Appendix H

Resolution of the City Council certifying the Final PEIR

RESOLUTION NO. 77096

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED (CEQA) IN CONNECTION WITH THE DIRIDON STATION AREA PLAN (DSAP) AND RELATED ACTIONS FOR WHICH A PROGRAM ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED

WHEREAS, the City of San Jose, a municipal corporation ("CITY") has prepared that certain plan for the Diridon Station Area entitled the "Diridon Station Area Plan" (the "DSAP") proposed for approval by CITY's City Council; and

WHEREAS, approval of the Diridon Station Area Plan and related actions (collectively, the "Diridon Station Area Plan") would constitute a project under the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, "CEQA"); and

WHEREAS, in connection with the Diridon Station Area Plan, that certain Final Program Environmental Impact Report was prepared, which Final Program Environmental Impact Report comprises that certain Draft Program Environmental Impact Report for the Project (the "DPEIR"), together with that certain First Amendment to the Draft Program Environmental Impact Report (collectively, all of said documents are referred to herein as the "FPEIR"); and

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San Jose reviewed the FPEIR prepared for the Diridon Station Area Plan (also sometimes referred to herein as the "Project") and recommended to the City Council that it find the FPEIR was completed in accordance with the requirements of CEQA; and

WHEREAS, CEQA requires that in connection with approval of a project for which an environmental impact report has been prepared that identifies one or more significant environmental effects of the project, the decision-making body of a public agency make certain findings regarding those effects.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

THAT THE CITY COUNCIL does hereby find and certify that the FPEIR has been prepared and completed in compliance with CEQA; and

THAT THE CITY COUNCIL was presented with, and has independently reviewed and analyzed, the FPEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FPEIR and the Project, prior to acting upon and approving the Project, and has found that the FPEIR represents the independent judgment of the CITY, as lead agency for the Project, and designates the Director of Planning, Building and Code Enforcement at his office at 200 East Santa Clara Street, 3rd Floor Tower, San Jose, California 95113, as the custodian of documents and record of proceedings on which the decision of CITY is based; and

THAT THE CITY COUNCIL does find and recognize that the FPEIR contains additions, clarifications, modifications and other information received in response to comments received on the DPEIR or obtained by CITY after the DPEIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact (not already disclosed and evaluated in the DPEIR), (ii) any feasible mitigation measure considerably different from those analyzed in the DPEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the DPEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and

THAT THE CITY COUNCIL does find and determine that recirculation of the FPEIR for further public review and comment is not warranted or required under the provisions of CEQA; and

THAT THE CITY COUNCIL does hereby make the following findings with respect to significant effects on the environment of such Project, as identified in the FPEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FPEIR, which full administrative record should be consulted for the full details supporting these findings:

I. TRANSPORTATION

A(1). Impact: When compared to existing conditions, build-out of the DSAP would result in a significant impact on 15 directional mixed flow freeway

segments and four directional HOV lane freeway segments during at least one peak hour when compared to the existing condition.

A(2). Mitigation: Full mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. It is not feasible for the proposed project to bear the responsibility for implementing such extensive transportation system improvements due to constraints in acquisition and cost of right-of-way. In addition, Caltrans or VTA have not developed a freeway widening program to which individual projects can contribute.

The DSAP is intended to reduce vehicle travel and congestion in the long-term. In particular, the intensification of development in proximity to Diridon Station would make transit a more viable commute option for people living and working in the Plan area, which would reduce vehicle traffic at a citywide and regional scale. However, it is not possible to know if the strategies proposed by the DSAP would reduce freeway impacts to a less than significant level.

The City will implement its 2040 General Plan *Land Use/Transportation Diagram*, the City's adopted *Greenprint* and the Bicycle Master Plan using available resources including grants and the City's Capital Improvement Program. Additional resources for improvements in alternative modes will also be available through implementation of adopted Council Policy 5-3 - Transportation Impact Policy.

A(3). Finding: Historically, mitigation for congested roadways has been to increase their capacity. Experience in other major urban areas has been that roadway congestion encourages use of alternative transportation modes. Policies to expand and encourage use of alternative transportation modes will reduce roadway congestion, but it is not possible to know whether impacts will be reduced to a less than significant level. Congestion impacts will remain **significant and unavoidable.**

A(4). Facts in Support of Finding: See discussion in A(2) above.

B(1). Impact: Build-out of the DSAP would result in a significant impact to the intersections of The Alameda/Naglee Avenue and Park Avenue/Naglee Avenue under Strategy 2000 plus Project Build-out conditions.

B(2). Mitigation: These intersections have been built to their maximum capacity due to right-of-way restrictions and there are no feasible improvements that would improve the level of service to an acceptable level during the PM peak hour at these intersections. These intersections serve as gateways to Downtown and as important transit, bicycle, and pedestrian corridors. Therefore, the project proposes to add these two intersections to the List of Protected Intersections.

As a condition of project approval, the City/future developers will be required to implement offsetting improvements to pedestrian, bicycle, and transit facilities in the vicinity of the existing and proposed protected intersections. The construction of offset improvements would be required for impacts at these intersections.

B(3). Finding: Because there are no feasible mitigation measures that would reduce the identified impacts to a less than significant level, the impacts under the Downtown Strategy 2000 plus Project Build-out conditions would remain **significant and unavoidable**.

B(4). Facts in Support of Finding: See discussion in B(2) above.

C(1). Impact: The proposed project would result in a significant impact on mixed flow lanes of one additional freeway segment under Strategy 2000 plus Project Build-out conditions.

C(2). Mitigation: Freeway widening is not a feasible mitigation measure and it is not possible to know if the strategies proposed by the DSAP would reduce freeway impacts to a less than significant level. Although the DSAP is intended to reduce vehicle travel over the long-term, particularly at a citywide and regional level, it is not possible to know if the contribution to freeway impacts would be reduced to a less than significant level.

C(3). Finding: There is no feasible method identified for reducing the cumulative impacts of traffic congestion . **(Significant Unavoidable Cumulative Impact)**

D(1). Impact: Build-out of the DSAP would make a substantial contribution to significant cumulative impacts at the intersections of Park Avenue/Naglee Avenue, The Alameda/Naglee Avenue, and Lincoln Avenue/San Carlos Street under Cumulative plus Project conditions.

D(2). Mitigation: There are no feasible mitigation measures that can be implemented that reduce the identified impacts to a less than significant level. Therefore, the project proposes to add the intersections of Park Avenue/Naglee Avenue, The Alameda/Naglee Avenue, and Lincoln Avenue/San Carlos Street to the City's List of Protected Intersections. As a condition of project approval, the City/future developers will be required to implement offsetting improvements to pedestrian, bicycle, and transit facilities in the vicinity of the existing and proposed protected intersections. The construction of offset improvements would be required for impacts at these intersections.

D(3). Finding: There are no feasible mitigation measures that can be implemented that reduce the identified impacts to a less than significant level. **(Significant Unavoidable Cumulative Impact).**

D(4). Facts in Support of Finding: See discussion in D(2) above.

E(1). Impact: The project would make a substantial contribution to significant impacts on transit priority corridors.

E(2). Mitigation and Finding: Although implementation of General Plan policies, DSAP strategies, and planned BRT improvements are intended to reduce traffic congestion and improve transit efficiency, these measures may not reduce the cumulative impact or the DSAP's contribution to a less than significant level. This conclusion is consistent with the analysis in the Envision 2040 General Plan PEIR. **(Significant Unavoidable Cumulative Impact)**

II. NOISE

A(1). Impact: Build-out of the DSAP would result in a significant unavoidable impact at existing noise-sensitive land uses adjacent to segments of Julian Street, Park Avenue, and San Carlos Street due to substantial increases in traffic noise. Although the Envision 2040 General Plan PEIR did not identify noise increases at these specific locations, this conclusion is consistent with the analysis in the Envision 2040 General Plan PEIR, which acknowledged that future development would result in a significant traffic noise impact at noise-sensitive uses throughout the City.

A(2). Mitigation: The City may consider including noise reduction measures at residences along the affected segment of Park Avenue as part of a capitol improvement program into which future developers in the Plan area would contribute. A detailed analysis would be required to identify specific measures to reduce traffic noise levels at affected properties along Park Avenue, although it may not be possible to reduce the traffic noise impacts at existing noise-sensitive receptors along segments of Julian Street, Park Avenue, and San Carlos Street to a less than significant level.

A(3). Finding: There is no feasible method for mitigating impacts from noise on all outdoor activity areas near busy transportation corridors. **(Significant Unavoidable Cumulative Impact)**

III. AIR QUALITY

A(1). Impact: Build-out of the DSAP would result in a net increase in ROG and NOx in the Bay area, contributing to existing violations of ozone standards. This conclusion is consistent with the analysis in the Envision PEIR and Strategy 2000 EIR.

A(2). Mitigation: To reduce emissions associated with vehicle travel, future development will be required to implement a transportation demand management (TDM) program, consistent with the Transportation and Parking Management Plan (TPMP) to be prepared for the DSAP. During supplemental review of future projects, the TDM programs will be evaluated for consistency with the DSAP and General Plan policies. All feasible and applicable measures will be required as part of project design or as conditions of approval.

Although the DSAP could substantially reduce emissions of regional air pollutants over the long-term, it cannot be determined whether implementation of General Plan policies and proposed measures would reduce the impact to a less than significant level.

A(3). Finding: The air quality impacts from future vehicle travel would remain **significant and unavoidable.**

B(1). Impact: Build-out of the DSAP would result in a cumulatively considerable contribution to the significant impact to regional air quality identified in the Envision PEIR.

B(2). Mitigation: The DSAP would support the use of transit by intensifying development in proximity to Diridon Station and Downtown. When combined with the planned improvements to the pedestrian, bicycle, and trail networks, the Transportation Strategies proposed by the DSAP would further support the replacement of vehicle trips with walking, biking, and transit trips. Future development will be required to implement a transportation demand management (TDM) program. For these reasons, the DSAP is considered a key strategy for reducing VMT and vehicle trips in the city over the long-term.

Although the DSAP is intended to reduce emissions of regional air pollutants over the long-term, it cannot be determined whether implementation of General Plan policies and proposed measures would reduce the project's contribution to the significant cumulative impact to a less than significant level.

B(3). Finding: The cumulative air quality impacts from buildout of the DSAP would remain **significant and unavoidable.**

IV. CULTURAL RESOURCES

A(1). Impact: The DSAP would make a cumulatively considerable contribution to previously identified significant impacts to historic resources.

A(2). Mitigation: Removal of individual Structures of Merit would be less than significant when viewed on a project-by-project basis. However, redevelopment of all or most of the properties currently listed on the City's historic resource inventory (HRI) within the Plan area would be considered a significant cumulative impact due to the collective loss of historical structures and destruction of the area's historic fabric.

A(3). Finding: The collective loss of historical structures and destruction of the area's historic fabric would result in a **significant unavoidable cumulative impact.**

B(1). Impact: Implementation of the conceptual station expansion plan would not directly affect Diridon Station as an individual resource, but would result in a significant impact to the historic district directly through the potential removal of contributing elements and indirectly through new construction and circulation improvements that affect its setting and character.

B(2). Mitigation: It is assumed that the following measures will be implemented to reduce impacts to the Diridon Station:

- Secretary of The Interior's Standards and Guidelines: Consistent with the Preservation Covenant between the Joint Powers Board and the South Bay Historical Railroad Society, any modifications or additions to Diridon Station will be completed in accordance with the Secretary of the Interior's *Standards for the Treatment of Historic Properties*. New construction within the National Register/City Landmark historic district will be required to conform to the Secretary of the Interior's Standards, California Historic Building Code, and other applicable regulations.

- Supplemental Analysis: During the final design phase of the station expansion, a supplemental analysis will be completed by a professional architectural historian to evaluate the effects on the historic building and district. The analysis will recommend design treatments that would reduce impacts to a less than significant level to the building and minimize impacts to the historic district to the extent feasible.

- Additional Review: Consistent with the Preservation Covenant, the South Bay Historical Railroad Society will review the final design of the station expansion to ensure the historic character of the station is maintained. The final design will also be reviewed by the California Legislature/SHPO prior to implementation of the station expansion plan.

These measures are intended to complement any measures identified for the HSR and BART projects to reduce or avoid impacts to the historic district of Diridon Station. Additional measures may be required as design of the station is finalized. The California High Speed Rail Authority (CHSRA) will be responsible for evaluating the design-level impacts of the HSR project on historic resources in the subsequent project-level EIR for the San José to Merced segment, taking into account the analysis in this PEIR.

B(3). Finding: Because the station expansion design has not been finalized and the City is not the lead agency for the HSR project, it cannot be determined if the proposed measures listed above will reduce the impact to a less than significant level. The impact remains **cumulatively significant and unavoidable.**

V. BIOLOGICAL RESOURCES

A(1). Impact: The DSAP would make a cumulatively considerable contribution to a significant increase in nighttime light levels of the Los Gatos Creek corridor.

A(2). Mitigation: Adherence to General Plan policies and the design guidelines, setbacks, and lighting controls established in the Riparian Corridor Policy would reduce the magnitude of the cumulative impact. Given the potential increase in light levels, however, the impact would remain significant and unavoidable.

A(3). Finding: Even with adherence to General Plan policies, as well as the design guidelines, setbacks, and lighting controls established in the Riparian Corridor Policy which would reduce the magnitude of the cumulative impact, the impact would remain **significant and unavoidable.**

VI. GREENHOUSE GAS EMMISIONS

A(1). Impact: Build-out of the DSAP would make a considerable contribution to the significant unavoidable cumulative impact to global climate change identified in the Envision 2040 General Plan PEIR.

A(2). Facts: Build-out of the DSAP is expected to occur over 25-30 years. Although the DSAP is intended to reduce emissions of regional air pollutants over the long-term, it cannot be determined whether implementation of General Plan policies and proposed measures would reduce greenhouse gas emissions to meet the necessary carbon-efficiency standards. Given the amount of

proposed development, the project would make cumulatively considerable contribution to the significant greenhouse gas impact resulting from planned growth in San José as envisioned in the 2040 General Plan.

A(3). Finding: Achieving the substantial emissions reductions needed beyond 2020 will require a multiple-pronged approach that includes policy decisions at the federal and state level and new and substantially advanced technologies that cannot be anticipated or predicted with any accuracy at this time. Policy and regulatory decisions by other agencies and most technological advances (for example, in the area of motor vehicle emissions) are outside the City's control, and therefore cannot be relied upon as feasible mitigation strategies. Given the uncertainties about the feasibility of achieving the needed 2035 emissions reductions, the City's contribution to greenhouse gas emissions and climate change for the 2035 timeframe is conservatively identified as cumulatively considerable and both **significant and unavoidable.**

VII. POPULATION AND HOUSING

A(1). Impact: Future development under the proposed DSAP would make a substantial contribution to the significant unavoidable impact related to the jobs/housing imbalance, as identified in the Envision PEIR.

A(2). Mitigation: The main environmental issue associated with a jobs/housing imbalance is increased VMT and the DSAP is a key strategy for reducing VMT; however, because the project will increase jobs over residential units within the City, the DSAP would contribute to the significant unavoidable impact identified in the Envision PEIR.

A(3). Finding: There is no feasible method that could be identified that would reduce the City's contribution to regionally significant impacts from induced growth associated with the jobs/housing ratio in this proposed General Plan to less than significant. **(Significant Unavoidable Cumulative Impact)**

VIII FINDINGS CONCERNING ALTERNATIVES

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts that are anticipated to occur if the project is implemented and to try to meet as many of the project's objectives as possible. The Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and should focus on alternatives that avoid or substantially lessen the significant impacts.

Given that the main objective of the project is to establish a land use plan and policy framework to guide future development in a specific area of the City, it would not be

feasible to evaluate an alternative location (i.e., in another city or location in San José). The DSAP area is located in Downtown San José and the proposed project has been designed taking into account the surrounding land uses, and its location within the flight path of the airport and proximity to an existing and future rail line. To evaluate another location for such specific development, especially given the recent approval of the 2040 General Plan update, which anticipates growth similar to what is proposed by the DSAP, would not be meaningful for the purposes of informing a decision about the proposed project.

Various assumptions were made for the future condition to evaluate potential alternatives to the project. BART and HSR (either above- or below-ground) are anticipated to be constructed within the DSAP area. Other assumptions include the realignment of Autumn Parkway and improvements to other streets, completion of the Los Gatos Creek Master Plan, and construction of a new park at the existing fire department training yard south of Park Avenue.

Prior to the preparation of the DSAP, an Alternatives Analysis Report (July 2010) was prepared to evaluate three project alternatives (A, B, and C) based on existing conditions in the area and the desired density given the proximity to rail and transit. The three alternatives were the result of numerous community workshops and meetings, given the various future development and constraints in the DSAP and surrounding area. Alternative B is the alternative with the most potential to reduce environmental impacts because it includes significantly less office/R&D square footage when compared to the proposed project. Although residential uses under this alternative are significantly greater than the proposed project, residential uses result in 30 percent less traffic than jobs-related land uses. For this reason, Design Alternative B was carried forward into this EIR alternatives discussion. The following are evaluated as alternatives to the proposed DSAP:

- No Project Alternative
- Design Alternative
- Reduced Scale Alternative
- Land Use Policy Alternatives

1. NO PROJECT ALTERNATIVE

A. Description of Alternative: The purpose of this alternative is to identify what development and associated environmental impacts would occur if the City does not adopt the proposed DSAP; in other words, how the area would continue to grow and evolve under the current 2040 General Plan's goals, policies, and Land Use Transportation Diagram. Under the No Project Alternative, the project area would be developed consistent with the 2040 General Plan and Downtown Strategy Plan.

While there are some locations where General Plan land use designations would be changed, including areas along West San Carlos Street, the amount of development proposed under the DSAP is not significantly different than that approved as part of the 2040 General Plan. The job capacity and planned housing yields with the approved 2040 General Plan and the proposed DSAP are the same; therefore, development intensity and the particular properties to be affected would be similar.

B. Comparison of Environmental Impacts: The No Project Alternative would potentially require the removal of historic structures, similar to the proposed project. This alternative would result in similar impacts to biological resources given the project location and amount of development proposed are very similar. Impacts to the riparian corridor would be similar including lighting. The implementation of the DSAP would result in traffic impacts similar to what would be expected under the 2040 General Plan because the amount of development would be comparable. Significant unavoidable traffic impacts associated with freeway operations, intersections, and transit priority corridors would still occur under the No Project Alternative. The No Project Alternative would not reduce traffic generated noise impacts to segments of Julian Street, Park Avenue, and San Carlos Street. The No Project Alternative would not result in a decrease in ROG, NOx, or regional air quality when compared to the proposed project because development levels would be almost identical. Build-out of the 2040 General Plan land uses within the DSAP area would generate greenhouse gas emissions similar to the proposed project, as development intensities would be comparable. The land uses proposed for the DSAP area as part of this project are very similar to what would be allowed under the 2040 General Plan, and therefore, the No Project Alternative would not reduce the project's contribution towards the significant unavoidable cumulative population and housing impact.

C. Feasibility of the No Project Alternative: The No Project Alternative is feasible from the standpoint that no changes to the General Plan would be required to implement the DSAP and a similar amount of development would occur within the DSAP area. That development, however, would not reflect the DSAP design guidelines prepared to take into account the intensification of development to accommodate future transit opportunities in the DSAP area, while emphasizing pedestrian and bicycle access and connectivity.

D. Finding: The No Project Alternative would leave the City without the plan-level structure and detail required to create a regional destination with a mix of land uses and sufficient density to support existing and planned transit infrastructure. Without urban design guidelines, which were not developed as part of the General Plan, the likelihood of achieving the underlying purpose in the General Plan to transform the Diridon Station Area into a regional, highly active, lively pedestrian and bicycle friendly place to live and work would be diminished. For these reasons, this alternative would not fully meet the basic project objectives. The alternative is therefore rejected.

2. DESIGN ALTERNATIVE

A. Description of Alternative: Alternative B is the design alternative that has the greatest potential to reduce the impacts of the DSAP as described in this EIR. The Design Alternative establishes a mix of vibrant uses and districts with a high-intensity, entertainment oriented core providing a link between the Ballpark and the Arena. Residential uses are primarily located east and west of the core along West San Carlos Street, with freeway-oriented retail located in the south. This alternative includes a freestanding high speed rail building (assuming a below-grade alignment) between Cahill and Montgomery Streets. The historic depot would continue to be used for commuter rail services.

B. Comparison of Environmental Impacts: The Design Alternative includes development throughout the DSAP area and therefore, would potentially require the removal of historic structures, similar to the proposed project. The Design Alternative would result in similar impacts to biological resources given the project location and amount of development proposed are very similar. Impacts to the riparian corridor would be similar, including lighting. Some traffic impacts would be reduced, however, it would be unlikely that they would be reduced to a less than significant level. More residential units would be affected by future traffic generated noise with this alternative.

Implementation of the Design Alternative would not result in a significant decrease in ROG, NOx, or regional air quality when compared to the proposed project. Build-out of the 2040 General Plan land uses within the DSAP area would generate greenhouse gas emissions similar to the Design Alternative and the proposed project, as development intensities would be comparable. The Design Alternative would result in fewer jobs than the proposed project, thereby resulting in a reduction in VMT when compared to the proposed project. However, future development in the DSAP represents a small proportion of overall growth in the City. For this reason, it is estimated that the Design Alternative could still result in a significant contribution towards this cumulative impact.

C. Feasibility of the Design Alternative: The Design Alternative is feasible from the standpoint that the land uses could be implemented within the DSAP area. This alternative would result in additional residential and less office/R&D when compared to the DSAP, which could affect the City's jobs to housing ratio, inconsistent with the 2040 General Plan.

D. Finding: The Design Alternative would result in fewer office/R&D development and jobs and would include additional residential units as compared to the proposed project. The Design Alternative would not fully meet basic project objectives or the goals and policies in the General Plan for the Diridon Station Area, to improve the jobs to housing balance and to intensify job development in particular in proximity to major transit hubs to support transit ridership and economic development while reducing overall vehicular traffic and air quality emissions. This alternative is therefore rejected.

3. REDUCED SCALE ALTERNATIVE

A. Description of Alternative: A Reduced Scale Alternative that proposes half of the development in the DSAP (approximately 2.5 million square feet of office/R&D uses, 210,000 square feet of retail/restaurant, 1,300 residential units, and 450 hotel rooms) would not reduce impacts to the intersections outside of the Downtown Core to a less than significant level. This alternative could be developed in such a way as to spread the uses over the DSAP area, thus resulting in less intensive development or could be as intense, but not utilize as much as land as the DSAP. This could reduce additional impacts as described below. The Reduced Scale Alternative would include a freestanding high speed rail building (assuming a below-grade alignment) between Cahill and Montgomery Streets. The historic depot would continue to be used for commuter rail services, including high speed rail.

B. Comparison of Environmental Impacts: The Reduced Scale Alternative would include development throughout the DSAP area and therefore, would potentially require the removal of historic structures, similar to the proposed project. The Reduced Scale Alternative could result in similar impacts to biological resources given the project location; however, some properties along Los Gatos Creek could be avoided to reduce lighting impacts. This would avoid the cumulatively considerable contribution towards this cumulative impact. Some traffic impacts would be reduced, however, it is unlikely that they would be reduced to a less than significant level. Development under the Reduced Scale Alternative is expected to result in less traffic and could therefore, reduce traffic generated noise although perhaps not to a less than significant level. Implementation of the Reduced Scale Alternative would reduce the amount of ROG and NOx generated and could reduce impacts to regional air quality when compared to the proposed project. The Reduced Scale Alternative would result in the generation of fewer greenhouse gas emissions when compared to the DSAP project, as development intensities would be substantially less. Because this is a cumulative condition, the Reduced Scale Alternative would contribute towards the significant greenhouse gas impacts identified in the Envision PEIR, although not to the same extent. The Reduced Scale Alternative would result in fewer jobs and residents than the proposed project, thereby resulting in a reduction in VMT when compared to the proposed project. However, future development in the DSAP represents a small proportion of overall growth in the City. For this reason, it is estimated that the Reduced Scale Alternative could still result in a significant contribution towards this cumulative impact.

C. Feasibility of the Reduced Scale Alternative: The Reduced Scale Alternative is feasible from the standpoint that the land uses could be implemented within the DSAP area. This alternative would result in less residential and office/R&D uses when compared to the DSAP, which could affect the City's jobs to housing ratio, inconsistent with the 2040 General Plan.

D. Finding: The Reduced Scale Alternative would meet some of the basic project objectives of the City of San José to promote job growth in Downtown and promote

public health through a Land Use/Transportation Diagram that promotes walking, biking, and public transit use. Given that the growth in jobs would be smaller, the Reduced Scale Alternative would not fully meet the City's objectives regarding job creation, the development of Downtown as a regional job center consistent with General Plan, Downtown Strategy 2000 and the Metropolitan Transportation Commission's goals for transit-oriented development near regional transit expansion projects, and correcting the jobs to housing imbalance. The Reduced Scale Alternative also would not fully meet the basic project objectives in that it would not act as a catalyst for similar developments in the surrounding area to the extent that the proposed project would. This alternative is therefore rejected.

4. LAND USE POLICY ALTERNATIVES

A. Description of Alternative: There are two land use designation alternatives that are slight variations to the proposed project. The traffic report for the project included an additional 155 residential units that were ultimately not distributed within the DSAP Preferred Plan. It is anticipated that these units would be placed on one or both of the alternatives below, if either or both are pursued. If more units are ultimately proposed, subsequent environmental review may be required.

Alternative for block bound by Julian Street, Stockton Avenue, The Alameda, and the Union Pacific Railroad

This alternative would designate the properties between Julian Street, Stockton Avenue, The Alameda, and the Union Pacific Railroad tracks with an Urban Village Land Use Designation. To further the City's Envision San Jose 2040 goal of transforming San Jose from the bedroom community for Silicon Valley to a regional employment center for the Bay Area, the Urban Village Land Use designation, as applied to the properties in this alternative, would have a minimum commercial FAR of 0.5 for projects containing residential uses. This designation would therefore only support residential development in a mixed-use format that includes commercial uses or square footage that is equal to or greater than a 0.5 FAR for a given project. The commercial component of a project would need to be built simultaneously or prior to the construction of the residential component.

In addition to furthering the employment goals of the Envision San Jose 2040 General Plan, locating employment or commercial uses in proximity to the Diridon Station would be more supportive of the major transit investments that have, and are planned to be made at Diridon; employment uses adjacent to transit generates more ridership on the adjacent transit system than does locating housing, of a comparable intensity, adjacent to that system.

Alternative for the Whole Foods Site and Surrounding Properties

This alternative would designate the properties on the west side of Stockton Avenue from Julian Street to The Alameda with an Urban Village land use designation. Included in this alternative is the property that contains the Whole Foods project currently under construction and the adjacent properties that contain the recently approved mixed-use project at 785 The Alameda. As with the alternative above, the Urban Village General Plan land use designation applied to the properties in this alternative would include a minimum commercial FAR of 0.5 for all projects including residential uses. The commercial component of a project would need to be built simultaneously or prior to the construction of the residential component. This designation would allow higher residential densities than the Urban Residential designation in the proposed DSAP. New development adjacent to The Alameda and the intersection of The Alameda and Stockton Avenue would be required to include active and functional retail space fronting the street. Both the Whole Foods project and the approved mixed-use project at 785 The Alameda are consistent with this land use.

B. Comparison of Environmental Impacts: The Land Use Policy Alternatives would potentially require the removal of historic structures, similar to the proposed project. Impacts would not be reduced with implementation of this alternative. These alternatives would result in similar impacts to biological resources given they would ultimately be developed as part of the DSAP, regardless of the ultimate uses. Development of residential uses on the Land Use Policy Alternatives properties would not significantly change the amount of traffic generated by the DSAP project. It is estimated that impacts to intersections, freeway segments, and transit priority corridors would still occur under the Land Use Policy Alternatives. The Whole Foods block would not be significantly affected by additional noise when compared to the DSAP. Additional noise impacts would occur that would affect future residents on the east side of Stockton Avenue when compared with the DSAP. This noise would be generated by adjacent rail and Transit Employment Center uses. Implementation of the Land Use Policy Alternatives would not result in a decrease in ROG, NOx, or regional air quality when compared to the proposed project because the alternatives and proposed project would result in a similar amount of development. Implementation of the Land Use Policy Alternatives would generate construction-related greenhouse gas emissions similar to the proposed project, as development intensities would be comparable. Traffic-generated GHG emissions would be similar. The Land Use Policy Alternatives would not reduce the project's contribution towards the significant unavoidable cumulative population and housing impact identified in this EIR and the Envision PEIR.

C. Feasibility of the Land Use Policy Alternatives: The Land Use Policy Alternatives are feasible alternatives in that the development allowed by the *Urban Village* designation is consistent with and similar to the uses proposed for other properties in the DSAP. Additional studies and mitigation measures may be required due to the presence of existing rail adjacent to the site on the east side of Stockton Avenue and the planning of additional rail lines near that site. Although implementation

of the mitigation measures included in this EIR as well as General Plan policies and other regulations would reduce some impacts to the new residential uses on the property bounded by Julian Street, Stockton Avenue, The Alameda, and the Union Pacific Railroad to a less than significant level, additional environmental review may be required.

D. Finding: The Land Use Policy Alternatives would meet the basic project objectives and have similar environmental impacts as the proposed project. However, the alternative for the block bounded by Julian Street, Stockton Avenue, The Alameda, and the Union Pacific Railroad tracks would present additional noise and air quality impacts. Thus, the Land Use Policy Alternatives are not considered to be environmentally superior to the proposed project.

Further, with respect to the block bounded by Julian Street, Stockton Avenue, The Alameda, and the Union Pacific Railroad, a change to the Urban Village land use designation would allow partial conversion of an area currently intended for high intensity employment uses to residential uses. The Transit Employment Center land use designation will prioritize employment-intensive land uses in the area closest to the Diridon Station. Concentration of employment near the Diridon Station will benefit the region by increasing the number of jobs accessible by public transit, and would generate significantly more transit ridership on the existing and planned transit systems; numerous studies have shown that people are more likely to commute by transit if their workplace is located near a transit station, especially if their workplace is within a ¼ mile walk from the station, than if their place of residence is located within walking distance of transit. Thus, this alternative would not meet the applicable General Policy goals and policies and the project objectives as fully as the preferred project.

XI. MITIGATION MONITORING AND REPORTING PROGRAM

The Annual Report on the General Plan will serve as the Monitoring and Reporting Program required under Section 21081.6 of the CEQA Statute and Section 15097(b) of the CEQA Guidelines.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to the provisions of CEQA, the City Council of the City of San José hereby adopts and makes the following statement of overriding considerations regarding the remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.

A. Significant Unavoidable Impacts.

With respect to the foregoing findings and in recognition of those facts which are included in the record, the City has determined the Project has significant unmitigated

or unavoidable impacts, as set forth above, associated with transportation, roadway noise, air quality, cultural resources, aesthetics, biology and climate change/greenhouse gas emissions in 2035.

B. Overriding Considerations.

The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the Project are acceptable in light of the economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh the significant and adverse impacts of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but it not limited to, the draft Diridon Station Area Plan, the Envision 2040 General Plan, the San José Residential/Commercial/Industrial Design Guidelines, the San Jose Greenprint, and the Bicycle Master Plan.

C. Benefits of the Proposed Project

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

1. **Environmental Leadership.** Planning for San José to be increasingly an employment center within the region supports the 2040 General Plan goals for environmental leadership. Analysis of long-term traffic patterns concluded that scenarios with a lower J/ER ratio would have comparable amounts of regional automobile traffic and increased amounts of local automobile traffic. In contrast, higher J/ER ratio scenarios were projected to result in higher degrees of transit ridership. The analysis conducted for the Envision San Jose 2040 General Plan process is supported by various academic studies and observation of real-world conditions, which show that the development of traditional urban job centers reduces the potential environmental impacts associated with automobile travel. The Diridon Station Area Plan will foster environmental leadership by guiding the development of the region's most transit-rich urban employment center.

2. **In-fill Development.** Urban Villages, a form of infill development described in the 2040 General Plan, will be a key part of the City's future development. Urban Villages will accommodate significant amounts of new employment and housing growth through the redevelopment of existing, underutilized properties at strategy

locations throughout San José. The Diridon Station Area Plan will guide the development of one of the City's premier Urban Villages by encouraging high-quality urban design, a mix of land use activities, and the creation of a pedestrian-friendly environment to foster the development of urban environments attractive to a broad range of future residents of San José.

3. **Development Near Transit.** The Diridon Station Area Plan implements the 2040 General Plan long-term traffic analysis, which indicated that focusing jobs within San José and in particular within proximity to regional transit systems would best promote use of those transit systems. Placing housing along transit systems is also important, particularly for slower-moving light rail systems which effectively serve a smaller geographic area. Placing transit along transit systems and promoting transit will help to minimize vehicle miles traveled and to reduce greenhouse gas emissions associated with automobile travel.

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the FPEIR and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

XIII. LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the Department of Planning, Building, and Code Enforcement, 200 East Santa Clara Street, Third Floor Tower, San Jose, CA 95113.

ADOPTED this 17th day of June, 2014, by the following vote:

AYES:	CAMPOS, CONSTANT, HERRERA, KALRA, KHAMIS, LICCARDO, NGUYEN, OLIVERIO, ROCHA; REED.
NOES:	NONE.
ABSENT:	CHU.
DISQUALIFIED:	NONE.

CHUCK REED
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk