall employ best practices to reduce construction vibration at adjacent buildings such that vibration at the building façades does not exceed 0.08 inch per second. Measures that can be used to limit construction vibration include, but are not limited to, the following:

- Locating high-vibration-generating equipment as far as possible from buildings
- Using low-vibration equipment within 45 feet of buildings

A vibration control plan shall be prepared that will describe the specific methods that the contractor will use to control vibration. Because of the historic status of the 709–711 4th Street building, the plan shall provide additional detail on how construction vibration near this building will be addressed. The plan may include the following measures:

- A preconstruction survey of the building to document pre-existing damage such as plaster cracks, shifted foundation, and concrete cracks
- Real-time monitoring of ground vibration
- If vibration monitoring indicates an exceedance of 0.08 inch per second during construction, alternative low-vibration construction methods shall be used, such that any subsequent exceedance is avoided.

A designated complaint coordinator shall be responsible for handling and responding to any complaints received during such periods of construction. A reporting program shall be required that documents complaints received, actions taken, and the effectiveness of these actions in resolving disputes.

Tribal Cultural Resources

MM-CULT-CNST-4: Develop and Implement an Archaeological Testing Plan

Due to the presence of known archaeological resources in the proposed work area, archaeological testing should occur prior to construction to determine the extent of the resource as well as its significance under CEQA. An Archaeological Testing Plan should be prepared by a qualified archaeologist and include the following items:

- Background and anticipated resource types
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The Archaeological Testing Plan shall be implemented to determine the extent of archaeological resources within any area where there will be ground disturbance. The results of the study shall be summarized into a technical document that shall determine whether further study is necessary. The technical document shall also determine whether additional mitigation will be needed, and can lead to additional studies and, if needed, even further mitigation. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021).

MM-CULT-CNST-5: Conduct Cultural Resource and Tribal Cultural Resource Awareness Training Prior to Project-Related Ground Disturbance and Stop Work if Archaeological Deposits are Encountered During Ground-Disturbing Activities

Prior to any project-related ground disturbance, the District shall ensure that all construction workers receive training overseen by a qualified professional archaeologist who is experienced in teaching non-specialists to ensure that contractors can recognize archaeological resources in the event that any are discovered during construction. Tribal cultural resource awareness will be provided by a Native American monitor at the same time.

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 - b. NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.
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MM-CULT-CNST-6: Develop and Implement a Tribal Cultural and Archaeological Monitoring Plan

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steps to follow if unanticipated archaeological discoveries are made during project work and a chain of contact. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021).

MM-CULT-CNST-7: Comply with State Laws Relating to Human Remains

As stated above, any human remains and related items discovered during the implementation of this project shall be treated in accordance with the requirements of Section 7050.5(b) of the California Health and Safety Code. If, pursuant to Section 7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of Section 5097.98(a)-(d) of the PRC. The District shall ensure that the remains are not damaged or disturbed further until all stipulations in Section 7050.5 and Section 5097.98 have been met. All work will be done in accordance with *San Rafael General Plan 2040*, Policy CDP-5.13: Protection of Archaeological Resources (City of San Rafael 2021).

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- City of San Rafael. 2021. *San Rafael General Plan 2040*. Adopted August 2021. Available: <https://www.cityofsanrafael.org/departments/general-plan-2040/>.
- International Dark-Sky Association. 2010a. Seeing Blue. April. *Nightscape* 80:8–12.
- . 2010b. Visibility, Environmental, and Astronomical Issues Associated with Blue-Rich White Outdoor Lighting. May.
- . 2015. IDA Issues New Standards on Blue Light at Night. April. *Nightscape* 94:10.

ATTACHMENT 4

GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION DISTRICT

RESOLUTION NO. 2022-

CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING FINDINGS OF FACT, AND A MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING THE SAN RAFAEL TRANSIT CENTER REPLACEMENT PROJECT

December 16, 2022

***THIS RESOLUTION IS ADOPTED WITH REFERENCE TO THE FOLLOWING
FACTS AND CIRCUMSTANCES, WHICH ARE FOUND AND DETERMINED BY THE
BOARD OF DIRECTORS:***

WHEREAS, the Golden Gate Bridge, Highway and Transportation District (“District”), in its role as lead agency, has prepared an Environmental Impact Report (“EIR”) pursuant to the requirements of the California Environmental Quality Act (“CEQA”) (Public Resources Code Section 21000 *et seq.*) for the San Rafael Transit Center Replacement Project (the “Project”); and

WHEREAS, on March 20, 2018 and June 12, 2018, the District held two public meetings to present information regarding the Project and to solicit preliminary feedback from members of the public; and

WHEREAS, on October 16, 2018, the District issued a Notice of Preparation (“NOP”) of an EIR for the Project to advise interested parties that an environmental study was being prepared to consider the potential impacts of the Project; and

WHEREAS, a public scoping meeting was held on October 30, 2018 to receive comments regarding the scope of issues to be addressed in the EIR; and

WHEREAS, in compliance with applicable CEQA requirements, a Draft Environmental Impact Report (“DEIR”) was prepared and issued for agency and public review and comment on August 11, 2021, for a review period which ended on October 12, 2021; and

WHEREAS, on October 5, 2021, the District extended the public review period for an additional 3 weeks to November 2, 2021; and

WHEREAS, the District received over 100 comments on the DEIR and the Project during the DEIR comment period; and

WHEREAS, a Final Environmental Impact Report (“Final EIR”), incorporating responses to comments on the DEIR, was issued on October 27, 2022; and

WHEREAS, additional responses to comments on the DEIR were issued on November 8, 2022 and December 5, 2022; and

WHEREAS, the Final EIR consists of the text of the DEIR, as amended, comments received on the document and responses to comments on the DEIR, items included in attachments to this resolution, and all documents and resources referenced and incorporated by reference in the Final EIR; and

WHEREAS, the Final EIR has been completed in compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code of Regs. Section 15000 *et seq.*) (the “State CEQA Guidelines”) and local procedures adopted pursuant thereto; and

WHEREAS, on December 15, 2022, the District’s Transportation Committee recommended that the Board of Directors Certify the Final EIR and adopt findings, a mitigation monitoring and reporting program, and approve the Move Whistlestop Alternative (the preferred Project alternative); and

WHEREAS, the Board of Directors considered the Final EIR at a meeting held on December 16, 2022; and

WHEREAS, the Final EIR identified certain significant and potentially significant adverse effects on the environment that would be caused by the implementation of the Project as proposed; and

WHEREAS, the Final EIR outlined various mitigation measures that would substantially lessen or avoid certain of the Project’s significant effects on the environment, as well as alternatives to the Project, one of which would provide some environmental advantages; and

WHEREAS, the District is required, pursuant to CEQA, to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects of a proposed project; and

WHEREAS, Public Resources Code section 21081, subdivision (a), requires a public agency, before approving a project for which an EIR has been prepared and certified, to adopt findings specifying whether mitigation measures and, in some instances, alternatives discussed in the EIR, have been adopted or rejected as infeasible; and

WHEREAS, Exhibit A to this Resolution includes a set of Findings of Fact prepared in order to satisfy the requirements of Public Resources Code section 21081, subdivision (a); and

WHEREAS, as the Findings of Fact explain, the Board, reflecting the advice of District Staff and extensive public input, acting at its meeting of December 16, 2022, approved the Move Whistlestop Alternative (the preferred Project alternative); and

WHEREAS, in taking this course, the Board of Directors has acted in conformance with CEQA in considering project mitigations and/or alternatives as a means of substantially lessening or avoiding the environmental effects of the Project; and

WHEREAS, all significant and potentially significant environmental effects associated with the Move Whistlestop Alternative of the Project, as approved, can either be substantially lessened or avoided through the inclusion of mitigation measures proposed in the Final EIR; and

WHEREAS, the Board of Directors in approving the Project as proposed intends to adopt all mitigation measures set forth in the Findings of Fact and the Mitigation Monitoring and Reporting Program; and

WHEREAS, the Board of Directors has determined, for reasons set forth in the Findings of Fact, that environmental impacts of the Adapt Whistlestop Alternative would be similar to or slightly less than the impacts identified for the preferred alternative, the Move Whistlestop Alternative, and for those reasons the Adapt Whistlestop Alternative is considered the environmentally superior alternative (though neither the Adapt Whistlestop nor the Move Whistlestop alternatives would result in significant and unavoidable environmental impacts); and

WHEREAS, the 4th Street Gateway Alternative and the Under the Freeway Alternative would both result in significant environmental effects that cannot be avoided or substantially lessened by the adoption of feasible mitigation measures, and impacts resulting from those alternatives would therefore be significant and unavoidable; and

WHEREAS, the Board of Directors recognizes the District's obligation, pursuant to Public Resources Code section 21081.6, subdivision (a), to ensure the monitoring of all adopted mitigation measures necessary to substantially lessen or avoid the significant effects of the project; and

WHEREAS, Exhibit B to this Resolution is the Mitigation Monitoring and Reporting Plan prepared in order to comply with Public Resources Code section 21081.6, subdivision (a).

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Golden Gate Bridge, Highway and Transportation District as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference; and
2. In approving this Resolution, the Board of Directors certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act and the State CEQA Guidelines; and
3. In approving this Resolution, the Board of Directors hereby finds that it has independently reviewed and analyzed the Final EIR and considered the information contained therein and all comments, written and oral, received prior to approving the Resolution; and

4. In approving this Resolution, the Board of Directors hereby finds that the Final EIR reflects the District's independent judgment and analysis, as required by Public Resources Code Section 21082.1; and

5. In approving this Resolution, the Board of Directors adopts Exhibit A (attached hereto) in order to satisfy its obligations under Public Resources Code sections 21002 and 21081, subdivision (a) regarding the changes or alterations made to the Project to mitigate or avoid environmental impacts; and

6. In approving this Resolution, Board of Directors adopts Exhibit B attached hereto in order to satisfy its obligations under Public Resources Code section 21081.6, subdivision (a) to ensure the monitoring of all adopted mitigation measures necessary to substantially lessen or avoid the significant effects of the project; and

7. Based on and in consideration of all of the foregoing, the Board of Directors hereby adopts the Move Whistlestop Alternative as described in the Final EIR, along with, and conditioned by, the mitigation measures, which are described in the Findings of Fact attached as Exhibit A and reflected in the Mitigation Monitoring Plan attached hereto as Exhibit B, which shall be incorporated into and be a part of the approved alternative; and

8. Consistent with Public Resources Code section 21081.6, the documents that constitute the record of proceedings for approving the Project are located at the District's offices at 1011 Andersen Drive, San Rafael, CA 94901-5318, and the custodian of these records is Raymond Santiago, Principal Planner; and

9. The Board of Directors hereby directs District staff to file with the County Clerk of Marin County and the Office of Planning and Research a Notice of Determination commencing the 30-day statute of limitations for any legal challenge to the project based on alleged non-compliance with CEQA.

ADOPTED this _____ day of _____, 2022, by the following vote of the Board:

AYES ():
NOES ():
ABSENT ():

President of the Board of Directors

ATTEST: _____
Secretary