Meeting Date: **6/23/2015**

Report Type: Consent

Report ID: 2015-00540

City of SACRAMENTO **04**

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: (Pass for Publication) Sacramento Commons Mixed-use Development Project (P14-012)

Location: District 4

Recommendation: 1) Review a Resolution certifying an Environmental Impact Report (EIR) and adopting a Mitigation Monitoring Plan; 2) review an Ordinance adopting a Development Agreement; 3) review an Ordinance to Rezone from High-rise Residential (R-5) to High-rise Residential (R-5 PUD); 4) review a Resolution approving the PUD Establishment to create the Sacramento Commons Planned Unit Development Guidelines and Schematic Plan; 5) review a Resolution approving a Water Supply Assessment Report; 6) review a Resolution approving a Tentative Map to subdivide the 10.13 net acre site into six parcels and Site Plan and Design Review for a master planned community; and 7) pass for publication the Ordinance titles as required by Sacramento City Charter section 32(c) to be adopted on July 14, 2015.

Contact: Evan Compton, Senior Planner, (916) 808-5260, Community Development Department

Presenter: Evan Compton, Senior Planner, (916) 808-5260, Community Development Department

Department: Community Development Dept

Division: Planning Design/Preservation

Dept ID: 21001226

Attachments:

01-Description/Analysis
02-Background Information
03-Resolution (EIR MMP)
03a-FOF and SOC
03b-Findings Table
03c-MMRP
04-Ordinance (Development Agreement)
05-Ordinance (Rezone)
06a-Resolution for PUD
06b-Exhibit A (PUD Guidelines)
07-Resolution (Water Supply Assessment)
08-Resolution (Project Entitlements)
09-Maps
10-Stakeholder Meetings by the Applicant
11-Letter from Governor
12-Public Comments Received and Opposition Petition
13-Recommendation from Preservation Commission
14-Sacramento Commons and the Change to the CBD Designation

City Attorney Review

Approved as to Form
Jeffrey Heeren
6/17/2015 10:46:55 AM

Approvals/Acknowledgements

Department Director or Designee: Ryan Devore - 6/10/2015 1:17:12 PM

James Sanchez, City Attorney Shirley Concolino, City Clerk Russell Fehr, City Treasurer
John F. Shirey, City Manager

Back to Report Table of Contents

Description/Analysis

Issue Detail: The property is currently developed with 409 multi-unit dwellings and 4,122 square feet of commercial on 10.13± net acres. The proposal is to demolish all the structures on the site with the exception of the Capitol Tower Highrise and the Overhoff Sculptural Wall. The proposal has two build-out scenarios: a) 300 room hotel and a total of 1,374 dwelling units and 74,122 square feet of commercial; or b) 1,470 dwelling units and 56,122 square feet of commercial; both propose new parking structures.

Policy Considerations: The proposal includes a Development Agreement, Rezone from High Rise Residential (R-5) to High Rise Residential (R-5 PUD), establishment of the Sacramento Commons Planned Unit Development Guidelines and Schematic Plan, Water Supply Assessment, Tentative Map to subdivide three parcels into six parcels, and Site Plan and Design Review to demolish the site (with the exception of the Capitol Tower Highrise and the relocation of the Overhoff Wall) to implement a master planned community.

The most prominent policy issues that have been raised include: a) the demolition of historic and cultural resources within a nominated historic district; b) removal of existing trees including four heritage trees and four non-heritage city street trees which are protected and require a permit for removal, and 191 onsite non-heritage trees which do not require a permit for removal; and c) concerns about a blighted site if the replacement development does not occur in a timely manner after the existing dwelling units are demolished. Staff believes these items have been addressed as described in further detail in the background section of this report. The demolition of the garden apartments within the nominated historic district is necessary to allow a project with higher densities that are consistent with the urban form envisioned in the Central Business District. The project includes planting replacement trees and implementing a landscape plan to enhance the major promenades bisecting the superblock site. Furthermore, the Development Agreement has provisions requiring the applicant to obtain future Site Plan and Design Review approval along with building permits for each applicable phase before any demolition or city/heritage tree removal will be allowed. The developer will also be required to execute a surety agreement and appropriate bonding for reconditioning of the site if construction is halted for an unreasonable amount of time. The reconditioning would include removing any construction debris, leveling the grade of the site, and installing landscaping.

Economic Impacts: None

Environmental Considerations: The City has completed a Final EIR for the proposed project to be certified and adopted with findings and a statement of overriding considerations as part of the City Council's review of the project application. Copies of the DEIR and FEIR are available on the Community Development Department's webpage at:
http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports

Commission/Committee Action: On April 15, 2015, the Preservation Commission held a public hearing and forwarded to the Planning and Design Commission, by a unanimous vote (7:0:0) to forward a recommendation to deny the Sacramento Commons Project as proposed and that alternatives be presented. On June 11, 2015, the Planning and Design Commission held a hearing on the proposal and forwarded to the City Council, by a unanimous vote (11:0:0), a recommendation to approve the Sacramento Commons project.

Rationale for Recommendation: Staff supports this proposal because it: a) increases density on an existing superblock in the Central Business District thereby contributing to the repopulation of downtown in general and adding vitality by extending the hours of activity and the built-in market for retail, services, and entertainment; b) promotes synergy by adding more residential dwellings and commercial uses in close proximity to existing offices to foster complete neighborhoods in which to live, work, and play; c) is sited on over 10 net acres on the downtown grid that is highly walkable and located near a light rail station, bus stops, and freeway access which is a prime location for additional infill development; d) furthers the goal to provide mixed income neighborhoods rather than creating concentrations of below market rate housing in certain areas such as the Central Business District; e) is required as part of the Development Agreement for the project to retain the existing garden apartments and city/heritage trees until such time as building permits have been issued for that phase; and f) demolishes the resources within a nominated historic district only as a last resort because it is necessary to proceed with a project consistent with identified goals and policies of the General Plan by replacing low density garden apartments with a more vertical and dense urban form as envisioned in the Central Business District.

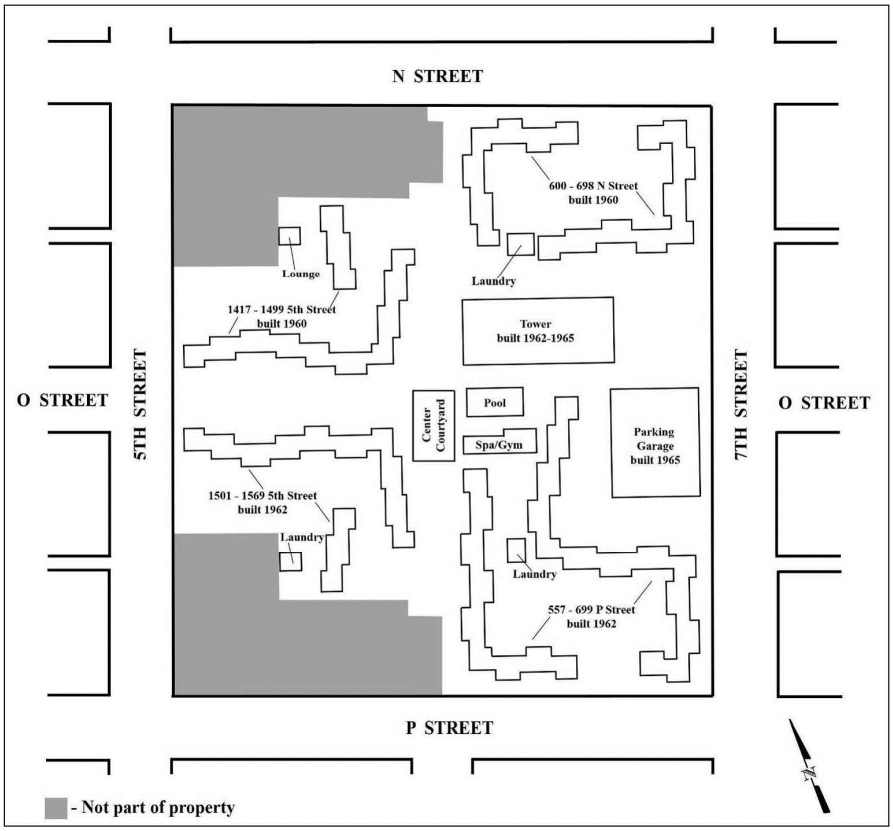
Financial Considerations: The project has no fiscal considerations.

Local Business Enterprise (LBE): No goods or services are being purchased under this report.

Back to Report Table of Contents

Background Information: The applicant has requested entitlements for master planning and redevelopment of a portion of the properties bound by 5th Street, N Street, 7th Street, and P Street in the Central City. The proposal includes two build-out scenarios: a) 300 room hotel and a total of 1,374 dwelling units and 74,122 square feet of commercial; or b) 1,470 dwelling units and 56,122 square feet of commercial. Both scenarios include the construction of four new parking structures totaling between 1,635 to 1,701 parking spaces.

<u>Existing Site:</u> The existing site is developed with 409 multi-unit dwellings (comprised of 206 garden apartments and 203 high rise dwellings) and 4,122 square feet of commercial on 10.13± net acres. (This site does not include 500 N Street or Pioneer Towers as indicated on the exhibit.) The project site is part of a "superblock" which is essentially four combined city blocks resulting from the closure of 6th Street between N and P, and the closure of O Street between 5th and 7th Streets.



Environmental Considerations: The City has completed a Final EIR for the proposed project. The EIR will be presented to the City Council for certification and adoption of findings and a statement of overriding considerations as part of the City Council's review of the project application.

On April 10, 2014 the Staff circulated a Notice of Preparation (NOP) for a Sustainable Communities Environmental Assessment SCEA) for a 30-day comment period based upon the determination that the project qualified as a Transit Priority Project (TPP) pursuant to Public Resources Code (PRC), Section 21155(b). Upon determination that the project site could have a significant effect on historic resources, an environmental impact report (EIR) was identified as the appropriate environmental document and second NOP was circulated for 30-days from August 6th to September 5th, 2014.

Section 4.0.3 of the Draft EIR (page 4-4 and following) discusses various legislative actions that provide CEQA streamlining for qualifying projects. As a TPP, for example, the project was reviewed by the EIR pursuant to Public Resources Code section 21155.2(c), which provides that an EIR is not required to analyze off-site alternatives to the transit priority project.

An EIR is an informational document that must be considered by the Lead Agency prior to project approval. CEQA Guidelines Section 15132 provides that the Final EIR shall consist of: the Draft EIR or a revision of the draft; comments and recommendations received on the DEIR either verbatim or in summary; a list of persons, organizations, and public agencies commenting on the DEIR.; responses of the Lead Agency to significant environmental points raised in the review and consultation process; and additional information provided by the Lead Agency.

The issues discussed within the EIR are those that have been identified as potentially significant impacts including: Aesthetics; Air Quality; Biological Resources; Cultural Resources; Geology and Soils, Greenhouse Gas Emissions and Energy; Hazards and Hazardous Materials; Hydrology and Water Quality; Noise and Vibration; Public Services and Recreation; Transportation/Traffic; and Utilities and Service Systems. Mitigation is included in the EIR to reduce impacts to less-than-significant levels to the extent feasible. The EIR concludes that the project would have a significant and unavoidable impact for historic resources.

The Draft EIR (DEIR) was prepared and released for a forty-five (45) day public review period, beginning on March 9, 2015 and ending on April 24, 2015. Forty-seven comment letters (6 Agencies (including the Preservation Commission Letter), 12 Organizations, and 29 Individual/Businesses) were received on the DEIR. The comment letters and responses to comments are included in the Final EIR (FEIR). In addition, comments received at the Preservation Commission (4-13-15) and Planning and Design Commission Review and Comment (4-30-15) hearings have been transcribed and are responded to in the FEIR. The FEIR responds to all comments received on the DEIR and revises text and/or analyses where warranted. Pursuant to the

requirements of CEQA, prior to a decision on the project copies of the responses to comments will be sent to all agencies who commented on the Draft EIR. Copies of the DEIR and FEIR are available on the Community Development Department's webpage at:
http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports

Table 1: Project Information for Sacramento Commons	
General Plan designation	Central Business District (61 to 450 du/na)
Design Review District	Central Core
Existing zoning of site	High Rise Residential (R-5) up to 175 du/na
Existing use of site	206 unit garden apartments (proposed for demolition) 203 unit high-rise (Capitol Tower to remain) 4,122 sqft retail and support uses to remain
Property area:	11.17 gross acres 10.13 net acres
Proposed	**Scenario 1: Hotel/Condo/Retail** • 300-room Hotel • 1,374 dwelling units including: Retain 203 units in the Capitol Tower New 1,122 dwelling units 49 live/work units • 74,122 sqft retail and support uses maximum (includes 4,122 sqft existing) • Eliminate 390 surface parking spaces and construct up to 1,701 new parking spaces within four parking garages **Scenario 2: Condo/Retail** • New 1,470 dwelling units including: Retain 203 units in the Capitol Tower New 1,218 dwelling units 49 live/work units • 56,122 sqft retail and support uses maximum (includes 4,122 sqft existing) • Eliminate 390 surface parking spaces and construct up to 1,635 parking spaces within four parking garages
Density	Existing: 40 dwelling units per net acre Proposed: 136-145 dwelling units per net acre (du/na)
Floor Area Ratio	Proposed: 3.2 to 3.3 Allowed: 3.0 to 15.0

Public/Neighborhood Outreach and Comments: The proposal has been routed to multiple groups including but not limited to the Capitol Area R Street Association, Downtown Sacramento Partnership, Preservation Sacramento (formerly Sacramento Old City Association), Sacramento Modern, Southside Park Neighborhood Association, Sacramento Area Bicycle Advocates, Sacramento Housing Alliance, Walk Sacramento, Sacramento Area Council of Governments, and ECOS. The site was posted and staff notified property owners within 300 feet of the project site. An email notice was also sent to over 90 contacts who have asked to receive electronic updates on this project.

Some of the main issues which have surfaced to date from the public include:

- Loss of historical/cultural resources
- Loss of existing trees
- Concerns regarding post-demolition project abandonment if replacement development does not occur in a timely manner.
- Impacts on existing residences including safety, noise, and aesthetic impacts with the proposed construction.
- Concerns regarding demolition of existing low-rise market rate rental housing units and intensification of an existing developed residential superblock.
- Concerns that no offsite alternatives were explored in the DEIR.

This list is not an exhaustive list of all concerns presented to date. A petition of opposition and list of the comment letters received have been included as an attachment. A series of community meetings were conducted by the applicant. A list of the meetings has also been included in this report as an attachment. In Table 2 below, staff has provided responses to the common concerns presented by members of the community.

Table 2: Summary Staff Response to General Comments
Commonly Stated Concerns from the Community
1. *The demolition of the garden apartments is a violation of the General Plan Policy HCR 2.1.15 (demolition of historic resources as a last resort only to be permitted if rehabilitation is not feasible, demolition is necessary to protect health and safety of residents, or the public benefits outweigh the loss of the resource).* Staff finds that a project is not required to be in perfect conformity with each and every general plan policy. A general plan document attempts to balance a range of competing interests and it is not uncommon that there are

projects that do not conform to every policy. The city must weigh and balance the relevant policies to determine if the project as a whole is consistent with the purposes of the general plan. A project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the plan and will not obstruct their attainment.

In this case, the 2035 General Plan has policies indicating the demolition of historic resources should be allowed only as a last resort. However, there is a process that may be followed to review and approve a project that proposes demolition of historic resources. The decision makers will have an opportunity to consider the merits of the proposed project (including the public benefit of increasing density in the central city core) and the overall goals furthered with the project in contrast to the loss of historic resources resulting from the implementation of the proposal.

Staff believes it is in the City's interest to retain existing housing in the central core (ie the existing 206 garden apartments) until such time as demolition of a phase is undertaken in advance of new construction. Therefore, in the Development Agreement that is being drafted for City Council, it states demolition shall not commence for any project phase until building permits have been issued for that phase.

2. *There will be a significant loss of trees onsite with no guarantee of future replacement.*

It is important that a clear distinction be made when discussing tree removal for this project to discern between city street trees and heritage trees (which require a city permit for removal) and private, nonheritage trees (which do not require a city permit for removal.)

The proposal as shown would remove 4 heritage trees onsite and 4 nonheritage, city street trees. The removal of these 8 trees would require city permit approval. There are also 191 nonheritage, onsite trees that are proposed to be removed with this proposal. There is no city permit required for the removal of these trees.

Staff believes it is in the City's interest to retain the existing heritage and city street trees (ie all protected trees that require a city permit for removal) until such time as demolition of a phase is undertaken in advance of new construction. Therefore, in the Development Agreement that is being drafted for City Council, it states there shall be no removal of a city street tree or heritage tree prior to the commencement of demolition or new construction for which tree removal is necessary. This does not include trees that need to be removed due to poor health or that are imminently dangerous as

determined by the Public Works Director or his designee.

3. *Construction of the project could be halted in the future, leaving a blighted site.*

Staff finds that the Development Agreement has reconditioning provisions to respond to these concerns including bonding to recondition the site in the event the project is initiated but not completed. Further information may be found in the Development Agreement discussion of this report.

4. *Concerns about safety, access, and noise during construction activities.*

Staff finds that the Site Plan and Design Review conditions include provisions regarding maintaining alternative access for residents during construction and detours. The noise for construction activities are restricted by the Sacramento City Code section 8.68.080. This code limits noise sources due to erection, demolition, alteration, or repair between the hours of 7 am to 6 pm on Monday through Saturday and 9 am to 6 pm on Sunday.

5. *The Sacramento Commons site density should be calculated to include the dwelling units within the existing Bridgeway and Pioneer Towers.*

Staff finds that the calculation for the density and floor area ratios are analyzed to show the proposed project is consistent within the allowed ranges. There is no city code requirement that mandates this site be redeveloped to meet a minimum density rather the calculation is completed to show the new development will not exceed the allowable standard. Therefore, the inclusion or exclusion of the Bridgeway and Pioneer Towers does not impact the conclusion that the project as proposed does not exceed the maximum density or floor area ratios allowed and as such, is consistent with the allowed ranges in the Central Business District and the High-Rise Residential (R-5) zone.

6. *The demolition of the garden apartments will remove affordable housing from the Central Business District and new construction will consist of expensive units.*

Staff finds the Central Business District is primarily composed of Single Room Occupant (SROs), low income, or senior housing. The site is currently developed with market rate housing and the housing that is proposed with this development will further the city goals of providing a range of housing opportunities within each area of the city per General Plan Policy H 1.3.5 which states: the "City shall promote an equitable distribution of housing

types for all income groups throughout the city and promote mixed income neighborhoods rather than creating concentrations of below-market-rate housing in certain areas." Furthermore, the project will be required, as part of the Development Agreement, to retain the garden apartments until such time as new construction is undertaken for a project phase as evidenced by submission of building permit document for that phase.

7. *Additional alternatives should be considered.*

Staff finds that the review of offsite alternatives is not required for the project. The California Environmental Quality Act (CEQA § 15183.3(e)) states that the "analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities."

The Governor's Office of Planning and Research also submitted a letter to the City of Sacramento indicating Section 21094.5 of the Public Resources Code states that for infill projects that result in significant effects, the environmental impact report prepared for the project analyzing the effects shall be limited to not require consideration of alternative locations, densities, or building intensities.

Notwithstanding the above, in developing the alternatives, the City and the environmental consultant worked with an historical consultant. As a result of that cooperation, it was concluded that reducing the density or building intensity of the proposed project was the only way to develop onsite alternatives with the potential to substantially lessen or avoid the proposed project's significant historical resource impact. As explained in the Draft EIR, Alternatives 2 and 3 would retain more of the existing structures, open space, landscape, and trees on the project site. However, the historical resource impact would still remain significant and unavoidable under those scenarios.

It is also important to note that the proposed project site is a superblock which is essentially a combination of four city blocks. The abandonment of public streets to form the superblock has created a unique circumstance in the Central Business District to implement a master plan of 10.13± acres for a more vertical development form as envisioned in the central city core and proposed by the applicant.

Historic Resources: Prior to the release of the Sacramento Commons project's DEIR, SacMod retained architecture and historic preservation services firm, Page & Turnbull, to prepare a nomination to the National Register of Historic Places (NRHP) for the Capitol Towers and Garden

Apartments property. The nomination was submitted to the State Historic Preservation Officer (SHPO) in July 2014. The nomination was heard before the State Historical Resources Commission (SHRC) on November 7, 2014. The SHRC voted to approve the nomination and requested the SHPO forward the nomination to the Keeper of the Register, National Park Service. On December 31, 2014, the Keeper, upon receiving written objection to NRHP listing from the property owner, made a formal determination that the property was eligible for listing in the NRHP, and the property was thereby automatically listed in the California Register of Historical Resources (CRHR). SacMod subsequently submitted a nomination application to the City of Sacramento for listing the property in the Sacramento Register. On February 19, 2015, a Preservation Director public hearing was held in which the Preservation Director reviewed the nomination application submittal materials, took public testimony, concurred with the nomination, and forwarded the nomination for consideration by the Preservation Commission to make a recommendation to the City Council for consideration and action on the nomination. On April 15, 2015, after publication of the DEIR, the Preservation Commission held a hearing regarding the eligibility of Capitol Towers and Capitol Villas for listing on the Sacramento Register. The Preservation Commission passed a motion recommending that the City Council list the property on the Sacramento Register. Pursuant to Chapter 17.604, the City Council must hold a public hearing to consider the Preservation Commission's recommendation. At the conclusion of the hearing, the city council may adopt, modify or reject the action recommended by the preservation commission or direct further hearings, consideration or study.

Development Agreement: The applicant has coordinated with the City Attorney's Office to create a development agreement between the City of Sacramento and KW Captowers, LLC. The final Development Agreement draft will be available at the final Council hearing on July 14, 2015.

The proposed Development Agreement is a contract that grants a vested right to develop the Sacramento Commons PUD project in accordance with the proposed Planned Unit Development (PUD), as analyzed in the project's environmental document. The term "vested right" means that the PUD and zoning districts can't be amended in the future and applied in a manner that would prevent the current or future developers from completing the development plan. The Development Agreement also freezes City planning and development regulations and planning policies in effect at the time the agreement is approved so that new regulations would not apply to the development. There are certain exceptions, such as preventing risks to the public health and safety, and compliance with CEQA and other environmental regulations. The term of the Agreement is limited to an

Initial Term of 20 years with the option for two – 5 year extensions, for a total of 30 years.

The Sacramento Commons Development Agreement will include provisions regarding the timing of demolition, timing for removal of protected city/heritage trees, and site reconditioning requirements in case there is partial demolition or construction which is halted as further described below:

Reconditioning

The City shall require bonding as security to ensure against adverse aesthetic impacts arising from the demolition of buildings, uncompleted grading and/or improvements from any phase of development of the Project which have not been completed. The purpose of the bonding shall be to recondition the property through "Reconditioning Work" in the event that the landowner has initiated demolition, grading and/or the construction of improvements but has failed to complete the development, or any part thereof, within the time limits described below.

The City shall implement the requirements of this section by requiring the execution of a surety agreement and appropriate bonding requiring the developer to undertake the Reconditioning Work as a condition prior to the issuance of a building permit. The amount of the bonding shall be determined by calculating the estimated reasonable costs of the Reconditioning Work associated with the proposed building permit, and that amount shall be specifically provided in the surety agreement. The City Manager or his or her designee is further authorized to execute all surety agreements on behalf of the City.

Prior to demolition work on any building or structure, the permittee shall give written notice to owners or tenants of adjoining property not less than ten (10) days before such demolition is started and shall contemporaneously send a copy of each such notice to the City of Sacramento Community Development Director. If the City of Sacramento Community Development Director concludes substantial progress has not been made for any 180 day period after the demolition of any structure or after construction has commenced on any new structure, the Director may set a meeting between the landowner and the City Manager's office to provide the landowner an opportunity to demonstrate that substantial progress has been made. If the City Manager determines that substantial progress has not been made within the prior 180 day period, the City Manager shall provide the landowner with a reasonable period of time to make substantial progress. If the landowner fails to make substantial progress within the time provided by the City Manager, the City may exercise the bond for site reconditioning.

The City may from time to time request in writing that the amount of the bonding be increased, and, upon receipt of such request, the landowner shall adjust the amount of the bonding based on increased costs associated with any reconditioning work related to any demolition or building permit issued by the City. Within 30 days of the City making such a request, landowner shall provide the City with evidence to the satisfaction of the City that the bonding has been increased based on increased estimated costs of potential site reconditioning work.

"Reconditioning Work" of the site shall be defined as the following: removing all debris, construction equipment, staged building materials, porta potties, and temporary construction fencing; grading to a level condition, irrigating the site, and installing a combination of turf, trees, paving, and living plants consistent with the conceptual landscape plan in the Sacramento Commons Planned Unit Development. In the affected areas of the future building footprints as indicated in the Sacramento Commons PUD, the site will be restored with irrigated turf and living plants.

Trees

It is in the City's interest to retain existing heritage and street trees until such time as demolition of a phase is undertaken in advance of new construction.

No permit for removal of a City Street Tree or Heritage Tree shall be issued prior to written notice of the commencement of demolition or new construction for which tree removal is necessary; this applies to those trees on or adjacent to the phase being noticed. This does not include trees that need to be removed due to poor health or that are imminently dangerous, as determined by the Public Works Director or his designee.

Demolition of Structures

It is in the City's interest to retain existing housing units on the site until such time as new construction is undertaken for a project phase as evidenced by submission of building permit document for that phase.

The City's standard demolition permit encourages demolition to occur quickly rather than in a phased manner as desired by the City for the Project. Good cause, therefore, exists for the City to issue a demolition permit for the Project that expires upon expiration of this Agreement subject to the following terms:

(1) Demolition shall not commence for any Project phase until building permits have been issued for the phase.
(2) The area authorized for demolition after issuance of building permits shall not exceed the area covered by the building permit by more ten (10) percent unless the Building Official authorizes a greater area of demolition because strict application would create an impracticable situation.
(3) The building permit shall require the landowner comply with all requirements of Chapter 15.44 of the City Code such as providing written notice to owners or tenants of adjoining properties and the Chief Building Official at least ten (10) days before each phase of Project demolition commences.
(4) As authorized pursuant to City Code section 15.44.080, City and landowner agree the Chief Building Official may revoke the demolition permit at any time if the landowner is not complying with the provisions of City Code Chapter 15.44 or is not properly maintaining the safeguards required by that Chapter.

Policy Considerations

General Plan Designation

The proposed Sacramento Commons project site is designated as Central Business District (CBD) on the General Plan Land Use and Urban Form Diagram. The Central Business District is Sacramento's most intensely developed area. It includes a mixture of retail, office, governmental, entertainment, and visitor-serving uses built on a formal framework of streets and park spaces laid out for the original Sutter Land Grant in the 1840's. The vision for the CBD is a vibrant downtown core that will continue to serve as the business, governmental, retail, and entertainment center for the city and the region. As stated in the General Plan, a significant element in the future CBD includes new residential uses. Increasing the residential population will add vitality to the CBD by extending the hours of activity and the built-in market for retail, services, and entertainment.

The City of Sacramento General Plan, Land Use and Urban Design section contains key urban form characteristics envisioned for development within the Central Business District and staff finds the project is consistent with the characteristics below:

1. A mixture of mid- and high-rise buildings, creating a varied and dramatic skyline with unlimited heights;
2. Lot coverage generally not exceeding 90%;

3. Buildings are sited to positively define the public streetscape and public spaces;
4. Building facades and entrances directly addressing the street and a high degree of transparency;
5. An interconnected street system providing for traffic and route flexibility;
6. Vertical and horizontal integration of residential uses;
7. Public parks and open space areas within walking distance of local residents;
8. Parking is integrated into buildings or placed in separate structures;
9. Minimal or no curb cuts along primary streets;
10. Side or rear access to parking and service functions;
11. Broad sidewalks appointed with appropriate pedestrian amenities, including sidewalk restaurant/café seating;
12. Street design integrating pedestrian, bicycle, transit and vehicular use and incorporates traffic-calming features and on-street parking.

General Plan policies include the following:

Policy LU 1.1.5 Infill Development. *The City shall promote and provide incentives (e.g., focused infill planning, zoning/rezoning, revised regulations, provision of infrastructure) for infill development, redevelopment, mining reuse, and growth in urbanized areas to enhance community character, optimize City investments in infrastructure and community facilities, support increased transit use, promote pedestrian and bicycle-friendly neighborhoods, increase housing diversity, ensure integrity of historic districts, and enhance retail viability.* Staff finds that the site is located in the Central Business District, within walking distance to employers, and near a transit station which is a prime infill location. The proposed new midrise and highrise dwelling units would increase the housing diversity in the downtown area and increase the number of residents on the superblock to enhance retail viability. The project would demolish all structures on the site (with the exception of the Capitol Towers and the relocation of the Overhoff Wall) which would impact the integrity of a potential historic district but this policy decision will be evaluated by City Council when considering the merit of the proposed project.

Policy LU 2.1.1 Neighborhoods as a Basic Unit. *Recognizing that Sacramento's neighborhoods are the basic living environments that make-up the city's urban fabric, the City shall strive through its planning and urban*

design to preserve and enhance their distinctiveness, identity, and livability from the downtown core to well integrated new growth areas; and **Policy LU 2.1.2: Protect Established Neighborhoods.** *The City shall preserve, protect, and enhance established neighborhoods by providing sensitive transitions between these neighborhoods and adjoining areas, and requiring new development, both private and public, to respect and respond to those existing physical characteristics, buildings, streetscapes, open spaces, and urban form that contribute to the overall character and livability of the neighborhood.* Staff finds that the Sacramento Commons site has very important north/south and east/west promenades (formerly 6th and O Streets) that serve the existing Capitol Towers and the garden apartments on the site as well as the Pioneer Towers, Bridgeway Towers, and the neighborhood in general. The project has been designed to maintain this required access and enhance these promenades with shade structures, a water feature, and central plaza. Heritage trees will be retained where feasible as indicated on the conceptual landscape plan in the Sacramento Commons PUD. Although the footprints of the future mid and high rise buildings will cover more of the site compared to the lower density garden apartments and will require removal of existing trees, the promenades will continue to serve the neighborhood by connecting the residents of the superblock and the community at large. The promenades will continue to provide visual relief through the site and open space. With the implementation of the Sacramento Commons project, the promenades will be flanked by development with a more vertical urban form as envisioned in the Central Business District.

Policy LU 2.4.1 Unique Sense of Place. *The City shall promote quality site, architectural and landscape design that incorporates those qualities and characteristics that make Sacramento desirable and memorable including: walkable blocks, distinctive parks and open spaces, tree-lined streets, and varied architectural styles.* Staff finds that the new development will be part of a walkable superblock with prominent, tree-lined promenades running north/south and east/west; there will be a central plaza area and a corner community plaza; a portion of the trees will be retained onsite as noted in Table 5 of this report and new trees will be planted; the Sacramento Commons PUD Guidelines will provide architectural and building form standards to create a distinct and quality project.

Policy LU 2.6.1 Sustainable Development Patterns. *The City shall promote compact development patterns, mixed use, and higher development intensities that use land efficiently; reduce pollution and automobile dependence and the expenditure of energy and other resources; and facilitate walking, bicycling, and transit use.* Staff finds that the intensification of density on this central core site furthers the goal of

developing in a compact pattern. More residents will have the opportunity to walk or bike to employment in the nearby area, utilize transit, and support retail uses downtown.

Policy 2.6.2 Transit-Oriented Development. *The City shall actively support and facilitate mixed-use retail, employment, and residential development around existing and future transit stations.* Staff finds that the proposal will add retail, live work units, and residential and near a light rail station which is on the east side of 7th Street.

Policy LU 2.6.5 Existing Structure Reuse. *The City shall encourage the retention of existing structures and promote their adaptive reuse and renovation with green building technologies to retain the structures' embodied energy, increase energy efficiency, make it more energy efficient, and limit the generation of waste.* Staff finds that the proposal would retain the Capitol Towers highrise which comprises of 203 of the 409 dwelling units on the site which reduces the generation of waste compared to a full demo of the site, while also moving forward with a more vertical development form as envisioned in the central core area of the city.

Policy LU 2.6.6 Efficiency through Density. *The City shall support an overall increase in average residential densities throughout the city consistent with the adopted General Plan Land Use and Urban Form Diagram, as new housing types shift from lower-density, large lot developments to higher-density, small lot and multifamily developments as a means to increase energy efficiency, conserve water, and reduce waste.* Staff finds that the proposal is consistent with the more vertical form envisioned in the Central Business District. The Capitol Towers high rise structure will remain on the site and the new mid and high rises will replace the lower density garden apartments.

Policy 2.7.3 Transitions in Scale. *The City shall require that the scale and massing of new development in higher-density centers and corridors provide appropriate transitions in building height and bulk that are sensitive to the physical and visual character of adjoining neighborhoods that have lower development intensities and building heights.* Staff finds that the proposal would construct midrises on the western side of the superblock to provide a sensitive height transition to the existing taller highrises. The highrises on the eastern side of the superblock have stepbacks to further respect the existing Bridgeway and Pioneer Towers in addition to being separated by a promenade. The bulk and floorplates are consistent with the existing structures on the superblock and have been articulated with planar changes and stepbacks as shown on the conceptual views of the PUD Guidelines.

Policy LU 2.7.8 Screening of Off-street Parking. *The City shall reduce the visual prominence of parking within the public realm by requiring most off-street parking to be located behind or within structures or otherwise fully or partially screened from public view.* Staff finds that the parking structures have been designed to be less visible from the public streets and wrapped with uses like live-work and support services along the promenades. Furthermore, there are primarily active, pedestrian-oriented uses fronting along the public streets.

Policy LU 2.8.6 Jobs Housing Balance. *The City shall encourage a balance between job type, the workforce, and housing development to reduce the negative impacts of long commutes and provide a range of employment opportunities for all city residents.* Staff finds that site is surrounded by multiple Federal, State, and private offices which would benefit from additional housing in the area to further promote living and working in close proximity.

Policy LU 5.6.2 Family-Friendly Downtown. *The City shall promote the CBD as a family-friendly area by requiring the development of a variety of housing types, daycare and school facilities, family-oriented services, and parks, plazas, and open spaces that will safely and comfortably accommodate those who wish to raise a family.* Staff finds that the Sacramento Commons PUD has a conceptual landscape plan which depicts a central plaza and community plaza in addition to the promenades through the site. The new construction will also have roof decks, pools, and other amenities that would be desired by new families and residents locating to the site.

Policy LU 5.6.3 Mixed-Use Downtown Development. *The City shall support a mixed use vibrant CBD by encouraging innovative mixed-use development resulting in development consistent with Sacramento's commitment to environmental sustainability.* Staff finds that the project includes a mix of uses on the site including live work units to further the goals of creating a vibrant CBD.

Policy HCR 2.1.5 National, California, and Sacramento Registers. *The City shall support efforts to pursue eligibility and listing for qualified resources including historic districts and individual resources under the appropriate National, California, or Sacramento Registers.* Staff finds that the Preservation Director held a public hearing on February 19, 2015 and reviewed the nomination application submittal materials, took public testimony, concurred with the nomination, and forwarded the nomination for consideration by the Preservation Commission to make a recommendation to the City Council for consideration and action on the nomination. On April 15,

2015, after publication of the DEIR, the Preservation Commission held a hearing regarding the eligibility of Capitol Towers and Capitol Villas for listing on the Sacramento Register. The Preservation Commission passed a motion recommending that the City Council list the property on the Sacramento Register. The proposal will be heard in front of the City Council to render a final decision.

Policy HCR 2.1.6 Planning. *The City shall take historical and cultural resources into consideration in the development of planning studies and documents.* Staff finds that the General Plan designation for the Sacramento Commons site was discussed during the 2030 General Plan update process. There was opposition to the Central Business District designation for this site because of the concern it would lead to future development that could impact existing historical and cultural resources. The City Council in March 2009 considered the opposition's request to change the proposed CBD designation for the site, but ultimately moved forward with the designation for consistency with the SACOG Blueprint and environmental sustainability.

Policy HCR 2.1.14 Demolition. *The City shall consider demolition of historic resources as a last resort, to be permitted only if rehabilitation of the resource is not feasible, demolition is necessary to protect the health, safety, and welfare of its residents, or the public benefits outweigh the loss of the historic resource.* Staff finds that a project is not required to be in perfect conformity with each and every general plan policy. A general plan document attempts to balance a range of competing interests and it is not uncommon that there are projects that do not conform to every policy. The city must weigh and balance the relevant policies to determine if the project as a whole is consistent with the purposes of the general plan. A project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the plan and will not obstruct their attainment. In this case, the 2035 General Plan has policies indicating the demolition of historic resources should be allowed only as a last resort. However, there is a process that may be followed to review and approve a project that proposes demolition of historic resources. The decision makers will have an opportunity to consider the merits of the proposed project (including the public benefit of increasing density in the Central Business District) and the overall goals furthered with the project in contrast to the loss of historic resources resulting from the implementation of the proposal. Staff believes it is in the City's interest to retain existing housing in the central core (ie the existing 206 garden apartments) until such time as demolition of a phase is undertaken in advance of new construction. Therefore, in the Development Agreement that is being drafted for City Council, it states demolition shall not commence for any project phase until building permits have been issued for that phase.

Policy CC.H 1.1 Mixed Use Buildings. *The City shall provide the opportunity for mixture of housing with other uses in the same building or on the same site at selected locations to capitalize on the advantages of close-in living.* Staff finds that the proposal would construct more retail on the site, new live work units, and an option for a hotel. The proposal will add neighborhood serving commercial uses to benefit new and existing residents in the area.

Policy ER 3.1.3 Trees of Significance. *The City shall require the retention of City trees and Heritage Trees by promoting stewardship of such trees and ensuring that the design of development project provides for the retention of these trees wherever possible. Where tree removal cannot be avoided, the City shall require tree replacement or appropriate remediation.* Staff finds that proposal as shown would remove four heritage trees onsite and four nonheritage, city street trees but would retain trees where feasible. The removal of these eight trees would require city permit approval. Staff believes that it is in the City's interest to retain these protected trees until such time as demolition of a phase is undertaken in advance of new construction. Therefore, in the Development Agreement that is being drafted for City Council, it states there shall be no removal of a city street tree or heritage tree prior to the commencement of demolition or new construction for which tree removal is necessary. This does not include trees that need to be removed due to poor health or that are imminently dangerous as determined by the Public Works Director or his designee.

ER 7.1.4 Reflective Glass. *The City shall prohibit new development from (1) using reflective glass that exceeds 50 percent of any building surface and on the bottom three floors, (2) using mirrored glass, (3) using black glass that exceeds 25 percent of any surface of a building, (4) using metal building materials that exceed 50 percent of any street-facing surface of a primarily residential building, and (5) using exposed concrete that exceeds 50 percent of any building.* Staff finds that materials and design criteria has been included in the Sacramento Commons PUD Guidelines to ensure future buildings reduce glare and reflectivity.

Policy H 1.2.1 Variety of Housing. *The City shall encourage the development and revitalization of neighborhoods that include a variety of housing tenure, size and types, such as second units, carriage homes, lofts, live-work spaces, cottages, and manufactured/modular housing.* Staff finds that the Sacramento Commons project would provide a variety of housing types including live-work units, apartments, and condos in the Central Business District which will promote further revitalization of the downtown area.

Policy H 1.3.5 Housing Type Distribution. *The City shall promote an equitable distribution of housing types for all income groups throughout the city and promote mixed income neighborhoods rather than creating concentrations of below-market-rate housing in certain areas.* Staff finds that the Central Business District is primarily comprised of low income and senior housing and SROs. The new midrises and highrises will provide a greater distribution of all income groups in the Central Business District.

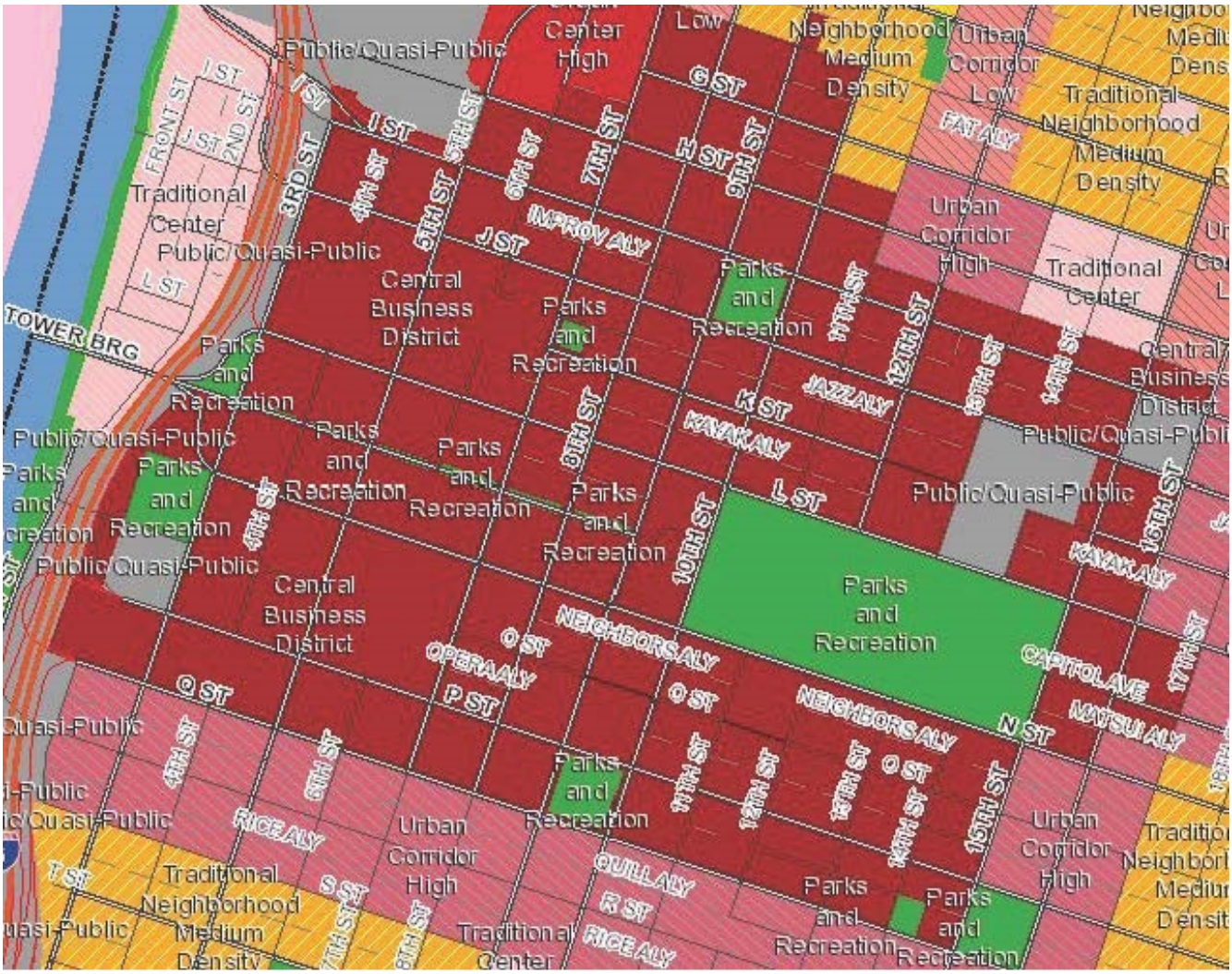
Policy H 2.2.1 Quality Infill Development. *The City shall promote quality residential infill development by maintaining and implementing flexible development standards.* Staff finds that the Sacramento Commons Planned Unit Development provides a set of development standards and design guidelines to create a harmonious development for a 10.13 acre site within the Central Business District and will complement the existing structures including Capitol, Bridgeway, and Pioneer Towers.

Policy EC 3.1.10 Construction Noise. *The City shall require development projects subject to discretionary approval to assess potential construction noise impacts on nearby sensitive uses and to minimize impacts on these uses, to the extent feasible.* Staff finds that future construction would be subject to Sacramento City Code section 8.68.080 which restricts noise for construction related activities. This code limits noise sources due to erection, demolition, alteration, or repair between the hours of 7 am to 6 pm on Monday through Saturday and 9 am to 6 pm on Sunday.

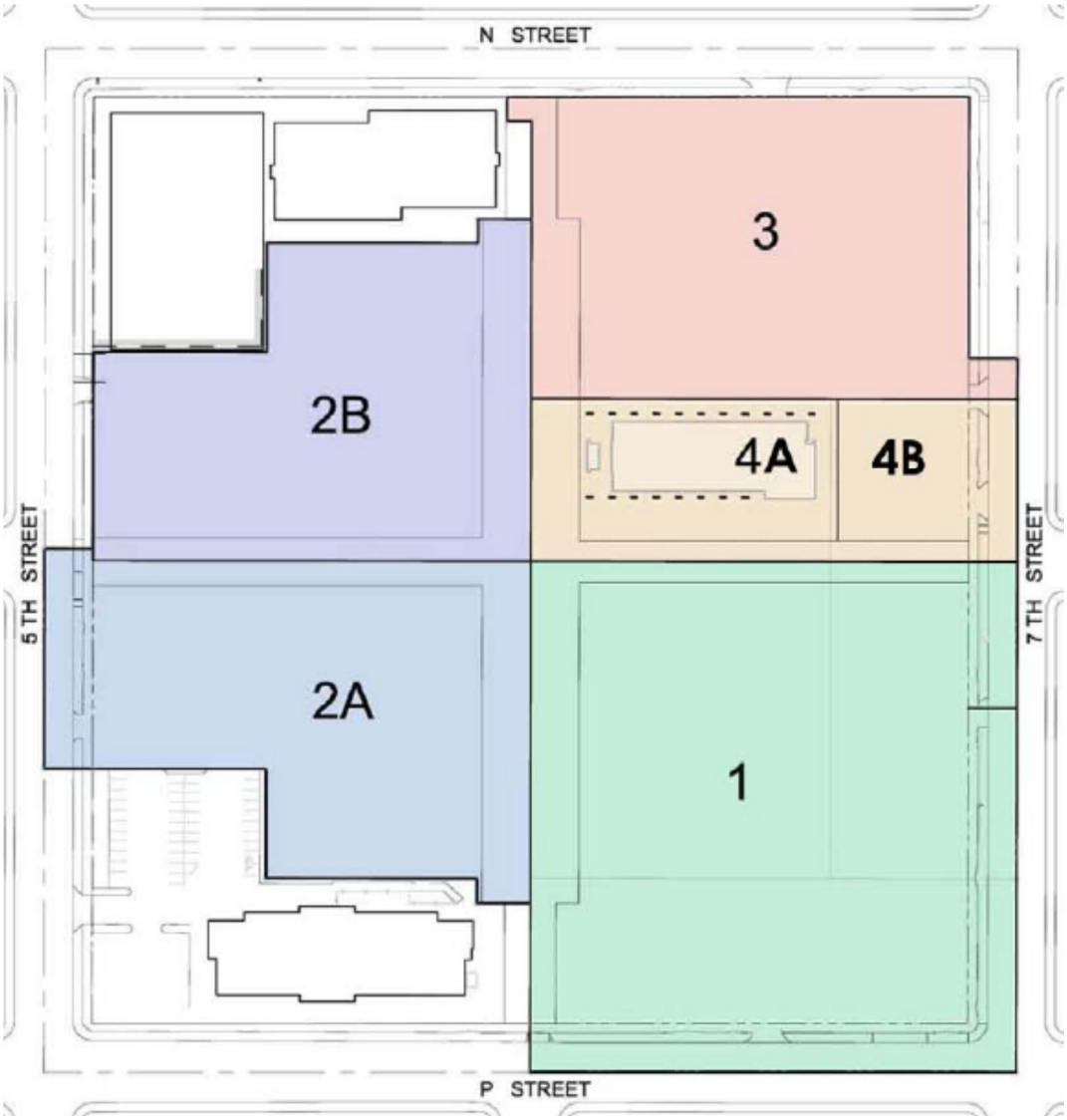
Zoning Designation

The City of Sacramento Planning and Development Code designates the project site as a "High-rise Residential Zone" (R-5 Zone). The purpose of the R-5 Zone is "to permit dwellings, institutions, and limited commercial goods and service uses serving the surrounding neighborhood." Consistent with the Sacramento 2035 General Plan, the Planning and Development Code refines the maximum density permitted on the project site. Specifically, the maximum residential density in the R-5 zone is 175 dwelling units per net acre. The density of the site as it exists today is 40 dwelling units per net acre (203 unit high-rise plus 206 unit garden apartments on 10.13 acres). The proposed project would provide up to a total of 1,374 to 1,470 dwelling units (depending on the development scenario selected for Parcel 3) on 10.13 net acres, yielding a density of between 136-145 dwelling units per net acre. The project is within the allowed density range. Below is a table showing the residential densities of other residential projects within the Central Business District General Plan designation (shown in red on the map below) for background information and context.

Table 3: Densities of Residential projects in the Central Business District					
Project Name	Address	Zoning	# Units	Acres	Density
Wong Retirement Center	331 J Street	C-3	187	0.47	398
Maydestone Apartments	1001 15th Street	C-3	32	0.11	291
Mercy Housing	631 H Street	C-3	150	0.55	272
800J Lofts	800 J Street	C-3	250	1.19	210
Pioneer Towers	515 P Street	R-5	198	1.28	155
Sacramento Commons (as proposed)	*1500 7th Street*	*R-5 PUD*	*1,374-1,470*	*10.13*	*136-145*
Ping Yuen Center	420 I Street	C-3	82	0.67	122
Bridgeway Towers	500 N St	R-5	134	1.28	105
East End Lofts II	1531 K Street	C-3	21	0.22	95
Pioneer House	415 P Street	H	104	1.32	79
East End Lofts I	1530 J Street	C-3	18	0.29	62
Capitol Towers (as existing)	*1500 7th Street*	*R-5*	*409*	*10.13*	*40*
Governor's Square	1451 3rd Street	R-5	200	5.58	36


Public/Quasi-Public
Center
High
Low
Neighborhood
Medium
Density
Urban
Corridor
Low
Traditional
Neighborhood
Medium
Density
I ST
J ST
FRONT ST
2ND ST
3RD ST
4TH ST
5TH ST
6TH ST
7TH ST
8TH ST
9TH ST
G ST
H ST
FAT ALY
Traditional
Center
Public/Quasi-Public
L ST
IMPROV ALY
Central
Business
District
Parks
and
Recreation
Urban
Corridor
High
Traditional
Center
TOWER BRG
11TH ST
12TH ST
13TH ST
14TH ST
K ST
JAZZ ALY
KAYAK ALY
Public/Quasi-Public
10TH ST
16TH ST
17TH ST
NEIGHBORS ALY
O ST
OPERA ALY
P ST
Q ST
CAPITOL AVE
MATSUI ALY
N ST
15TH ST
RICE ALY
S ST
T ST
QUILL ALY
R ST

Detailed Project Description: The exhibit shows the proposed parcel areas.



The following table outlines the distribution of the proposed uses. Please note that the PUD seeks approval for two different development scenarios proposed for Parcel 3, to provide for flexibility - depending on market conditions:

Table 4: Land Use by Parcel Overview						
Parcel	**Hotel Rooms**	**Condo High-Rise Res**	**High-Rise Res**	**Mid-Rise Res**	**Live/ Work**	**Retail / Support (sqft)**
1			550		12	21,000
2A				206	15	4,000
2B				206	15	4,000
3 (scenario with hotel)	300	110			4	37,000
3 (scenario without hotel)		206			4	19,000
4A (existing)			*203*			*4,122*
4B				50	3	4,000
Totals: Hotel Scenario	**300**	**110**	**753**	**462**	**49**	**74,122**
No Hotel Scenario	**0**	**206**	**753**	**462**	**49**	**56,122**

Parcel 1 (SE quadrant): Currently this parcel includes the swimming pool and a parking garage for Capitol Towers, as well as about 50 of the garden apartments and some surface parking. This parcel is proposed for two high-rise (24 story) apartment buildings with 550 total units (275 apartments per building), 12 live/work units, 21,000 square feet of ground floor retail / support services, 604 parking spaces, and an open space plaza.

Parcel 2A (SW quadrant): Currently this parcel includes about 50 of the garden apartments and surface parking for the apartments. Pioneer Towers and its associated surface parking lot are under separate ownership and not included in this application. This parcel is proposed for 206 mid-rise (7 story) apartment units, 4,000 square feet of ground floor retail / support services, 458 parking spaces, and 15 live/work units.

Parcel 2B (NW quadrant): Currently this parcel includes about 50 of the garden apartments and surface parking for the apartments. 500 N Street

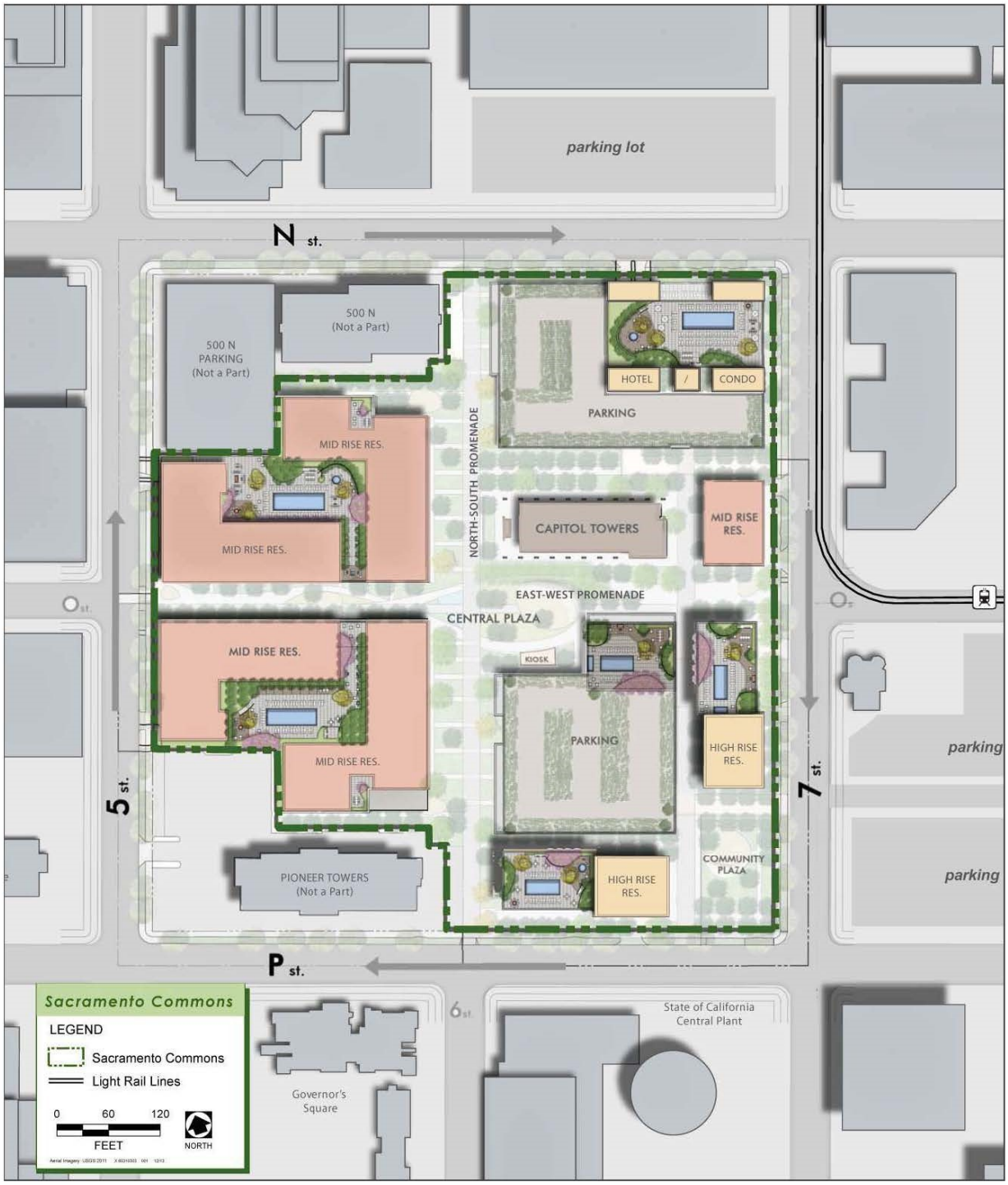
(Bridgeway Towers) and its associated structured parking lot are located to the north of Parcel 2B and are under separate ownership and not included in this application. Parcel 2B is proposed for 206 mid-rise (7 story) apartment units, 4,000 square feet of ground floor retail / support services, 458 parking spaces, and 15 live/work units.

Parcel 3 (NE quadrant): Currently this parcel includes about 50 of the garden apartments and surface parking for the apartments. This parcel is proposed for either

1. Hotel Scenario: a 300 room hotel, 110 condominium units, 37,000 square feet of retail / support services, and 639 parking spaces in a 24-story mixed use building, and 4 live/work units; or
2. No Hotel Scenario: 206 condominium units, 19,000 square feet of retail / support services, and 573 parking spaces in a 24-story mixed use building, and 4 live/work units.

Parcel 4A: This parcel contains the existing 203-unit (15 story) Capitol Towers (constructed in 1965) with 4,122 square feet of support/retail ground floor uses; the PUD proposed for the project envisions a potential exterior remodel which would require subsequent Site Plan & Design Review. Parking will be provided on Parcel 3.

Parcel 4B: Currently this area is used for surface parking at the 7th Street property edge. This parcel is proposed for 50 mid-rise (7 story) apartment units and 3 live/work units and parking is provided on Parcel 3.



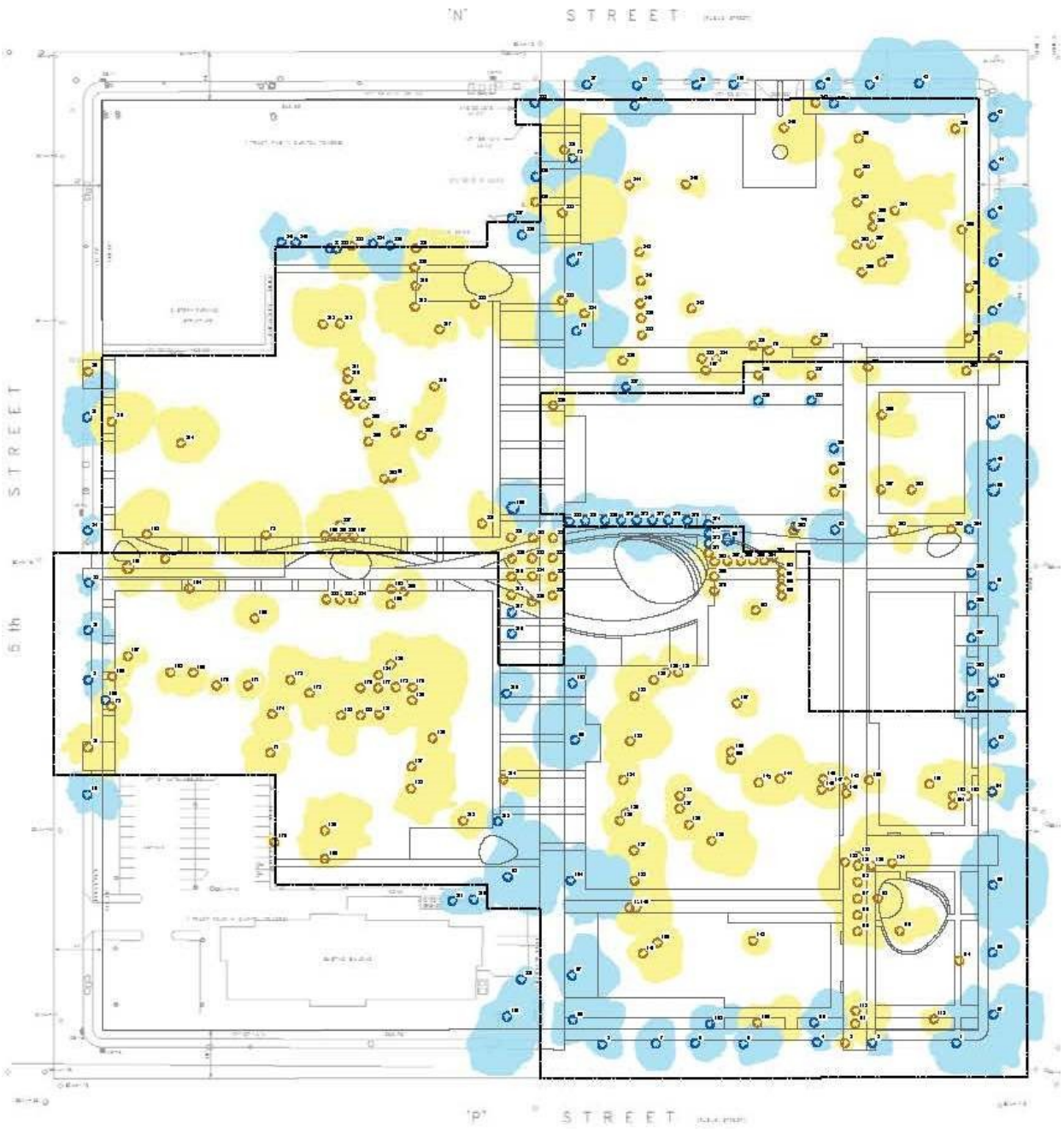
*Note: The master plan concept above reflects the concepts for both the Hotel/Condo/Retail Scenario and Condo/Retail Scenario.

Source: Van Tilburg, Banvard & Soderbergh, Melendrez, adapted by AECOM in 2014

Trees: The environmental consultant evaluated 291 trees (comprised of 252 onsite trees and 39 city street trees) associated with the Sacramento Commons project site. Of the trees evaluated, 17 meet the criteria for classification as a heritage tree (comprised of 11 onsite trees and 6 city street trees). The trees proposed for retention include 7 heritage trees, 50 non-heritage trees, and 35 city street trees (including all 6 heritage city street trees). The document indicates that 4 heritage trees, 191 non-heritage trees, and 4 city street trees (non-heritage) will be removed with this development proposal. The applicant will need to apply for permits for canopy pruning, root pruning, or removal of any heritage tree or city street tree.

Table 5: Tree Retention and Removal Summary			
Type	**Retain**	**Remove**	**Total**
Heritage Trees Onsite	7	4	11
Non-Heritage Trees Onsite	50	191	241
Heritage City Street Trees	6	0	6
Non-Heritage City Street Trees	29	4	33
Total	92	199	291

The applicant will install a minimum of four 24 inch box trees to replace the four onsite heritage trees to be removed. The applicant will also install replacement trees for the removal of the four city street trees. The size of these replacement trees will be 24 inch box or 15 gallon can as defined in the city code section 17.56.090. (If the city street tree being removed is larger than six inches in diameter, the larger 24 inch box tree is required.)



The color exhibit indicates blue canopies for those trees to be retained and yellow canopies for the trees proposed to be removed. Staff finds that many of the trees proposed for removal are located within the future building footprint areas or within close proximity necessitating removal of the trees to allow for the new construction.

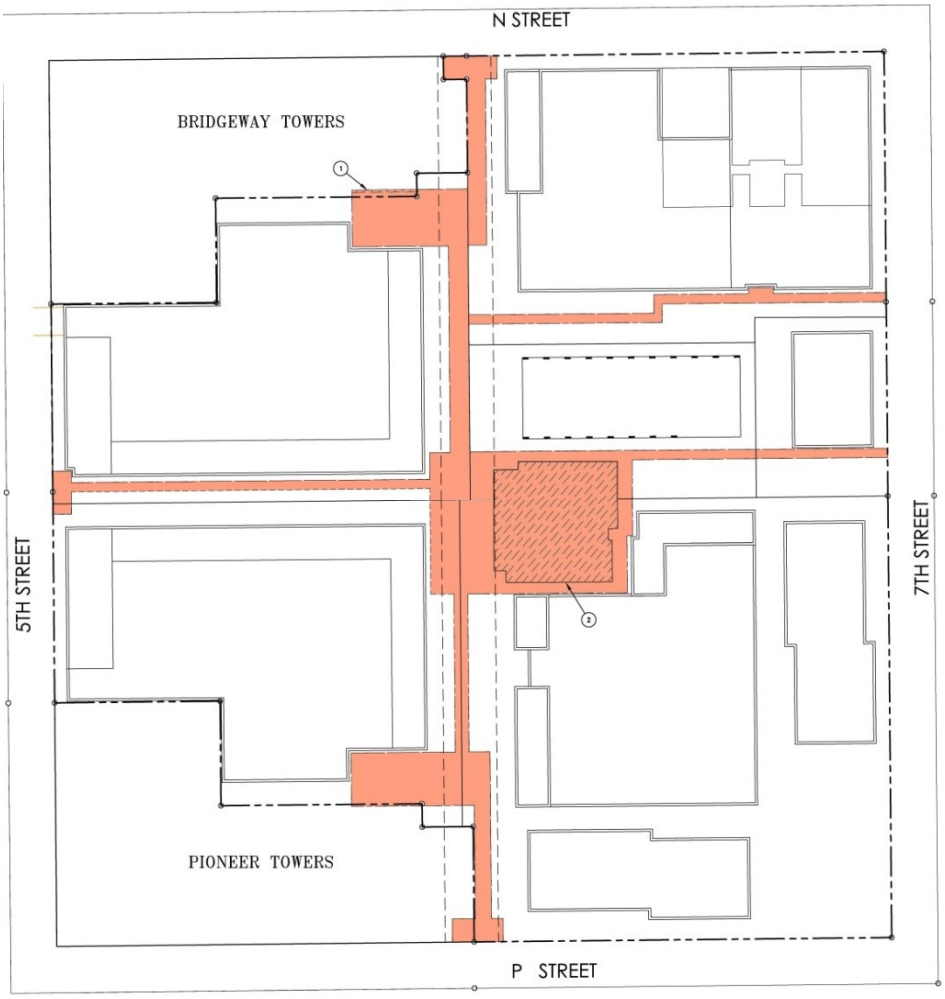
Conceptual Landscape Plan: As shown on the conceptual landscape plan, the project intent is to add 247 new trees to the site (comprised of 147 ground level trees and 100 podium level trees on rooftops and balconies) and with the 92 trees retained, would result in a total of 339 trees.

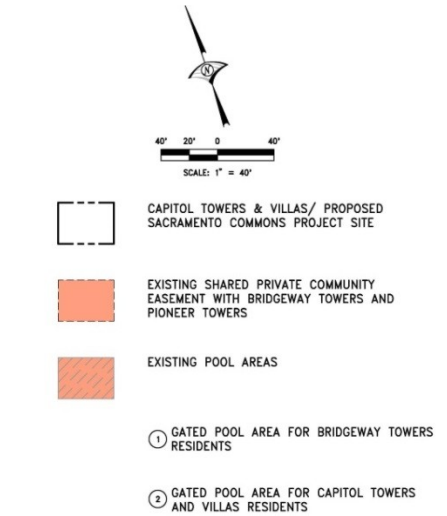
1. North-South Promenade
2. East-West Promenade
3. Plaza with Shade Structure
4. Gathering Nodes
5. Retail Kiosk
6. Overhoff Art Wall
7. Lawn, Typical
8. Water Feature
9. Hotel Drop-off Plaza

Tree Legend:

- Existing City Street Trees to Remain
- Heritage Trees to Remain
- Potential Non-Heritage Trees to Remain
- Proposed New Trees

<u>Easement Details:</u> This color exhibit documents the easement area and the proposed building footprints are located outside of the required easements.





Tentative Map: The applicant is proposing to subdivide three existing parcels (APNs: 006-0300-002; -003; and -004) into six parcels. The Subdivision Review Committee reviewed the Tentative Map on April 15, 2015 and forwarded a recommendation to approve the request subject to the conditions in the attached Resolution.

Table 6: Tentative Map			
Parcel Number	**Description**	**Gross Acreage**	**Net Acreage**
Parcel 1	Highrise	4.01	3.30
Parcel 2A	Midrise	1.99	1.83
Parcel 2B	Midrise	1.91	1.90
Parcel 3	Highrise	2.03	2.02
Parcel 4A	Highrise (Existing Capitol Tower)	0.68	0.68
Parcel 4B	Midrise	0.55	0.40
Totals		**11.17 gross acres**	**10.13 net acres**

Planned Unit Development Guidelines and Schematic Plan: The applicant is requesting to establish the Sacramento Commons Planned Unit Development. A planned unit development constitutes an overlay zone and the guidelines lay forth a vision of how the project will be developed. The guidelines are based on principles which include intensifying an existing urban downtown residential community close to urban amenities, enhancing pedestrian movement through the central portions of the project site, and providing open space areas that support uses onsite.

The purpose of the PUD Guidelines is to provide regulations and standards to guide development on the project site to ensure the overall development is harmonious. The proposed schematic plan establishes the land uses and intensities for each designation. The Sacramento Commons PUD Guidelines are organized into the following sections: Introduction, Land Use and Development Standards, Community Design, Administration and Implementation.

A copy of the latest proposed PUD Guidelines have been attached for review. In brief, the PUD proposes modifications/deviations from existing code and guidelines as follows:

Excluded Uses: Table 2.2 of the draft PUD Guidelines identify land uses conditionally allowed in the R-5 zone that are proposed as <u>not permitted in the PUD</u>.

- Cemetery

- Check-Cashing Center
- High Voltage Transmission Facility
- Mobile Homes
- Mortuary / Crematory
- Night Club
- Non-profit organization, food storage and distribution, and meal service facility
- Passenger Terminal
- Temporary Residential Shelter
- Well-gas, oil

Development Standards: Pursuant to City Code Section 17.452.040, in approving a Planned Unit Development (PUD), the City Council may modify zoning regulations relating to height, setback, and area requirements, and other provisions of the Planning & Development Code relating to design standards and signage. The PUD Guidelines are deviating from existing standards as outlined below.

Parcel Size and Depth

The High-Rise Residential (R-5) zone has standards for lot width, depth, and overall size. These standards are in place to ensure subdivided lots are buildable and allow for development which is consistent with the design guidelines. The proposed project is requesting to subdivide the 10.13± net acre site into six parcels. The maximum size and depth would be exceeded by newly created lots.

Development Standard	Existing Standard	Project Proposal
Maximum Lot Size	80,000 sqft	144,000 sqft
Maximum Lot Depth	160’	370

Staff supports this deviation request because the subdivision is accompanied by a Planned Unit Development which includes a Schematic Plan for future development. As shown in the proposed Sacramento Commons PUD, the proposed subdivision will allow for future construction that is in harmony with the Central Business District Urban Form Guidelines, the existing Capitol Towers building, and the surrounding community.

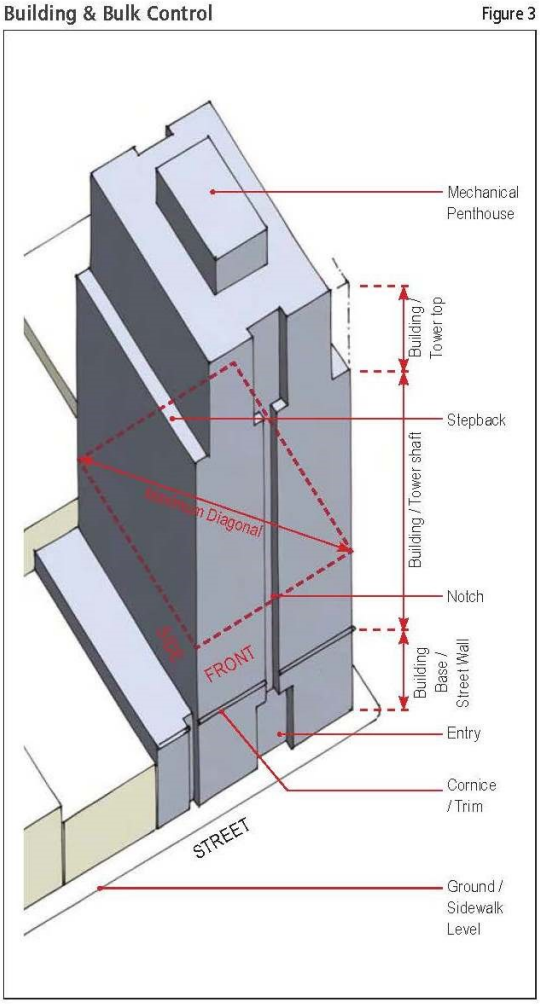
Bulk Controls

The Central Core Urban Design guidelines were updated and adopted in 2009 to emphasize smaller floor plates and more slender towers for an enhanced skyline aesthetic. The bulk control standards from the Central Core Urban Design Guidelines are intended to be a framework and basis for

review of projects by the City. Alternative designs can be proven to be appropriate when the proposed design provides equal or greater amenities and benefits to compensate for areas of the project design not in compliance.

The floor plate standards in the Central City Urban Design Guidelines are inspired by the City of Vancouver in British Columbia. Downtown Vancouver has a very different street grid which forces the utilization of smaller floor plates. The grid in Vancouver is 120 by 400 feet compared to the grid in Sacramento which is 320 by 340 feet. The Sacramento Commons site encompasses a superblock containing the majority of four city blocks. This circumstance provides a sensible opportunity to integrate larger tower footprints, thereby providing more visual relief and balance. The larger tower floorplates reduce the number of elevator cores needed which allows for greater opportunities to incorporate amenities such as rooftop pools.

Building & Bulk Control Figure 3



The diagram above illustrates the terminology used in the Central City Urban Design Guidelines related to massing and bulk controls.

The proposed project would deviate from the tower bulk control standards by providing a plan dimension and diagonal dimension that is greater than the stated maximum. The proposed massing for the hotel/condo tower allows 185 feet for the maximum plan dimension and 225 feet for the maximum diagonal dimension. The requested deviations are supported by staff because it fits contextually with the existing highrises on the superblock and the PUD provides design criteria to ensure the mass of the structure will be refined with the use of varying tower heights, stepbacks, and planar changes.

Tower Bulk Control Standards per the Central City Urban Design Guidelines, Chapter 4, Section C.2.b for hotel option:

Development Standard	Existing Standard	Project Proposal
Maximum Plan Dimension	160’	185’
Maximum Diagonal Dimension	200’	225’

Tower Bulk Control Standards for Towers for the high rise residential and residential mixed-use buildings per the Central City Urban Design Guidelines, Chapter 4, Section C.1.c.

Two of the towers in Sacramento Commons (located at the corner of 7th and P Street on Parcel 1) are designed with tower floor plates of approximately 13,500 square feet. The floor plate has dimensions which are adjusted on a vertical basis as well as a horizontal basis. This breaks up the bulk and massing of these two towers. The tower has a stepback of ten feet for the portion of the first 19 stories of each of the towers, with a reduced massing for floors 20 – 24.

The floorplate of the hotel/condo tower (located at the corner of 5th and N Street on Parcel 3) is designed as 17,000 square feet. This tower is similarly designed to break down the massing of the building by varying the heights and setbacks of the two sections of the tower. Since its initial design, the massing of the hotel/condo tower has been further refined. The tower above the fifth floor has been separated into two vertical elements, which are joined below and allows for open space above the fifth floor.

Development Standard	Existing Standard	Project Proposal
Average Tower Floor Plate	7,500 sqft	13,500 sqft
Maximum Plan Dimension	90’	192’

Maximum Diagonal Dimension	120’	208’

The floorplates for Bridgeway Towers (500 N St), Pioneer Towers, and Capitol Towers are approximately 14,000 square feet. Staff supports the deviation because the average floorplates are comparable to the existing residential towers in the area and the schematic designs in the PUD show stepbacks, varying building heights with rooftop amenities, and changes in plane which further break down the mass of the structure.

The proposed 1,470 units, at an average floor plate of 7,500 sf, would require a project of 8 towers at 34 floors each versus the mixed height project proposed.

Larger floor plates allow for a mix including the three proposed 7 story midrises, and the three 24 story high rises. Taller buildings are more expensive to build so by providing for multiple types of buildings (midrise and high rise), there is a greater opportunity for a variety of housing costs and therefore affordability for central city living.

Building base per Planning & Development Code Section 17.208.740(D)(1)(b) (65 feet) would be increased.

Development Standard	Existing Standard	Project Proposal
Building Base	65’	75’

Staff supports the request to increase the building base by 10 feet because it is consistent with the Central Core Design Guidelines which address building base heights of between 65 to 85 feet.

Tower Interior Side Yard and Rear Yard Setback Standards per Planning & Development Code Section 17.208.740.D.3 and 17.208.740.D.4.

Development Standard	Existing Standard	Project Proposal
Interior Side Yard Setback	40’	Same as the main wall of the building base
Rear Yard Setback	40’	Same as the main wall of the building base; project does not have a rear yard

Staff concludes the standards are appropriate to encourage the densities the City needs to achieve adequate housing supply for residents. The design of

the towers provides for a maximum amount of open space at the ground level. This ground level open space is then made available for enhanced pedestrian circulation and open space.

Signage Standards: A master sign plan is proposed to provide consistent design standards for signage at Sacramento Commons. The sign plan would modify/deviate from the general requirements of City Code Section 15.148. In the city code, nonresidential uses in the High Rise Residential (R-5) zone would be limited to one sign and one bulletin board for each street frontage, not to exceed 16 square feet. For the multi-unit dwellings, one project identification sign would be permitted per street frontage.

Staff has reviewed the proposed signage standards in the Sacramento Commons PUD. A master sign program will be required during the Site Plan and Design Review process to confirm the proposed signs will conform to the PUD Guidelines. The Sacramento Commons PUD will allow project identity signs, business identification signs, wayfinding signs, and live-work tenant signs. Staff believes the stated maximum size and number of signs allowed within the PUD is appropriate given the size of the superblock site and the scale of the proposed midrise and highrise buildings.

Parking: The project site is located within the CBD where there are no minimum parking standards. However, the applicant anticipates providing parking as noted below.

Table 7: Parking Standards	**Existing CBD**	**Anticipated Parking**
Central Business District Parking District	0	• 1 space / apartment or live/work unit • 1.25 spaces per condo unit • 0.5 space per hotel room • 1 space per 500 sqft of retail / hotel support services

Parking: Summarized below is the location of the parking spaces proposed for Sacramento Commons. Future bicycle parking will conform to applicable Planning & Development Code standards.

Table 8: Location of Parking for the Sacramento Commons Development			
Location	**Description**	**Type of Parking**	**Parking Proposed**
Parcel 1	High-Rise Residential	6 level parking garage (1 level may be below grade)	604 parking spaces
Parcel 2A	Mid-Rise Residential	3 level parking garage (1 level may be halfway below grade)	229 parking spaces
Parcel 2B	Mid-Rise Residential	3 level parking garage (1 level may be halfway below grade)	229 parking spaces
Parcel 3 (Option 1)	Hotel/Condo/Retail Scenario	6 level parking garage	366 parking spaces (639 spaces total including 4A, 4B)
Parcel 3 (Option 2)	Condo/Retail Scenario	6 level parking garage	300 parking spaces (573 spaces total including 4A, 4B)
Parcel 4A	Existing Capitol Towers	Parking is located on Parcel 3	212 spaces provided offsite
Parcel 4B	Mid-Rise Residential	Parking is located on Parcel 3	61 spaces provided offsite
Total		***Four parking garages total***	***1,635 to 1,701 parking spaces***

Future Development: It is important to note that the proposed future development will require Site Plan and Design Review approval from the

applicable hearing bodies beyond the master plan entitlements with this project. These future applications for development will be reviewed to determine consistency with the proposed Planned Unit Development guidelines and other regulatory documents.

Back to Report Table of Contents

RESOLUTION NO. 2015-

Adopted by the Sacramento City Council

CERTIFYING THE ENVIRONMENTAL IMPACT REPORT AND ADOPTING THE MITIGATION MONITORING PROGRAM FOR THE SACRAMENTO COMMONS PROJECT (P14-012)

BACKGROUND

A. On April 15, 2015, the City Preservation Commission conducted a public hearing on, and forwarded to the City Planning and Design Commission a recommendation to deny the Sacramento Commons Project

B. On June 11, 2015, the City Planning and Design Commission conducted a public hearing on, and forwarded to the City Council a recommendation to approve with conditions the Sacramento Commons Project.

B. On July 14, 2015, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code and received and considered evidence concerning the Sacramento Commons Project.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council finds that the Environmental Impact Report for Sacramento Commons (herein EIR) which consists of the Draft EIR and the Final EIR (Response to Comments) (collectively the "EIR") has been completed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Sacramento Local Environmental Procedures.

Section 2. The City Council certifies that the EIR was prepared, published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines, including CEQA Section 21155.2(a)(c), and the Sacramento Local Environmental Procedures, and constitutes an adequate, accurate, objective and complete Final Environmental Impact Report in full compliance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures.

Section 3. The City Council certifies that the EIR has been presented to it, that the City Council has reviewed the EIR and has considered the information contained in the EIR prior to acting on the proposed Project, and that the EIR reflects the City Council's independent judgment and analysis.

Section 4. Pursuant to CEQA Guidelines Sections 15091 and 15093, and in support of its approval of the Project, the City Council adopts the attached Findings of Fact and Statement of Overriding Considerations in support of approval of the Project as set forth in the attached Exhibit A of this Resolution.

Section 5. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15091, and in support of its approval of the Project, the City Council adopts the Mitigation Monitoring Program to require all reasonably feasible mitigation measures be implemented by means of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Program as set forth in Exhibit B of this Resolution.

Section 6. The City Council directs that, upon approval of the Project, the City Manager shall file a notice of determination with the County Clerk of Sacramento County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of CEQA section 21152.

Section 7. Pursuant to Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

Table of Contents:

Exhibit A - CEQA Findings of Fact and Statement of Overriding Considerations for the Sacramento Commons Project

Exhibit B – Mitigation Monitoring and Reporting Program

Back to Report Table of Contents

CEQA FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS OF THE CITY COUNCIL OF THE CITY OF SACRAMENTO

SACRAMENTO COMMONS PROJECT

June 16, 2015

I. INTRODUCTION

The Environmental Impact Report (EIR) prepared for the Sacramento Commons Project (Project) addresses the potential environmental effects associated with constructing and operating the Project. These findings have been prepared to comply with requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.). These findings refer to the Notice of Preparation (NOP) or Final EIR (FEIR) where the material appears in either of those documents. Otherwise, references are to the Draft EIR (DEIR).

CEQA generally requires that a lead agency must take reasonable efforts to mitigate or avoid significant environmental impacts when approving a project. In order to effectively evaluate any potentially significant environmental impacts of a proposed project, an EIR must be prepared. The EIR is an informational document that serves to inform the agency decision-making body and the public in general of any potentially significant environmental impacts. The preparation of an EIR also serves as a medium for identifying possible methods of minimizing any significant effects and assessing and describing reasonable alternatives to the project.

The EIR for this Project was prepared by the City of Sacramento (City) as the "lead agency" in accordance with CEQA and has been prepared to identify and assess the anticipated effects of the Project. The City, as the lead agency, has the principal responsibility for approval of the Project.

II. TERMINOLOGY OF FINDINGS

CEQA and the CEQA Guidelines require that, for each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of the three allowable conclusions:

1. Changes or alterations which avoid or mitigate the significant environmental effects as identified in the EIR have been required or incorporated into the project;

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding, and such changes have been adopted by such other agency or can and should be adopted by such other agency; or

3. Specific economic, legal, social, technological, or other considerations, including consideration for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the DEIR.

(Pub. Resources Code, § 21081, subd. (a)(1)-(3); CEQA Guidelines, § 15091, subd. (a)(1)-(3).)

For purposes of these findings, the terms listed below are defined as follows:

- "Mitigation measures" shall constitute the "changes or alterations" discussed above.

- "Avoid" refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. 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 a less than significant level.

- "Feasible," pursuant to CEQA Guidelines section 15364, means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

When the City of Sacramento City Council (City Council) finds a measure is not feasible, it will provide evidence for its decision and may adopt substitute mitigation that is feasible and designed to reduce the magnitude of the impact. In other cases, the City Council may decide to modify proposed mitigation. Modifications generally update, clarify, streamline, or revise a measure to comport with current engineering practices, budget conditions, market conditions or existing City policies, practices, and/or goals. Modifications achieve the intent of proposed mitigation without reducing the level of protection.

III. DEFINITIONS AND ACRONYMS

Unless otherwise stated, these findings use the same definitions and acronyms set forth in the EIR.

IV. PROJECT DESCRIPTION

A. PROJECT OVERVIEW

The Project is a residential mixed-use project, consisting of the construction and operation of either (1) a Hotel / Condo / Retail scenario, or (2) a Condo / Retail scenario. The project site is located on approximately 10.13 net acres in the Central Business District (CBD) in the City of Sacramento, California. The Project is within close proximity to a variety of transit resources and qualifies as a transit priority project (TPP). (DEIR, pp. ES-1 to ES-2; p. 4.6-17.)

B. PROJECT SITE HISTORY

Development of the project site began in the 1960s with the creation of a "superblock," which entailed the closure of 6th Street, between N and P Streets, and O Street between 5th and 7th Streets. Capitol Villas, two- and three-story garden apartments with 206 dwelling units, was built in 1962 and has been renovated between 2002 and 2004. Capitol Towers, a 15-story building with 203 units, was built in 1966 and has been renovated between 2005 and 2006. Collectively, these findings refer to the existing Capitol Towers and Capitol Villas as the Capitol Towers and Villas.

A development application was filed and a draft EIR was being prepared in 2008 for a previous development proposal on the project site known as the "Capitol Villas Redevelopment Project." The entitlement process was curtailed in 2008 during the recent recession. The previous project involved four different development subareas, one in each quadrant of the project site, each with a multi-level parking structure with different uses at ground level and above. There were three options considered, including a residential option, an office option, and a hotel option. Residential yields would have been between 170 and 1,440 net new dwelling units. Office square footage would have ranged between 500,000 and 750,000 square feet. Retail square footage would have ranged between 22,350 and 67,350 square feet.

Previous Relevant Environmental Analyses

Development on the project site is governed by the City of Sacramento's General Plan. The City's 2030 General Plan was in effect when the Sacramento Commons DEIR was circulated

for public comment. On April 2, 2015, the City's 2035 General Plan took effect. A Petition for Writ of Mandate and Injunctive Relief or Other Appropriate Relief and Complaint for Declaratory Relief (Sacramento Superior Court Case No. 34-2015-80002058) was filed challenging the City's 2035 General Plan (2035 General Plan Litigation). Notwithstanding the pending 2035 General Plan Litigation, the 2035 General Plan is currently the general plan in effect within the City. However, because the 2030 General Plan was in effect at the time the Sacramento Commons DEIR was released and due to the pending 2035 General Plan Litigation, the City considered Project consistency with both the 2030 General Plan and 2035 General Plan as well as their respective Master EIRs.

Both the 2030 and 2035 General Plan designate the project site as Central Business District (CBD); the 2030 General Plan Master EIR (State Clearinghouse [SCH] No. 2007072024), certified on March 3, 2009, and 2035 General Plan Master EIR (SCH No. 2012122006), certified on March 3, 2015, evaluated potential environmental impacts of general plan development within the CBD. Development within the project area was also assumed as part of the Sacramento Area Council of Governments (SACOG) Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) and analyzed as part of the cumulative conditions assumed in the MTP/SCS EIR (SCH No. 2011012081), certified April 19, 2012.

C. THE SACRAMENTO COMMONS PROJECT

The Project provides two development options: (1) Hotel / Condo / Retail Scenario; or (2) Condo / Retail Scenario. Both scenarios contemplate the same number of buildings, the same building footprints, and the same quantity of ground floor and podium level recreation and open space; the scenarios differ only with respect to potential uses (i.e. potential for a hotel) and the number of residential units proposed.

Hotel / Condo / Retail Scenario

The first scenario, Hotel / Condo / Retail Scenario, would remove Capitol Villas (206 units), retain the existing Capitol Towers (203 units), construct a 300-room hotel, and provide up to 1,171 new dwelling units including 110 condominium units (in conjunction with and above the hotel floors) and 49 live/work units (which are residences that provide for offices, artist studios, or incubator businesses). Including the new dwelling units (1,171) and retention of Capitol Towers (203), the total number dwelling units within project site would be up to 1,374; a net increase of 965 dwelling units over the 409 dwelling units currently existing on the site and resulting in an average net density across the project site of up to 135 dwelling units per acre (du/ac).

This scenario would also include the addition of up to 70,000 net new square feet of neighborhood support / retail space in addition to the existing 4,122 square feet of retail uses within Capitol Towers. The new retail square footage includes the potential for an approximately 15,000-square-foot specialty market.

The Project would increase the residential population on the project site by approximately 1,700. It would also result in the replacement of the 390 existing surface and garage parking spaces with up to 1,701 new parking spaces within four parking garages, for a net increase of 1,311 parking spaces on the site. (DEIR, pp. 2-6 to 2-7.)

Condo / Retail Scenario

The second scenario is similar, but replaces the hotel with additional residential units. This scenario is referred to as the Condo / Retail Scenario, and it would remove Capitol Villas (206 units), retain the existing Capitol Towers (203 units), and provide up to 1,267 new dwelling units including 206 condominium units (on Parcel 3) and 49 live/work units. Including the new dwelling units (1,267) and retention of Capitol Towers (203), the total number dwelling units within project site would be up to 1,470; a net increase of 1,061 dwelling units over the 409 dwelling units currently existing on the site and resulting in an average net density across the project site of up to 145 dwelling units per acre (du/ac).

This scenario would also include up to 52,000 net new square feet of neighborhood support / retail in addition to the existing 4,122 square feet of retail uses within Capitol Towers. The new retail square footage includes the potential for an approximately 15,000-square-foot specialty market.

The Project would increase the population on the project site by approximately 1,900 new residents. This scenario would also eliminate the existing 390 surface and garage parking spaces and build up to 1,635 new parking spaces within four parking garages, for a net increase of 1,245 parking spaces on the site. (DEIR, p. 2-7.)

Residential Development and Uses

The Project's design features would be enforced by and through the Planned Unit Development (PUD) Guidelines (see DEIR, Appen. N for the PUD Guidelines). The Project would result in up to a total of 1,374 residential dwelling units (not counting hotel rooms) under the Hotel / Condo / Retail Scenario, or up to a total of 1,470 residential dwelling units under the Condo / Retail Scenario. Table 2-1 (DEIR, p. 2-12 [Land Use Summary by Parcel at Buildout]) provides a summary of maximum residential units, hotel rooms, and square feet by parcel.

Residential units would consist of new rental and for-sale units, 203 existing units within the Capitol Towers building (that would remain under the Project), and up to 49 new live/work units, as shown in Table 2-2 (DEIR, p. 2-13 [Land Use Totals Summary]). The development mix would consist of the following (see DEIR, p. 2-8 [Figure 2-3] for Conceptual Land Use Diagram identifying the parcels listed below):

- ***Parcel 1:*** Two 24-story high-rise towers totaling up to 550 total apartment units each with a rooftop pool deck, a six-level parking structure with 604 parking spaces and a

rooftop pool deck (for residents of Parcels 4A and 4B), plus an additional 12 live/work units and neighborhood support and/or retail wrapped around the parking structure.

- ***Parcel 2A***: A mid-rise building, consisting of five levels of residential uses including up to 206 apartment units over three stories of podium parking with 229 spaces (one level of parking located halfway below grade), a podium pool deck, plus an additional 15 live/work units and neighborhood support and/or retail wrapped around the podium parking.

- ***Parcel 2B:*** A mid-rise building, consisting of five levels of residential uses including up to 206 apartment units over three stories of podium parking with 229 spaces (one level of parking located halfway below grade), a podium pool deck, plus an additional 15 live/work units and neighborhood support and/or retail wrapped around the podium parking.

- ***Parcel 3:*** One of the following scenarios: (both include four live/work units and the potential for an approximately 15,000 square-foot specialty market)

    - *Hotel / Condo / Retail*—a 24-story high-rise development with 110 condominium units and 300 hotel rooms over two stories of neighborhood support and/or retail (street and second level), a rooftop pool deck, and a six-level parking structure (including up to one level below grade) with 639 parking spaces (providing parking for Parcels 2, 4A, and 4B).

    - *Condo / Retail*—a 24-story high-rise development with 206 condominium units over neighborhood support and/or retail, a rooftop pool deck, and a six-level parking structure (including up to one level below grade) with 573 parking spaces (providing parking for Parcels 2, 4A, and 4B).

- ***Parcel 4A:*** The existing Capitol Towers building including 203 apartment units and 4,122 square feet of neighborhood support and/or retail would be retained. The applicant may propose future interior and exterior modifications to the existing residential units and retail space to ensure overall architectural compatibility with the Project. Such future modifications would be required to comply with Mitigation Measure 4.4-2 from this EIR and subject to future City approvals required by the City Code.

- ***Parcel 4B:*** A seven-story mid-rise building including 50 apartment units, plus an additional three live/work units and neighborhood support and/or retail provided on the ground floor.

(See DEIR, p. 2-8 [Figure 2-3, Conceptual Land Use Diagram]; p. 2-12 [Table 2-1, Land Use Summary by Parcel at Buildout].)

Project Modifications Proposed after the FEIR was Completed

After the FEIR was completed, the project applicant requested a Project modification to increase the setback between the mid-rise buildings proposed on Parcels 2A and 2B and the Pioneer Towers and 500 N Street high-rises. (See PUD Guidelines attached to the City Council Staff Report.) Specifically, the building-to-building setback was increased from a minimum of 40 feet to 55 feet; approximately a 40% increase in the overall minimum setback. The increase in the setbacks increases ground floor open space provided by the Project by approximately an additional 3,500 square feet. Additionally, the building footprint of each mid-rise building would decrease by approximately 2,000 square feet. The total number of mid-rise residential units (including live/work units) offered on Parcels 2A and 2B will remain the same; however, both of the podium level pool decks included in the mid-rise buildings will decrease in size by approximately 2,000 square feet.

The modification does not constitute significant new information requiring recirculation of the EIR. (CEQA Guidelines, § 15088.5.) The project applicant requested this Project modification to respond to requests from residents of the Pioneer Towers and 500 N Street high-rises. The modification does not have the potential to increase the severity of any environmental impact analyzed in the EIR or result in any new significant impacts. The EIR concluded the Project would result in less than significant aesthetic impacts. (DEIR, pp. 4.1-13 – 4.1-24.) The modification constitutes a further aesthetic benefit as compared to the Project as analyzed in the EIR. Moreover, the Legislature has declared that aesthetic impacts of infill projects located within Transit Priority Areas shall not be considered significant effects on the environment. (Pub. Resources Code, § 21099(d).) See Section XVI for further findings on recirculation.

Neighborhood Support / Retail Uses

The existing retail uses at the Capitol Towers building include a neighborhood convenience store, a coffee shop, a barber shop, and a restaurant, among other uses. These uses serve both the residents of the existing Capitol Towers and Villas and the surrounding neighborhoods. Existing support uses at Capitol Towers and Villas include a leasing and management office.

Additional retail uses included as part of the Project would serve residents and guests, as well as the surrounding area. Neighborhood support uses would provide amenities for residents and their guests and may include uses such as a gym, spa, meeting spaces, activity rooms, and other similar uses. Neighborhood support uses would account for a minimum of 30% of the total neighborhood support / retail area in both scenarios. (DEIR, p. 2-13.) Neighborhood support and retail uses would be located at street level in all buildings, as well as potentially on the second floor in the high-rise building on Parcel 3.

Hotel

A hotel containing up to 300 rooms would be constructed as part of the Project on Parcel 3 under the Hotel / Condo / Retail Scenario. The hotel would include street-level and second-level neighborhood support / retail space that may include a restaurant. Hotel amenities would include conference and meeting spaces and a fitness center. The hotel would have a guest drop-off zone, accessed from N Street. As discussed above, Parcel 3 would also include up to 110 condominium units under the Hotel / Condo / Retail Scenario, compared to up to 206 condominium units under the Condo / Retail Scenario. (DEIR, p. 2-13.)

Parking Facilities

The PUD Guidelines identify parking ratios for the project site. The Project would provide either up to 1,635 parking spaces under the Condo / Retail Scenario, or up to 1,701 parking spaces under the Hotel / Condo / Retail Scenario (See DEIR, p. 2-14 [Table 2-3, Vehicular Parking]).

In addition to vehicular parking, the Project would include both long-term and short-term bicycle parking spaces, consistent with the parking ratios and bicycle parking standards identified for the CBD in City Code Chapter 17.608. The Project would also comply with California Green Building Standards Code (CalGreen Building Code) standards for non-residential uses that require short-term bicycle parking for non-residential visitor uses (including the hotel and retail uses) to be permanently anchored bicycle racks, placed within 100 feet of a visitor entrance, and visible to passersby for 5% of the visitor vehicle parking capacity. (DEIR, pp. 2-14 to 2-15.)

Promenades, Walkways, and Community Amenities

The East-West Promenade would be located approximately along the extension of O Street, and would be 44-64 feet wide (measured from building edge to building edge) at its narrowest sections and lined with live/work units and/or neighborhood support / retail uses at grade. It would be constructed of a paved surface and include open turf lawn areas, lined with trees for shade.

The North-South Promenade would be located along the extension of 6th Street, and varies from approximately 60-85 feet wide (measured from building edge to building edge) and would also be lined with live/work units and/or neighborhood support / retail uses at grade. Like the East-West Promenade, it would include a balance of hardscape paving and lawn areas, lined with both existing Heritage Trees and new trees, with spaces for gathering, seating, and other outdoor activities.

A secondary network of smaller scale pedestrian walkways would connect both the existing and proposed buildings between the North-South Promenade and 7th Street. These

passageways would be tree-lined to provide shade, and would include smaller seating areas and additional landscape areas (see DEIR, p. 2-5 [Figure 2-2, Project Location]).

The northwest corner of P and 7th Streets would be occupied by a community plaza organized around features such as a shade structure. The Project would also include a central community plaza at the intersection of the North-South and East-West Promenades, with features such as a retail kiosk, community lawn area, water feature, and shade structure. Additionally, the Project would retain the Overhoff relief art wall and would relocate it slightly to the north, set in the landscaped area between Capitol Towers and the North-South Promenade (see DEIR, p. 2-6 [Figure 2-4a, Conceptual Ground Level Landscape Plan]). (DEIR, p. 2-15.)

Energy Conservation Features and Sustainability

CEQA requires that EIRs include a discussion of the potential energy impacts of projects, with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy (see Pub Resources Code, § 21100, subd. (b)(3)). Appendix F of the CEQA Guidelines recommends that EIRs address state goals for conserving energy, including:

- Decreasing overall per-capita energy consumption;
- Decreasing reliance on fossil fuels such as coal, natural gas, and oil; and
- Increasing reliance on renewable energy sources.

The City also adopted a climate action plan (CAP) (City of Sacramento 2012), the intent of which is to identify the nature of greenhouse gas emissions in the city and to implement policies, actions, and measures to reduce existing and future greenhouse gas emissions. The CAP sets reduction goals and has developed strategies and measures that relate to the following topics of greenhouse gas reduction: (1) sustainable land use; (2) mobility; (3) energy efficiency and renewable energy; (4) waste reduction and recycling; (5) water conservation and wastewater reduction; (6) climate change adaptation; and (7) community involvement and empowerment. (See Appen. F of the DEIR for more detail on the CAP.)

The City's CAP meets the requirements of CEQA Guidelines, section 15183.5. Thus, it is a "qualified CAP" that can be used to streamline CEQA review when projects are determined to be consistent with the CAP. The City finds that the Project meets applicable requirements of the City's CAP.

Sustainability features of the Project include:

- Its location in downtown Sacramento, within one-quarter mile of bus and light rail transit; proximity to freeways and Amtrak rail service; and walkable and bikeable street grid near jobs, services, parks/open space, and other downtown destinations;

- The addition of a significant number of multi-family housing units (proposed net gain of approximately 965–1,061 units) in an area of the City with a deficit of such housing relative to jobs, which enables residents to walk or take transit to work;

- On-site neighborhood support services for the convenience of the project residents and guests; and on-site retail uses for use by the overall Sacramento Commons neighborhood;

- Protection and incorporation of a majority of the existing Heritage Trees and City Street Trees that are in good or fair condition in place and planting of additional trees to maintain Sacramento's urban forest;

- Enhancement of walkways on the project site, including the creation of the North-South and East-West Promenades, with accompanying landscaping and open space to meet the City's vision for high-quality public urban spaces that provide stormwater management benefits;

- A variety of housing types meeting the needs of a broad segment of the population; and

- Lower per-unit energy and water use than a similar number of dwelling units in a lower-density suburban setting.

With respect to energy and water use, the Project would comply with current City standards for building energy efficiency and target CalGreen Building Code Tier 1 Water Efficiency Standards, at a minimum. The Project would include water-efficient fixtures and appliances; energy-efficient building materials and resources; low–volatile organic compound paints, flooring, and adhesives; and other industry-standard best practices for building design, construction, and operation. Inclusion of these elements may qualify the Project to meet at least the minimum criteria of green rating systems, such as Leadership in Energy & Environmental Design (i.e., LEED), GreenPoint, Enterprise Green, or equivalent, as required by the *Sacramento Central City Urban Design Guidelines*.

The above sustainability features would contribute to lower vehicle use, vehicle miles traveled, energy use, greenhouse gas emissions, and water consumption as compared to Citywide averages per resident. Because the Project meets the applicable requirements of the City of Sacramento CAP, the City finds that the Project is consistent with the CAP. (See generally DEIR, § 4.6, pp. 4.6-1 to 4.6-20, Greenhouse Gas Emissions and Energy; see DEIR, Appen. F; see also DEIR, pp. 2-20 to 2-21.)

D. PROJECT SITE

The project site is located in Sacramento's Central Business District (see DEIR, p. 2-3 [Figure 2-1, Regional Location]), with an existing mix of multi-story residential and office complex land uses located in the immediate vicinity. The project site encompasses 10.13 net acres on portions of a four block area from 5th Street to 7th Street and N Street to P Street. The project site is currently developed with residential rental property (at the Capitol Towers and Villas buildings), neighborhood-serving retail space, recreational amenities (including a swimming pool), laundry facilities, various landscaped areas and pedestrian walkways, a three-level parking structure, and six separate surface parking lots. Sharing the four-block project area, but not part of the project site, are the separately-owned 15-story 500 N Street condominium tower (built in 1980 as Bridgeway Towers) that includes 134 units, and the 12-story Pioneer Towers senior apartments (built in 1978) that includes 198 units.

Access

The streets defining the Project site's boundaries are all one-way streets: 5th Street is northbound, 7th Street is southbound, N Street is eastbound, and P Street is westbound. These streets define the site's western, eastern, northern, and southern boundaries, respectively.

Additionally, certain portions of the project site are subject to non-exclusive private access and recreation easements shared with the Pioneer Towers and 500 N Street parcels. These easement areas are included within the Project's North-South and East-West Promenades and the walkway on Parcel 3 adjacent to Capitol Towers. (FEIR, p. 2-755 [Figure 2-6].)

Landscape

Based on the results of an arborist survey conducted on the site, there are a total of 291 trees present on or adjacent to the project site that provide a total tree canopy area of approximately 247,402 square feet (5.7 acres). Trees adjacent to the project site consist of trees that are just outside of the project parcel boundaries along the periphery of the project site. Of these 291 trees, 50 trees (including 16 different species) meet the City's definition of either a City Street Tree or a Heritage Tree. The remaining 241 trees on or adjacent to the project site do not meet the criteria for classification as either a Heritage Tree or City Street Trees. There are 39 trees located along the perimeter of the project site that meet the definition of a City Street Tree (City Code § 12.56.020), which includes any tree growing on a public street right-of-way. Of the 39 City Street Trees, 6 meet the criteria for classification as Heritage Trees. There are 11 additional trees on the project site that are not in the public street right-of-way that meet the criteria for classification as a Heritage Tree, as defined by the City of Sacramento (City Code § 12.64.020). The Project requires removal of up to four City Street Trees and four Heritage Trees in fair condition or better, as well as the removal of approximately 190 other trees that due to their size or species are not regulated under the City Code. (See DEIR, Appen. M for Arborist Report; DEIR, pp. 2-2 to 2-5.) Only six of the unregulated trees that may be removed to develop the Project are native to the Sacramento region. (FEIR, p. 2-709.)

E. EXISTING LAND USE DESIGNATION AND ZONING

The project site is located within the City of Sacramento, and is designated CBD in both the 2035 General Plan and the prior 2030 General Plan. Additionally, the project site is zoned High-Rise Residential (R-5 Zone) under the City's Planning and Development Code (adopted April 9, 2013). (DEIR, p. 3-6; p. 4.1-12.)

F. ADJACENT USES

Uses immediately surrounding the project site include federal and state offices to the north, west, and east. Two multi-family properties (Governor's Square and Pioneer House) are located at the southeast and northwest corners, respectively, of 5th and P Streets. In addition, the State of California Central Plant (which heats and cools state buildings) is located on the south side of P Street, across the street from the project site. (See DEIR, p. 2-5 [Figure 2-2, Project Location]; DEIR, pp. 2-4 to 2-5.)

G. PROJECT OBJECTIVES

The objectives for the Project are to:

(1) Intensify an existing urban downtown residential community close to urban amenities (e.g., shopping, services, transit, entertainment, and cultural attractions);

(2) Support investment and reinvestment in downtown Sacramento, particularly with provision of more residential uses;

(3) Intensify an existing infill development project with a new project that includes additional residential uses near the major employment centers of downtown Sacramento;

(4) Provide high-density residential uses that utilize surrounding transit services and provide access to a variety of transportation modes;

(5) Enhance pedestrian movement through the central portions of the project site;

(6) Provide additional housing choices for Sacramento's diverse population, and supporting retail and other commercial services for the residents and guests of the proposed development;

(7) Provide open space areas that support uses on-site and provide places for community gathering, activity, privacy, and connectivity;

(8) Provide development that is consistent with the City of Sacramento's General Plan and SACOG MTP/SCS; and

(9) Incorporate sustainability features that help the City and region achieve its sustainability targets, while enhancing the livability of the community.

(DEIR, p. 2-6.)

H. REQUIRED DISCRETIONARY ACTIONS

The City of Sacramento is the lead agency for the Project. As required by CEQA Guidelines, section 15124, subdivision (d)(B), the EIR must contain a list of permits and other approvals required to implement the Project. In addition to these requirements, environmental review and consultation requirements related to federal, state, or other local laws or guidance applicable to individual resources are described in the Regulatory Setting subsections of each environmental impact (see generally DEIR, Ch. 4). The EIR for the Project addresses the approvals and entitlements required by the City.

Specifically, the Project requests the following approvals from the City:

- **Certification of the EIR and adoption of the Mitigation Monitoring and Reporting Program.** Before the City can approve the Project, it must certify the EIR was completed in compliance with the requirements of CEQA, the decision-making body has reviewed and considered the information in the EIR, and the EIR reflects the independent judgment of the City of Sacramento. Approval of the EIR also requires adoption of a Mitigation Monitoring and Reporting Program (MMRP), which specifies the methods for monitoring mitigation measures required to eliminate or reduce the Project's significant effects on the environment.

- **Approval of a Development Agreement.** The Project includes a development agreement which identifies City and project applicant obligations relating to the Project. The Development Agreement grants a vested right to develop the Sacramento Commons PUD project in accordance with the PUD guidelines, as analyzed in the EJR. With limited exceptions, the Development Agreement also freezes City planning and development regulations and planning policies in effect at the time the agreement is approved so that new regulations would not apply to the development.

- **Planned Unit Development (PUD) establishment to establish PUD Guidelines and a schematic plan for the Sacramento Commons PUD.** The Project requires approval of a PUD designation. A PUD controls the development of land with specific regulations related to design. The purpose of a PUD is to provide greater flexibility in the design or development standards than is otherwise possible through strict application of zoning regulations.

- **Rezone.** The Project would require a rezone from High-Rise Residential Zone (R-5) to High-Rise Zone within the Sacramento Commons PUD (R-5-PUD).

- **Subdivision Tentative Map.** The applicant is seeking approval to subdivide the site from three parcels (total of 11.17 gross acres) into six parcels.

- **Demolition Permit.** The applicant is seeking a permit to demolish the 206 two- and three-story garden apartments currently on the site and known as the Capitol Villas.

- **Site Plan and Design Review.** The Project requires site plan and design review of the proposed tentative map.

- **Approval of a water supply assessment.** The Project requires the City to identify any water system that is, or may become as a result of supplying water to the project, a public water system. (Cal. Water Code, § 10910, subd. (b).)

Responsible and Permitting Agencies

Responsible and permitting agencies are state and local public agencies, other than the lead agency, that have some authority to carry out or approve a project or that are required to approve a portion of the project for which a lead agency is preparing or has prepared an EIR. A list of responsible and/or permitting agencies is included below. However, this list is not exhaustive and could include other agencies. The DEIR has been designed to provide information to these agencies to assist them in the permitting processes for the Project.

The responsible agencies include:

- **Sacramento Metropolitan Air Quality Management District (SMAQMD)**: Exercises permit authority over proposed construction activities related to stationary equipment, particulate matter generation, architectural coatings, and paving materials;

- **State Water Resources Control Board/Central Valley Regional Water Quality Control Board**: Issues Construction Storm Water Discharge Permits; and

- **Sacramento Regional Transit District:** Exercises authority over relocation of transit stops surrounding the project site to accommodate project construction and operation.

(DEIR, pp. 1-3 to 1-4.)

V. ENVIRONMENTAL REVIEW PROCESS

Extensive outreach with neighbors, residents and other community stakeholders has been undertaken as part of the Sacramento Commons project in order to obtain input on the proposed project. Over three months before its formal application process was commenced with the City of Sacramento, the applicant held its first community meeting. Since that time, additional meetings have occurred with the community, neighbors and other stakeholders. (See FEIR, pp 2-304 to 2-306 for a non-exhaustive list of meetings held by the project applicant, the city, or community groups to discuss the project.)

Initially, the City began the process to prepare a Sustainable Communities Environmental Assessment (SCEA), pursuant to CEQA streamlining provisions. A NOP for the SCEA was circulated for comments from April 10, 2014 to May 12, 2014. The City received a total of 31 comment letters. The letters were received from agencies such as the California Department of Transportation, organizations such as Bridgeway Towers Owners' Association, and several individuals and businesses. After reviewing the comments, the City concluded an EIR should be prepared instead. Responses to the NOP originally circulated for the SCEA were considered in preparing the EIR. The SCEA Initial Study, as well as comments received during the SCEA NOP comment period are included in Appendix B of the DEIR.

In accordance with CEQA Guidelines section 15082, a second NOP was prepared and circulated for comments from August 6, 2014 to September 5, 2014. The purpose of the NOP was to provide notification that an EIR for the Project was being prepared and to solicit guidance on the scope and content of the document. Pursuant to CEQA Guidelines section 15082, the City held a public scoping meeting on August 27, 2014. Responsible agencies and members of the public were invited to attend and provide comments and input on the scope of the EIR. Some of the most frequently mentioned environmental topics in the letters and other public comments responding to the EIR NOP included alterations to aesthetics, such as the removal of trees and changes to open space, impacts to historic resources, such as the Capitol Towers and Capitol Villas including its existing trees and landscaping, concerns over housing relocation assistance and demolition of on-site housing, and potential impacts associated with Project phasing and the availability of infrastructure. The Initial Study, as well as comments submitted at the hearing and those received during the NOP comment period are included in Appendix B of the DEIR.

In accordance with CEQA Guidelines section 15105, the DEIR was circulated for public review and comment from March 9, 2015 through April 24, 2015. Approximately 47 comment letters were received on the DEIR. The FEIR was published on June 5, 2015. The FEIR includes written comments on the DEIR received during the public review period, the transcript from the April 15, 2015 Preservation Commission Hearing, the transcript from the April 30, 2015 Planning and Design Commission Review and Comment, the City's responses to those written and oral comments, and any revisions to the DEIR made in response to agency or public comments. The DEIR and FEIR together comprise the EIR for the Project.

On June 11, 2015, the City Planning and Design Commission held a public hearing on the Project to provide a recommendation to the City Council. During the hearing the City Planning and Design Commission, the Commission received and considered evidence including the EIR, and recommend approval of the Project based on a _____ vote and forwarded its recommendation to the City Council for consideration of the Project on July 14, 2015.

VI. RECORD OF PROCEEDINGS

For the purposes of CEQA, and the findings herein set forth, the administrative record for the Project consists of those items listed in Public Resources Code section 21167.6, subdivision (e), including but not limited to the following documents, which are incorporated by reference and made part of the record supporting these findings:

- Both NOPs and all other public notices issued by the City in conjunction with the Project;

- The DEIR for the Project, its technical appendices, and all documents relied upon or incorporated by reference;

- All comments submitted by agencies or members of the public during the 45-day comment period on the DEIR;

- The FEIR for the Project, its technical appendices, and all documents relied upon or incorporated by reference;

- The staff reports, agendas, minutes, and transcripts for Preservation Commission meetings and hearing, Planning and Design Commission review and comment meetings and hearing, and City Council hearings;

- The mitigation monitoring and reporting program (MMRP) for the Project;

- All findings and resolutions adopted by the City in connection with the Project, and all documents cited or referred to therein;

- All final reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the Project;

- All documents submitted to the City by other public agencies or members of the public in connection with the Project, up through the close of the final public hearing on the Project;

- Any minutes and/or verbatim transcripts of all information sessions including, but not limited to, public scoping meetings;

- Any documentary or other evidence submitted to the City at such information sessions, public meetings and public hearings;

- The City's General Plan and the Sacramento Central City Neighborhood and Central Core Design Guidelines and all updates and related environmental analyses, including

both the 2035 General Plan and 2030 General Plan and the Master EIRs prepared for each;

- SACOG's Sacramento Region Blueprint as well as SACOG's MTP/SCS and associated Program EIR;

- Matters of common knowledge to the City, including, but not limited to Federal, State, and local laws and regulations;

- All relevant titles of the Sacramento City Code including the City's Planning and Development Code;

- Any documents expressly cited in these findings, in addition to those cited above; and

- Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

Pursuant to Guidelines section 15091, subdivision (e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

The City Council has relied on all of the documents listed above in reaching its decisions on the Project even if not every document was formally presented to the City Council by City Staff. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the City Council was familiar with when approving the Project. (See *City of Santa Cruz v. Local Agency Formation Com.* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Dept. of Personnel Admin.* (1988) 205 Cal.App.3d 729, 738, fn. 6.) Other documents influenced the expert advice provided by City Staff or consultants, who then provided advice to the City Council as final decisionmakers. For that reason, such documents form part of the underlying factual basis for the City Council's decisions relating to approval of the Project. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155.)

VII. FINDINGS REQUIRED UNDER CEQA

Public Resources Code section 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 provides that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible

alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." Section 21002 goes on to provide 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 thereof."

For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions:

- 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 FEIR;

- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding, and such changes have been adopted by such other agency or can and should be adopted by such other agency; or

- 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 FEIR.

(CEQA Guidelines, § 15091.)

Public Resources Code section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." CEQA Guidelines section 15364 adds another factor: "legal" considerations. (See also *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565 (*Goleta II*).)

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 401, 417 (*City of Del Mar*); *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1509 (*Sierra Club*) [court upholds CEQA findings rejecting alternatives in reliance on applicant's project objectives]; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 (*CNPS*) ["an alternative 'may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record'"] (quoting Kostka & Zischke, *Practice Under the Cal. Environmental Quality Act* [Cont.Ed.Bar 2d ed. 2009] (*Kostka*), § 17.39, p. 825); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165, 1166 (*Bay-Delta*) ["[i]n the CALFED program, feasibility is strongly linked to achievement of each of the primary project objectives"; "a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal"].) Moreover, "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors."

(*City of Del Mar*, *supra*, 133 Cal.App.3d at p. 417; see also *CNPS*, *supra*, 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"] [quoting *Kostka*, *supra*, § 17.29, p. 824]; *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 17.)

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. Although CEQA Guidelines section 15091 requires only that approving agencies specify that a particular significant effect is "avoid[ed] *or* substantially lessen[ed]," these findings, for purposes of clarity, in each case will specify whether the effect in question has been "avoided" (i.e., reduced to a less-than-significant level).

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines, § 15091, subd. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law requires that those decisions be informed, and therefore balanced." (*Goleta II*, *supra*, 52 Cal.3d at p. 576.) The EIR for the Project would create significant unavoidable impacts to historical resources; thus, a Statement of Overriding Considerations is required and is included in Section XVIII below.

VIII. LEGAL EFFECT OF FINDINGS

These findings constitute the City's best efforts to set forth the evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. To the extent these findings conclude that various mitigation measures outlined in the FEIR are feasible and have not been modified, superseded or withdrawn, the City hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when the City adopts a resolution approving the Project.

IX. MITIGATION MONITORING PROGRAM

A Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Project, and is being approved by the City Council by the same Resolution that has adopted these

findings. The City will use the MMRP to track compliance with Project mitigation measures and mandatory development policies or standards applicable to the Project. The Mitigation Monitoring Program will remain available for public review during the compliance period. The Final Mitigation Monitoring Program is attached to and incorporated into the environmental document approval resolution and is approved in conjunction with certification of the EIR and adoption of these Findings of Fact.

X. SIGNIFICANT EFFECTS AND MITIGATION MEASURES

The DEIR identified a number of significant and potentially significant environmental effects (or impacts) that the Project will cause or to which it will contribute. Nearly all of the significant effects can be substantially lessened or fully avoided through the adoption of feasible mitigation measures. Two effects, Impact 4.4-2 (DEIR, p. 4.4-16 [substantial adverse change in historical significance to Capitol Towers and Villas]) and Impact 4.4-6 (DEIR, p. 4.4-33 [cumulative historical resources impacts]), however, cannot be avoided by the adoption of feasible mitigation measures or alternatives, and thus will be significant and unavoidable.

The City Council finds that the determination as to whether Mitigation Measure 4.4-2 is capable of reducing the Project's impact on the historic resource to a less than significant level is a close call. The City Council recognizes that historic resources are given special protection under CEQA and lead agencies must "take all necessary action to protect, rehabilitate, and enhance the environmental quality of the state" including the protection and rehabilitation of "objects of historic aesthetic significance." (*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.App.4th 165, 186; *Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1065 (*Treasure Island*); *Prentiss v. City of South Pasadena* (1993) 15 Cal.App.4th 85, 92 (*Prentiss*); see also Pub. Resources Code, §§ 21002, subd. (b), 21060.5, 21083.2, 21084.1.) The City Council also recognizes that determinations relating to the significance of impacts to historical resources are based upon "the application of the subjective criteria." (*Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1066 (*Valley Advocates*).)

The record demonstrates a disagreement exists between experts as to the historical significance of Capitol Towers and Villas including its existing trees and landscaping. (See DEIR, Appen. D; see also FEIR, Appen. E.) The City Council recognizes that as a result of the Capitol Towers and Villas recent automatic listing on the California Register of Historical Resources, the property is, as a matter of law, an historical resource for the purposes of CEQA. (Pub. Resources Code, § 21084.1.) However, the City Council finds that the lack of consensus regarding the historical significance of the property is relevant to the City Council's subjective determination as to whether Mitigation Measure 4.4-2 will reduce the Project's impact on the historical resource to a less than significant level.

The CEQA Guidelines acknowledge that, in some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will mitigate the effects to a point where

clearly no significant effect on the environment would occur. (See CEQA Guidelines, § 15126.4, subd. (b)(2).) Mitigation Measure 4.4-2 requires documentation for the property be prepared based on the National Park Services' (NPS) Historic American Building Survey (HABS) and Historic American Landscape Survey (HALS) Historical Report Guidelines, requires onsite interpretative displays, and development of a traveling exhibit. Moreover, Mitigation Measure 4.4-2 requires salvage and reuse the Overhoff sculptural wall and sets forth conditions for potential future proposals that may impact the historical significance of the Capitol Towers high-rise. Therefore, in addition to extensive documentation and educational requirements, Mitigation Measure 4.4-2 provides for reuse and retention of significant features of the historical resource.

Particularly in light of the disagreement over the significance of the resource, the City Council finds that it would be reasonable to conclude Mitigation Measure 4.4-2 reduces the impact to the historical resource to a less than significant level. However, the City Council recognizes that the EIR consultant, the City's Preservation Director, and historical consultant Carey & Co. worked together extensively through an iterative process to reach the final conclusions included in the EIR regarding the historical impact of the Project as well as project alternatives. The City Council will defer to the final conclusions reached by these experts as documented in the EIR. Therefore, the City Council finds that while the significant and unavoidable effects of the Project can be substantially lessened by the adoption of Mitigation Measure 4.4-2, those effects will not be reduced to a less-than-significant level.

Although CEQA and its implementing guidelines require mitigation measures or alternatives to be developed in response to historic resource impacts to the extent feasible, nothing mandates lead agencies to adopt particular alternatives or measures. (See *Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco* (1980) 106 Cal.App.3d 893, 917 [upholding a lead agency's determination that restoring an historical resource was infeasible due to seismic issues] (*SF Foundation*); *Save San Francisco Bay Assn. v. San Francisco Bay Conservation etc. Com.* (1992) 10 Cal.App.4th 908, 919-923 [upholding the lead agency's decision to reject an alternative location alternative to reduce impacts to historical resources]; *Prentiss, supra*, 15 Cal.App.4th at p. 92 [noting that while "the effect on the historical environment must be considered…[t]his would not necessarily mean the building must be preserved, because the public agency might find that other considerations outweigh the adverse effect on the historical environment"]; *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 692-695 [upholding the lead agency's rejection of the proposed historical resources preservation alternatives as infeasible due to excessive costs and lost profitability being so severe that they were considered impractical] (*San Franciscans*); *Jones v. Regents of University of California* (2010) 183 Cal.App.4th 818 [holding that the lead agency's decision not to consider a complete offsite alternative to minimize impacts to historic resources was supported by substantial evidence; since the lead agency's partial offsite alternative would not meet the project objectives, it was likely that the complete offsite alternative would also not meet the project objectives] (*Jones*); *Flanders Foundation v. City of Carmel-By-The-Sea* (2012) 202 Cal.App.4th 603, 619-623 [holding that the lead agency's rejection of alternatives to reduce impacts to historical resources as being infeasible were supported by substantial evidence in an economic feasibility analysis] (*Flanders*

Foundation).) As discussed throughout these findings, the City Council finds that no feasible mitigation or alternatives can reduce the Project's project-specific and cumulative significant and unavoidable historic resource impacts to a less than significant level. For reasons set forth in Section XVIII *infra*, however, the City Council has determined that overriding economic, social, and other considerations outweigh the significant, unavoidable historical resource impacts of the Project.

Table of Impacts, Mitigation Measures and CEQA Findings

The City Council's findings with respect to the Project's significant effects and mitigation measures are set forth in the table attached to these findings (see "Table A"). The findings set forth in the table are hereby incorporated by reference and the Council adopts all of the mitigation measures identified therein. This table does not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, the table provides a summary description of each impact, describes the applicable mitigation measures identified in the Draft or Final EIR and adopted by the City Council, and states the City Council's 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 Draft and Final EIRs, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the EIR's determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the City Council ratifies, adopts, and incorporates into these findings the analysis and explanation in the Draft and Final EIRs, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Draft and Final EIRs relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

XI. GROWTH INDUCEMENT

As required by CEQA Guidelines, section 15126.2, subdivision (d), an EIR must discuss ways in which a project could foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment. Also, the EIR must discuss the characteristics of the project that could encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. Growth can be induced in a number of ways, such as through the elimination of obstacles to growth, the stimulation of economic activity within the region, or the establishment of policies or other precedents that directly or indirectly encourage additional growth. Under CEQA, this growth is not to be considered necessarily detrimental, beneficial, or of significant consequence. Induced growth would be considered a significant impact if it can be demonstrated that the potential growth, directly or indirectly, significantly affects the environment.

In general, a project could foster spatial, economic, or population growth in a geographic area if the project removes an impediment to growth (e.g., the establishment of an essential public service, the provision of new access to an area, or a change in zoning or General Plan

amendment approval), or economic expansion or growth occurs in an area in response to the project (e.g., changes in revenue base, employment expansion). These circumstances are further described below.

- **Elimination of Obstacles to Growth:** This refers to the extent to which a project removes infrastructure limitations or provides infrastructure capacity, or removes regulatory constraints that could result in growth unforeseen at the time of project approval.

- **Economic Effects:** This refers to the extent to which a project could cause increased activity in the local or regional economy. Economic effects can include such effects as the "multiplier effect." A "multiplier" is an economic term used to describe interrelationships among various sectors of the economy. The multiplier effect provides a quantitative description of the direct employment effect of a project, as well as indirect and induced employment growth. The multiplier effect acknowledges that the on-site employment and population growth of each project is not the complete picture of growth caused by the project.

Limitations on Analysis of Growth Inducement

Under the provisions of Senate Bill 375, an EIR prepared for a residential or mixed-use residential project that is consistent with the general land use designation, density, building intensity, and applicable policies specified for the project area in a sustainable communities strategy (SCS) "is not required" to discuss growth inducing impacts, or any project specific or cumulative impacts from cars and light-duty truck trips on global warming, or on the regional transportation network (Pub. Resources Code, § 21159.28, subd. (a)).

SACOG has provided a letter (see DEIR, Appen. A) stating the Project is consistent with the assumptions for this site contained in the MTP/SCS. An analysis of the Project's growth inducing impacts is therefore not required. The City Council notes further that the MTP/SCS Program EIR and Master EIRs for the 2030 and 2035 General Plans determined that growth within the project area does not have the potential to result in a significant impact. Specifically, accommodating a share of the projected population growth for Sacramento and the region in the existing, developed footprint, rather than in currently undeveloped areas, would reduce environmental effects associated with the extension of infrastructure and 'greenfield' development of currently undeveloped areas. (DEIR, pp. 3-31 to 3-33.) Therefore, the City Council finds that the Project results in a beneficial environmental impact in the context of population growth in that it provides for growth within Downtown Sacramento and, based on its location and density, is anticipated to result in a substantial reduction in vehicle miles travelled and greenhouse gas emissions per resident as compared to the regional average.

XII. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL EFFECTS

Section 15126.2, subdivision (c) of the CEQA Guidelines requires a discussion of any significant irreversible environmental change that would be caused by the Project. Generally, a project would result in significant irreversible changes if:

- The primary and secondary impacts would generally commit future generations to similar uses;
- The project would involve a large commitment of nonrenewable resources;
- The project would involve uses in which irreversible damage could result from any potential environmental accidents associated with the project; or
- The proposed consumption of resources is not justified (e.g., the project involves the wasteful use of energy).

The development of the Project would likely result in or contribute to the following irreversible environmental changes:

- Substantial adverse change in the historical significance of Capitol Towers and Villas (Impact 4.4-2; DEIR p. 4.4-16);
- Substantial cumulative impact to historical resources (Impact 4.4-6; DEIR p. 4.4-33); and
- Irreversible consumption of energy and natural resources associated with the future use of the site.

Development of the Project would result in the significant alteration of the Capitol Towers and Villas and associated landscape areas identified as historic. After construction of the Project, restoration of the site to pre-existing Capitol Towers and Villas conditions would not be feasible given the degree of disturbance and alteration to the area necessary to develop the Project, as well as the level of capital investment.

Resources that would be permanently and continually consumed by project implementation include water, electricity, natural gas, and fossil fuels. However, resource consumption would be reduced with the Project (as compared to average consumption levels in the region) for three significant reasons:

(1) Due to the regionally central location of the project site (the Project is located in downtown Sacramento adjacent to light rail and bus lines) which will reduce vehicle miles travelled by project residents and increase use in existing public transit opportunities;

(2) The replacement of older inefficient buildings with new buildings built to modern codes: these codes require more energy and water conservation. Additionally, the compact, multi-family dwelling units that share walls with other units are substantially more energy efficient relative to single-family units that do not share walls; and

(3) The high level of sustainability that would be achieved through construction of the Project: the Project would include open space features, such as promenades and spaces for sitting, gathering, and enjoyment of the outdoors. (See DEIR, Appen. N for additionally discussion of the sustainability features of the project.)

Additionally, the Project is located in a transit priority area and qualifies as a transit priority project consistent with the MTP/SCS, with policies in the Environmental Resources Element of the City's 2035 General Plan and prior 2030 General Plan, and with the City of Sacramento Climate Action Plan. (See DEIR, Appen. F; See, *infra*, § XIV [CEQA Streamlining].)

Elements of the Project, including its location, design, and site reuse objectives, may qualify the Project to meet the criteria of green rating systems such as Leadership in Energy and Environmental Design (i.e., LEED), GreenPoint, Enterprise Green, or equivalent, as required by the Sacramento Central City Urban Design Guidelines. Resources that would be permanently and continually consumed by project implementation include water, electricity, natural gas, and fossil fuels; however, the amount and rate of consumption of these resources would not result in the unnecessary, inefficient, or wasteful use of resources. The Project would comply with all applicable building codes, including the 2013 Title 24 Energy Efficiency Standards, and based on location and density will be substantially more efficient than regional averages for residential water, electricity, natural gas, and fossil fuel consumption. Nonetheless, construction activities related to the Project would result in the irretrievable commitment of nonrenewable energy resources, primarily in the form of fossil fuels (including fuel oil), natural gas, and gasoline and diesel fuel for automobiles and construction equipment.

The CEQA Guidelines also require a discussion of the potential for irreversible environmental damage caused by environmental accidents associated with the project. The Project could result in the use, transport, storage, and disposal of hazardous wastes during construction and operation. However, all activities would comply with applicable state and federal laws related to hazardous materials, which would substantially reduce the likelihood and severity of accidents that could result in irreversible environmental damage. (See generally DEIR, § 4.7, Hazards and Hazardous Materials.)

Implementation of the Project would result in the long-term commitment of resources to urban development. The Project would require short-term commitment during construction activities of nonrenewable and/or slowly renewable natural and energy resources, such as water resources. Operations associated with future uses would also consume natural gas and electrical energy. These irreversible impacts, which are unavoidable consequences of urban growth, are described in detail in the appropriate sections of the DEIR. (DEIR, pp. 6-2 to 6-4.)

XIII. MITIGATION MEASURES PROPOSED BY COMMENTERS AND REVISIONS TO THE EIR

A. Mitigation Measures Proposed by Commenters

Some DEIR commenters suggested additional conditions of approval, mitigation measures or modifications to the measures recommended in the DEIR. In considering specific recommendations from commenters, the City has been cognizant of its legal obligation under CEQA to substantially lessen or avoid significant environmental effects to the extent feasible. The City recognizes, moreover, that comments frequently offer thoughtful suggestions regarding how a commenter believes a particular mitigation measure can be modified, or perhaps changed significantly, in order to more effectively, in the commenter's eyes, reduce the severity of environmental effects. The City is also cognizant, however, that the mitigation measures recommended in the EIR represent the professional judgment and long experience of the City's expert staff and environmental consultants. The City therefore believes these recommendations should not be lightly altered. Thus, in considering commenters' suggested changes or additions to the mitigation measures as set forth in the Draft and Final EIRs, the City, in determining whether to accept such suggestions, either in whole or in part, has considered the following factors, among others: (i) whether the suggestion relates to an environmental impact that can already be mitigated to less than significant levels by proposed mitigation measures in the DEIR or an impact that is less than significant without mitigation; (ii) whether the proposed language represents a clear improvement, from an environmental standpoint, over the draft language that a commenter seeks to replace; (iii) whether the proposed language is sufficiently clear as to be easily understood by those who will implement the mitigation as finally adopted; (iv) whether the language might be too inflexible to allow for pragmatic implementation; (v) whether the suggestions are feasible from an economic, technical, legal, or other standpoint; and (vi) whether the proposed language is consistent with the Project objectives.

As discussed further below, in consideration of the above factors, Mitigation Measures 4.3-2, 4.4-2, 4.4-3, 4.9-3a, and 4.11-5 were revised in response to comments.

- **Mitigation Measure 4.3-2 (Avoid and Minimize Impacts on Trees) has been revised as follows:**

The project applicant shall submit a Tree Permit application to the City Department of Public Works (Maintenance Services Division), as required by the City Code, for removal and pruning affecting a Heritage Tree or City Street Tree and such activity shall not be performed until a permit has been issued. When allowed, according to the conditions of the permit, construction activity that requires pruning or encroachment into the canopy dripline of a Heritage Tree or City Street Tree would be monitored by the project arborist, who will make recommendations for minimizing impacts to retained trees. In addition, the following tree replacement, protection, and monitoring actions shall be implemented:

- Any Heritage Trees to be removed for construction purposes shall each be replaced with one 24-inch box size tree. The replacement trees shall be planted on site and incorporated into the project's landscape plan.

- Any City Street Trees to be removed for construction purposes shall be replaced with either 24-inch box size trees or 15-gallon size tree (as required under City Code Section 12.56.090 based on the sizes of the City Street Trees to be removed). Replacement trees for City Street Trees shall be replanted within the City right-of-way in coordination with the City's Urban Forester. If replacement trees for City Street Trees cannot be accommodated in the City's right-of-way, they shall be planted on site and incorporated into the project landscape plan. If City Street Tree replacement trees cannot be incorporated into the project landscape plan, they shall be planted at another off-site location at the City's direction.

- Replacement trees, <u>including all 147 ground level trees identified in the Conceptual Landscape Plan prepared for the project</u>, shall consist of shade tree species appropriate to the site and which consider the post-construction environment (e.g., shading from buildings). Selection of replacement tree species shall be conducted in consultation with the City's Director of Urban Forestry.

- Tree planting shall comply with the City's landscaping requirements (City Code §§ 17.612.010 and 17.612.040).

- Canopy or root pruning of any retained Heritage or City Street Trees to accommodate construction and/or fire lane access shall be conducted according to applicable ANSI A300 tree pruning standards and International Society of Arboriculture best management practices.

- All retained trees on-site (Heritage or City Street Trees) shall be protected from construction-related impacts pursuant to Sacramento City Code Section 12.64.040 (Heritage Trees) and Section 12.56.060 (City Street Trees). Full details of tree protection measures are available in the Arborist Report (see Appen. M), but a summary is provided here.

    - Under the tree protection measures, an International Society of Arboriculture-(ISA) Certified Arborist shall be assigned to monitor tree health and construction activity near all trees retained on-site (including trees that do not meet the Heritage Tree or City Street Tree definition). Protection measures prior to construction include: health inspection of large trees; a pre-construction meeting with all contractors and the arborist to discuss protocols; pre-construction training for all construction crews; tree removal, pruning and inspection during site preparation; and erection of a protective fencing and signage around all trees or groups of trees. Tree protection measures during construction shall include: preserved trees shall

not have signs, ropes, cables or other items attached to them; all heavy equipment shall avoid the fenced protection zones; no storage or discard of any supply or material within the fenced protection zones; grade changes of more than two feet are not permitted within 30 feet of a tree's drip line; care shall be taken when moving equipment or supplies near trees (especially overhead); all trenching shall be outside the fenced protection zones unless a Tree Permit, when required by City Code, has been obtained; an irrigation schedule shall be implemented for any substantially pruned tree within 48 hours; canopy pruning can only be done under an approved Tree Permit, when required by City Code; and periodic washing of tree foliage may be necessary (but not more than once every two weeks).

- On-site trees in the post-construction landscape (including Heritage Trees, City Street Trees, and Non-Heritage Trees proposed for retention plus newly-planted landscape trees) shall be monitored by an ISA Certified Arborist for a period of ~~up to~~ 5 years. Post-construction monitoring shall be conducted at least monthly for Year 1, quarterly for Year 2, and twice annually for Years 3-5. Post-construction monitoring shall begin at the completion of landscape installation. Monitoring periods may be staggered for the project site to account for construction phasing, but shall be no less than 5 years for each tree. Should any retained or newly-planted trees die within the 5-year monitoring period, the tree shall be removed and replaced at a 1:1 ratio with a 24-inch box size tree of the same or comparable species (unless it is determined that a different species is better suited to the location, as recommended by the monitoring arborist). Post-construction monitoring reports shall be prepared and submitted to the entity responsible for landscape management and to the City's Urban Forester. Monitoring reports shall address tree mortality and summarize tree replacement efforts (if any) and shall provide management recommendations for promoting on-site tree health. Upon completion of the 5-year monitoring period, a final post-construction monitoring report shall be prepared and submitted to the City's Urban Forester documenting all monitoring efforts and summarizing tree survival and replacement totals.

- Protection and Maintenance during Construction. Once construction activities have begun the following measures shall be adhered to:

    - Avoidance: Signs, ropes, cables, or any other items shall not be attached to any preserved tree, per City Code Section 12.64.040.

    - Equipment Operation and Storage: Operating heavy machinery around the root zones of trees will increase soil compaction, which decreases soil aeration and subsequently reduces water penetration in the soil. All heavy equipment and vehicles shall stay out of the fenced tree protection zone, per City Code Section 12.64.040, unless where specifically approved in writing by the City Arborist and under the supervision of an ISA Certified Arborist.

- Storage and Disposal: Do not store or discard any supply or material, including paint, lumber, concrete overflow, etc. within the fenced tree protection zone, per City Code Section 12.64.040. Remove all foreign debris within the fenced tree protection zone; it is important to leave the duff, mulch, chips, and leaves around the retained trees for water retention and nutrients. Avoid draining or leakage of equipment fluids near retained trees. Fluids such as: gasoline, diesel, oils, hydraulics, brake and transmission fluids, paint, paint thinners, and glycol (anti-freeze) should be disposed of properly. Keep equipment parked outside of the fenced tree protection zone of retained trees to avoid the possibility of leakage of equipment fluids into the soil. The effect of toxic equipment fluids on the retained trees could lead to decline and death.

- Grade Changes: Grade changes of more than 2 feet, including adding fill, are not permitted within 30 feet of a tree's drip line, per City Code Section 12.64.040, without special written authorization and under supervision by an ISA Certified Arborist. Lowering the grade within 30 feet of a tree's dripline will necessitate cutting main support and feeder roots, jeopardizing the health and structural integrity of the tree(s). Adding soil, even temporarily, on top of the existing grade will compact the soil further, and decrease both water and air availability to the trees' roots.

- Moving Construction Materials: Care will be taken when moving equipment or supplies near the trees, especially overhead. Avoid damaging the tree(s) when transporting or moving construction materials and working around retained trees (even outside of the fenced tree protection zone). Above ground tree parts that could be damaged (e.g., low limbs, trunks) should be flagged with red ribbon. If contact with the tree crown is unavoidable, prune the conflicting branch(es) using ISA or ANSI A300 standards.

- Trenching: Unless a Tree Permit has been issued for trenching activity within the fenced tree protection zone, all trenching shall be outside of the fenced tree protection zone, per City Code Section 12.64.040. Roots primarily extend in a horizontal direction forming a support base to the tree similar to the base of a wineglass. Where trenching is necessary in areas that contain tree roots, prune the roots using a Dosko root pruner or equivalent. All cuts should be clean and sharp, to minimize ripping, tearing, and fracturing of the root system. The trench should be made no deeper than necessary.

- Irrigation: Trees that have been substantially root pruned (30% or more of their root zone) will require irrigation for the first twelve months. The first irrigation should be within 48 hours of root pruning. They should be deep watered every two to four weeks during the summer and once a month

during the winter (adjust accordingly with rainfall). One irrigation cycle should thoroughly soak the root zones of the trees to a depth of 3 feet. The soil should dry out between watering; avoid keeping a consistently wet soil. Designate one person to be responsible for irrigating (deep watering) the trees. Check soil moisture with a soil probe before irrigating. Irrigation is best accomplished by installing a temporary above ground micro-spray system that will distribute water slowly (to avoid runoff) and evenly throughout the fenced tree protection zone but never soaking the area located within 6- feet of the tree trunk, especially during warmer months. For trees not subject to root pruning activity, the amount of irrigation provided shall not be changed from that which was provided prior to the commencement of construction activity, per City Code Section 12.64.040.

- Canopy Pruning: Do not prune any of the trees, unless a Tree Permit has been issued for pruning activity, per City Code Section 12.64.040. This will help protect the tree canopies from damage. All pruning shall be completed under the direction of an ISA Certified Arborist and using ISA guidelines. Only conflicting limbs and dead wood shall be removed from tree canopies where a Tree Permit has been issued.

- Washing: Periodic washing of the foliage is recommended during construction but no more than once every two weeks. Washing should include the upper and lower leaf surfaces and the tree bark. This should continue beyond the construction period at a less frequent rate with a high-powered hose only in the early morning hours. Washing will help control dirt/dust buildup that can lead to mite and insect infestations.

- Inspection: An ISA Certified Arborist shall inspect the preserved Heritage and City Street Trees on at least a monthly basis for the duration of construction activity. A summary report documenting observations and management recommendations shall be submitted to the owner following each inspection. Photographs of representative trees are to be included in each report. If feasible, aerial inspection for trees #49, 50, 66, 67, and 76 should be conducted during construction if the construction period extends to the recommended inspection period, as identified by Tree Associates.

Discussion

Some commenters requested that Mitigation Measure 4.3-2 commit the Project to plant all 147 ground level replacement trees identified in the Conceptual Landscape Plan. As discussed in the DEIR, the Project will result in the removal of approximately four City Street trees and four Heritage Trees. In evaluating the significance of biological resource impacts, CEQA focuses on impacts to endangered, rare or threatened animal or plant species and wildlife habitat of significant value. (See, e.g., CEQA Guidelines, § 15380 [defining endangered, rare or threatened animal or plant species]; Pub. Resources Code, § 21155.1

[defining habitat of significant value].) CEQA does not require impacts to landscape features, such as landscape trees that are not endangered, rare or threatened, to be considered a potentially significant impact on the environment. Therefore, in evaluating a project's biological resource impacts and specifically a project's impacts on trees, a lead agency is necessarily tasked with distinguishing between impacts to existing landscaping that is considered less than significant and impacts to existing landscaping with the potential to be significant, such as heritage and street trees as identified in the City Code. (*Cal. Oak Foundation v. Regents of U. of Cal.* (2010) 188 Cal.App.4th 227, 282 [upholding the lead agency's determination that trees proposed for removal were not sensitive biological resources because "the urban setting… lessened their biological significance" and, therefore, finding the lead agency was "not required to adopt mitigation measures with respect to these trees before certifying the EIR"]; see also *Lotus v. Dept. of Transportation* (2014) 223 Cal.App.4th 645, 648-649, 655 [distinguishing between "old growth" redwood trees (defined as redwoods with a diameter of 30 inches or more) and redwoods not meeting that definition and citing to the State Parks Natural Resources Handbook, which establishes measures to safeguard protected trees].)

The project site is classified as "urban" according to CDFW's California Wildlife Habitat Relationship System and is "comprised entirely of ornamental landscaping." (DEIR, App. L [Biological Resources Assessment Report], p. 4.) With the exception of some City Street Trees located along the perimeter of the site and along the abandoned O Street and 6th Street walkways, the majority of existing trees were planted in conjunction with development of the project site in the 1960s. No trees on-site are protected federally or by the state, and the majority of trees on and around the site are nonnative species. (*Ibid.*) Pursuant to City Code standards, thirty-nine trees located along the perimeter of the site qualify as City Street Trees and 17 trees located on or around the perimeter of the project site, including six of the City Street Trees, qualify as Heritage Trees; thus, in total 50 trees on and surrounding the site qualify as either or both a City Street or Heritage Tree.

The Project is anticipated to require removal of 8 of the 50 existing City Street and Heritage Trees which are in good or fair condition. (DEIR, p. 4.3-24). In addition to these eight trees, the
Project requires the removal of approximately 190 additional trees that do not qualify as City Street or Heritage Trees. Only 6 of these 190 trees are native to the Sacramento region. After removal of these trees, the project site and immediately adjacent area will contain approximately 92 trees with a canopy cover extending approximately 104,993 square feet or approximately 2.4 acres of canopy cover. In consideration of the urban nature of the project site, that over 95% of the trees proposed for removal are not native to the Sacramento region, and that the project area and immediately adjacent areas will include over 2.4 acres of canopy cover even after development of the Project, the City Council finds that the Project's impact on trees can be reduced to a less than significant level through replacement of the City Street and Heritage Trees to be removed as required by Mitigation Measure 4.3-2 and that no further mitigation is required to address impacts to trees on the project site that do not meet the City definition of a City Street or Heritage Tree.

However, the Conceptual Landscape Plan for the Project includes 147 ground level trees and the project applicant has informed the City that it is committed to including a minimum of 147 ground level trees in the final landscape plan developed for the Project. Therefore, Mitigation Measure 4.3-2 has been revised to expressly commit the Project to replant a minimum of 147 ground level trees. While the City Council finds that the Project's tree related impacts are less than significant even without this additional replanting commitment, the commitment to replant 147 ground level trees will further reduce the Project's tree impacts. As explained in the DEIR, after replanting 147 ground level trees, the Project is anticipated to achieve a similar level of canopy cover as exists today within 20 to 25 years. (DEIR, p. 4.3-24.) Through implementation of Mitigation Measure 4.3-2, the Project's tree-related impacts are less than significant.

Additionally, some commenters also requested that Mitigation Measure 4.3-2 be revised to include the tree protection measures set forth in the Arborist Report (Appen. M to the DEIR). Mitigation Measure 4.3-2, as set forth in the DEIR, referenced the Arborist Report and required the Project comply with the tree protection measures included in the Arborist Report. In response to comments requesting the Arborist Report measures be set forth directly in Mitigation Measure 4.3-2, the mitigation measure has been revised to list the Arborist Report measures. No further mitigation is required to address the Project's tree-related impacts.

- **Mitigation Measure 4.4-2 (Documentation, Interpretation, Reuse, and the Retention/Rehabilitation of the Residential Tower) has been revised as follows:**

a) Documentation / Recordation

Prior to any structural demolition, site clearing, and removal activities, the project applicant shall retain a professional who meets the Secretary of the of the Interior's Standards for Architectural History, and also with professional experience involving historic landscapes, to prepare written and photograph documentation of the Capitol Towers and garden apartments complex, features, and landscape areas identified as historic.

The documentation for the property shall be prepared based on the National Park Services' (NPS) Historic American Building Survey (HABS) and Historic American Landscape Survey (HALS) Historical Report Guidelines. This type of documentation is based on a combination of HABS/HALS standards ~~(Levels II and III)~~ and HABS/HALS Photography Guidelines (November 2011).[1] <u>The level of documentation will be determined in coordination with the City' Preservation</u>

[1] National Parks Service, "Federal Register, Vol. 68, No. 139, Monday July 21, 2003 Notices, Department of the Interior, National Park Service Guidelines for Architectural and Engineering Documentation," http://www.nps.gov/hdp/standards/standards_regs.pdf (accessed June 2015); National Parks Service, "Heritage Documentation Programs HABS/HAER/HALS Photography Guidelines, November 2011 (updated June 2015)," Standards and Guidelines, http://www.nps.gov/hdp/standards/PhotoGuidelines.pdf (accessed June 2015).

Director, based on the availability of original materials describing development of the project site.

The written historical data for this documentation shall follow the appropriate HABS / HALS ~~Level II~~ standards and shall be derived from the following documents, as well as other documents as appropriate: "National Register of Historic Places Registration Form for Capitol Towers", prepared by Flora Chou (Page & Turnbull) in 2014 and "Historical Resource Inventory and Evaluation Report, Capitol Towers Apartments, 1500 7th Street, Sacramento, California 95814," prepared by JRP in 2014.

The written data shall be accompanied by select existing drawings available in the City's files or provided to the City from another organization's historic resource files or databases. Existing drawing may include drawings of the buildings, sites, structures, objects, or landscapes, whether original construction or later alterations, that portray or depict the historic value of significance of the site. The existing drawings will be photographed with large-format negatives or photographically reproduced on Mylar. Efforts shall be made to locate original construction drawings or plans of the property during the period of significance. If located, these drawings shall be photographed, reproduced, and included in the dataset.

HABS/HALS standard large format or another method providing equivalent or greater archival quality shall be used. If digital photography is used, the ink and paper combinations for printing photographs must be in compliance with NPS photo policy and have a permanency rating 150 years or greater. Photographs shall be labeled with text reading "Capitol Towers Apartments, 1500 7th Street, Sacramento" and photograph number on the back of the photograph.

Photograph views for the dataset shall include images of the entire Capitol Towers property, including the garden apartments, high-rise tower building, landscape and site features. The dataset shall include: (a) contextual views capturing the spatial relations of buildings, structures, the landscape features, and of the site; (b) views of each side of each building and interior views, where possible; (c) oblique views of buildings; (d) detail views of character-defining features, including features on the interiors of some buildings; (e) detail views of each portion of the site and its landscape features, including views from within the site and from the exterior of the site, from the north, east, south, and west. The size of this property shall require up to 20 contextual views, 20 views of the garden apartments (including both the two- and three-story types,) 5 views of the high-rise; 10 views of the landscape (hardscape and softscape), 5 views of the Overhoff sculptural wall, and 15 detail views of the site. All views shall be referenced on a photographic key. This photograph key shall be on a map of the

property and shall show the photograph number with an arrow indicating the direction of the view. Historic photographs shall also be collected, reproduced, and included in the dataset. The project applicant shall provide funding to acquire the appropriate use and copyrights to reproduce historic images in the dataset for public dissemination.

All written and photograph documentation of the Capitol Towers and garden apartments complex shall be approved by the City's Preservation Director prior to any site clearing, demolition and removal activities.

Two copies of the HABS/HALS documentation of the Capitol Towers complex shall be disseminated on archival quality paper to appropriate repositories and interested parties, per below. If digital prints are produced, the ink and paper combinations for printing photographs must be in compliance with NPS photo policy and have a permanency rating of 150 years or greater. Additional copies shall be in PDF files/ format copies produced on archival DVDs or otherwise distributed electronically. The distribution of the documentation shall include the California Historical Resources Information System (CHRIS) North Central Information Center (NCIC) at California State University Sacramento; the California State Library in Sacramento; University of California, Berkeley, Bancroft Library; The Cultural Landscape Foundation; the Center for Sacramento History (CSH); the Sacramento County Historical Society; the Sacramento Public Library's Sacramento Room; and other local repositories determined by the City's Preservation Director.

b) Interpretation

Under the direction of the City's Preservation Director and the City's History Manager, measures shall be implemented to interpret the property's historic significance for the public and for future residents that will inhabit the Sacramento Commons property. All costs associated with interpretation of the property shall be borne by the project applicant. Interpretive and/or educational exhibits shall include, but are not necessarily limited to the following items:

Permanent Interpretive Displays/Signage/Plaques

The project applicant shall install a minimum of four interpretive displays within the project that provides information to visitors and residents regarding the history of the Capitol Towers and garden apartments complex within the context of Sacramento urban renewal and redevelopment. These displays shall be integrated into the design of the public areas of the new housing and retail, and they shall be installed in highly visible public areas, such as the property's plazas or in public areas on the interiors of buildings. The displays shall include historical data taken from the HABS/HALS

documentation or other cited archival sources and shall also include photographs. Displayed photographs shall include information about the subject, the date of the photograph, and photo credit / photo collection credit.

The project applicant shall install at least one sign or plaque in each quadrant of the superblock to indicate that the Capitol Towers and garden apartment complex once stood on the property. Additional signage / plaques may be installed to provide interpretive information about any historical photographs installed on the property.

Interpretive displays and the signage/plaques installed on the property shall be sufficiently durable to withstand typical Sacramento weather conditions for at least 10 years, like fiber-glass embedment panels, that meet National Park Service signage standards.[2] Displays and signage/plaques shall be lighted, installed at pedestrian-friendly locations, and be of adequate size to attract the interested pedestrian. Maintenance of displays and signage/plaques shall be included in the management of the common area maintenance program on the property.

Exhibits and Written Documentation for Publication on a Website

The project applicant shall publish exhibits and written documentation on a website regarding the history of the urban renewal and redevelopment, with a focus on the Capitol Towers property. This information shall be derived from the HABS/HALS documentation, the "NRHP Registration Form for Capitol Towers", prepared by Flora Chou (Page & Turnbull) in 2014, and the "Historical Resource Inventory and Evaluation Report, Capitol Towers Apartments, 1500 7th Street, Sacramento, California 95814," prepared by JRP in 2014, and other sources as appropriate. The publication shall include text and photographs. The text shall be written for popular consumption, but shall also be properly cited following historical documentation standards. The City's Preservation Director and History Manager shall review and comment on the text prior to its publication to ensure that it is accurate and sufficiently detailed.

Publication of these materials shall be either on an independent website maintained by the project applicant (or its successor property management company) or be donated for posting on a local history website, such as www.sacramentohistory.org (owned by

[2] National Park Service, *Wayside Exhibits: A Guide to Developing Outdoor Interpretive Exhibits* (October 2009), Harpers Ferry Center Wayside Exhibits <http://www.nps.gov/hfc/pdf/waysides/wayside-guide-first-edition.pdf> [as of August 2014].

CSH). The materials shall be available on the website for at least two years following each phase of demolition of the garden apartments at Capitol Towers.

Traveling Exhibit

The project applicant shall have a traveling exhibit prepared to be offered for display, for the most part at appropriate California and Sacramento venues including, but not limited to, museums, archives with exhibit space, public libraries, and public buildings, and potentially also to university or national agency exhibition spaces. The exhibit shall include panels or boards that provide information and photographs regarding Capitol Towers and garden apartments within the context of Sacramento's urban renewal and redevelopment history. The exhibit shall include three panels that can be, self-standing, wall mounted or displayed on easels.

c) Salvage and Reuse

The project applicant shall consult with the City's Preservation Director and the Director of the Sacramento Metropolitan Arts ~~Council~~ Commission regarding the salvage and reuse of one of the character-defining landscape features: the Overhoff sculptural wall. The wall shall be retained on the property ~~either in situ~~, ~~or~~ and moved ~~and reused~~ within the property as shown in Figure 2.1 of the PUD Guidelines, "Conceptual Ground Level Landscape Plan." ~~at an appropriate location~~. Although the wall is modular, if moved, the panels shall stay together in the same placement order and configuration as they exist today. The condition of the object will be assessed by a qualified art conservator prior to moving the sculpture and the moving work shall be undertaken by a qualified art conservator with extensive experience in the relocation of sculptures and moving works of art.

d) Retention & Rehabilitation of Residential Tower

Prior to commencement of any alterations or renovations to the existing Capitol Towers residential tower, not proposed for demolition as a part of the Project, the City Preservation Director shall review and confirm the renovations comply with the Secretary of the Interior's (SOI) Standards for the *Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* or the *SOI Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* unless this contributing resource is removed from the California Register of Historic Places. Additional guidance for this work may include the *Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings.*

Discussion

The revisions to Mitigation Measure 4.4-2(a) were made in response to comments by the City's Preservation Commission requesting that Level I Historic American Building Survey documentation be prepared for the Project. The level of effort, content, and format of documentation should be appropriate to the nature and significance of the subject property. The project site was formally determined eligible at the local level of significance and not the national level. As explained in the guidelines: "Generally, Level I documentation is required for nationally significant buildings defined as National Historic Landmarks, and primary historic units of the National Park Service" (68 Fed.Reg. 43159-43162 (July 21, 2003).). Therefore, a HABS/HALS Level II would typically be prepared for a project site like Capitol Towers (Patricia Ambacher, MA, AECOM Architectural Historian). However, the guidelines further explain that Level I measured drawings may be appropriate where existing drawings are unavailable (68 Fed.Reg. 43159-43162 (July 21, 2003).). Thus, notwithstanding that Level II is typically prepared for a project site determined eligible for local and not national significance, the City Council finds that the level of HABS/HALS documentation prepared for the project site should be selected in coordination with the City's Preservation Director after existing drawings available in historical resources archives including, but not limited to, Inventory of William W. Wurster/Wurster, Bernardi & Emmons Collection, 1922-1974 (Collection Number 1976-2) and Inventory of the Vernon DeMars Collection, 1933-2005 (Collection Number 2005-13), University of California, Berkeley Environmental Design Archives are assessed. Through selection of the HABS/HALS documentation level based on the quality and quantity of existing drawings and not solely based on its local rather than national level of significance, Mitigation Measure 4.4-2(a) ensures that the most appropriate HABS/HALS documentation standard will be used for the Project.

Additionally, revisions were made to Mitigation Measure 4.4-2(c) to provide further clarity on the process required to relocate the Overhoff sculptural wall in response to comments on the relocation process. Relocation of historical structures is a preservation method that has been used successfully within Sacramento and throughout the globe to avoid demolition of historic structures. (See International Association of Structural Movers, <http://www.iasm.org/about/> [as of June 9, 2015]; see also Preservation Brief 15, *Preservation of Historic Concrete* (2007) <http://www.nps.gov/tps/how-to-preserve/briefs/15-concrete.htm> [as of June 9, 2015].) The Overhoff sculptural wall is made up of eight distinct concrete relief panels that can be successfully moved as individual panels. Mitigation Measure 4.4-2(c) requires Overhoff sculptural wall relocation to be completed in consultation with the City's Preservation Director and the Director of the Sacramento Metropolitan Arts Commission. As part of the consultation, the City's Preservation Director and the Director of the Sacramento Metropolitan Arts Commission will require all work be undertaken by a qualified expert with extensive experience.

- **Mitigation Measure 4.4-3 (Protect or Mitigate Impacts on Prehistoric and Historic-Era Archaeological Resources and Human Remains) has been revised as follows:**

To minimize potential adverse effects on prehistoric and historic-era archaeological resources and human remains, the project applicant shall implement the following measures:

- The project applicant shall retain a qualified archaeologist (i.e., defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology) to carry out all actions related to archaeological resources and human remains.

    - Before the start of any ground-disturbing activities, the qualified archaeologist shall conduct a cultural resources sensitivity training session for all construction personnel working on the project. The training shall include an overview of potential cultural resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified archaeologist for further evaluation and action; and shall describe penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources.

    - <u>For work involving installation of deep foundations or subsurface building systems that would occur more than 10 feet below the surface, a professional archaeologist shall monitor excavation and shall have the authority to stop work and, in consultation with the City's Preservation Director, direct appropriate actions, consistent with state laws and regulations, if remains or items of archaeological interest are discovered.</u>

    - If items of historic or archaeological interest are discovered, the construction contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and immediately notify the qualified archaeologist for further evaluation and action. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, baked clay fragments, or faunal food remains (bone and shell); stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and/or battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include the remains of stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. After cessation of excavation, the contractor shall immediately contact the City of Sacramento Community Development Department. The contractor shall not resume work until authorization is received from the City after the following steps are taken:

- Any inadvertent discovery of cultural resources during construction shall be evaluated by a qualified archaeologist.

- If it is determined that the project could damage an historical resource or a unique archaeological resource (as defined pursuant to the State CEQA Guidelines), mitigation shall be implemented in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the State CEQA Guidelines, with a preference for preservation in place. Consistent with State CEQA Guidelines Section 15126.4(b)(3), this may be accomplished by planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, the archaeologist shall develop a treatment plan in consultation with the City and appropriate Native American representatives (if the find is of Native American origin). The treatment plan shall include, but shall not be limited to, data recovery procedures based on location and type of archaeological resources discovered, procedures for disposition or curation of recovered materials, and a preparation and submittal of report of findings to the City's Preservation Director and the North Central Information Center of the California Historical Resources Information System.

- If a human bone or bone of unknown origin is found during construction, pursuant to Section 5097.98 of the State Public Resources Code and Section 7050.5 of the State Health and Safety Code~~Public Resources Code Section 5024.1~~, all work shall stop in the vicinity of the find, and the county coroner and the City of Sacramento Community Development Department shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-interment of the human remains and any associated artifacts. No additional work is to take place within 100 feet of the find until the identified appropriate actions have taken place.

Discussion

The potential for landforms to harbor buried archaeological components is primarily a function of the landforms age and origin. In general, landforms and associated deposits forming during the Holocene have some potential to contain buried sites, whereas latest Pleistocene or older landforms have virtually no potential. Ongoing work in a variety of settings throughout central California demonstrates the relationship between Holocene landforms, buried soils, and buried archaeological components

The project site occurs along the Sacramento River, near its confluence with the American River. Such fluvial settings are considered highly sensitive for archaeological sites because: (1) these are physical settings that were attractive to human settlement prehistorically and historically; (2) alluvial deposits in proximity to active and relict streams are commonly Holocene in age (<11,700 year) and may contain buried soils and or archaeological components; and (3) depositional processes resulting in aggradation of alluvium can be conducive to preserving archaeological contexts.

The project area occurs in a flood basin, and surficial deposits at the project site consist of levee and basin deposits of Holocene age, underlain by the Pleistocene Riverbank Formation. The Holocene alluvium likely extends several 10's of feet below the ground surface. ENGEO (2014) also reports that approximately the top 10 feet of soil at the project site consists of artificial fill material that was likely placed in the 1860s, though the thickness probably varies across the area. According to online soil data, the NRCS maps the entire project site as "urban" land (See Natural Resources Conservation Service, Web Soil Survey <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx> [as of April 22, 2015].)

Most of the recorded archaeological sites in proximity to the project area are associated with topographically higher ground locations to the east. Excavations at the site of Sacramento City Hall revealed a Late Prehistoric component(s) in the upper part of bar and swale alluvium that is at least six meters thick displaying multiple buried soils. This suggests the alluvium was derived by episodic deposition followed by periods of geomorphic stability, subaerial weathering, and soil formation during which the landform(s) would have been available for occupation.

While no archaeological sites have been recorded in the immediate project area, the Holocene alluvium is considered highly sensitive for harboring buried and intact archaeological components. Based on the age of the alluvium, components could feasibly occur at the contact of the alluvium and underlying Riverbank, or within the alluvium. The DEIR recognized the potential for unanticipated discovery of archaeological resources at the site. See analysis for Impact 4.4-3, DEIR pages 4.4-27 and following. However, the historic fill has been subjected to substantial disturbance, and the likelihood for intact archaeological deposits is low.

Mitigation Measure 4.4-3 has been amended to require on-site qualified archaeologist monitoring for all project-related excavation below the 10-foot depth. Mitigation Measure 4.4-3, establishing procedures to be followed in the event of such discovery, would be implemented as part of project approval. Implementation of Mitigation Measure 4.4-3 will reduce the Project's potential impact to unknown prehistoric and historic-era archaeological resources and human remains to a less-than-significant level.

- **Mitigation Measure 4.9-3a (Minimize Construction Noise throughout Entire Construction Phase) has been revised as follows:**

The project applicant and contractor/s shall implement the following measures throughout all construction phases.

- Machines or equipment and related noise associated with erection (including excavation) and demolition of any building or structure shall not start up prior to 7:00 a.m., Monday through Saturday, and prior to 9 a.m. on Sunday, and shall not continue past 6:00 p.m. on any day of the week;
- Delivery of materials and equipment shall not occur prior to 7:00 a.m. nor past 6:00 p.m., Monday through Saturday, and prior to 9:30 a.m. nor past 6 p.m. on Sunday;
- Stationary construction equipment, such as compressors, shall be placed away from nearby residential areas and shall provide acoustical shielding.
- Idling times of equipment shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes.
- The project applicant or its designee shall designate a disturbance coordinator and conspicuously post this person's number around the project site, in adjacent public spaces, and in construction notifications. The disturbance coordinator, in coordination with the City, shall be responsible for responding to any complaints about construction activities. The disturbance coordinator shall receive all public complaints about construction disturbances and, in coordination with the City, is responsible for determining the cause of the complaint and implementation of feasible measures to alleviate the problem.
- The project applicant or its designee shall provide written notice to all known occupied noise-sensitive uses (i.e., residential, educational, religious, lodging) within 400 feet of the edge of the project site boundary at least 2 weeks prior to the start of each construction phase of the construction schedule, as well as the name and contact information of the project disturbance coordinator.

Discussion

The City Code generally authorizes building construction noise between the hours of seven a.m. and six p.m., on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, and between nine a.m. and six p.m. on Sunday without any maximum noise limit. (City Code, § 8.68.080.) Mitigation Measure 4.9-3b has been revised to clarify that these City Code time limits apply to project construction. In addition to these standard City requirements, Mitigation Measure 4.9-3b places a 75 dB Leq limit on pile driving noise (the only

construction related noise source with the potential to exceed 75 dB Leq) and identifies feasible measures to ensure pile driving noise does not exceed this maximum noise level.

While some commenters proposed additional limitation on construction hours, the City has evaluated construction related noise impacts caused by construction activities that are in compliance with the City's Noise Ordinance in the Master EIRs prepared for the 2030 General Plan and 2035 General Plan. The City concludes noise sources, including construction noise, operating within the City Noise Ordinance parameters are acceptable within the City and will result in a less than significant impact. In consideration of the project site's urban setting, the maximum potential level of increase anticipated to result from construction of the Project, the intermittent and temporary nature of construction noise, the prohibition on noise levels in exceedance of 75 Leq as set forth in Mitigation Measure 4.9-3b, and the time limitations set forth in Mitigation Measure 4.9-3a, the City finds potential noise impacts of the Project to be less than significant after mitigation.

- **Mitigation Measure 4.11-5 (Prepare and Implement Construction Traffic Management Plan) has been revised as follows:**

  Before commencing demolition or construction~~issuance of demolition permit and beginning of construction for the project site~~, the project applicant shall prepare a Traffic Management Plan consistent with the requirements of sections 12.20.020 and 12.20.030 of the Sacramento Municipal Code that will be subject to review and approval by the City Department of Public Works, in consultation with Caltrans, affected transit providers, and local emergency service providers including the City of Sacramento Fire and Police departments. The plan shall ensure maintenance of acceptable operating conditions on local roadways and transit routes. In consideration of the number and type of trucks proposed to be used during construction, the proposed location of staging areas, and potential need for street closures as identified in the Traffic Management Plan, at a minimum, the plan shall:

  - Require the installation of temporary traffic control devices as specified in the California Department of Transportation Manual of Traffic Controls for Construction and Maintenance Work Zones.

  - Require construction truck trips to occur outside of peak morning and evening commute hours.

  - Limit the number of lane closures associated with project construction during peak hours.

- Establish construction truck routes that limit truck traffic on local roadways as defined and identified on Figure ~~M2B~~ M4A in the City's ~~2030~~ 2035 General Plan.

- Establish pedestrian, bicycle, and vehicular (including transit and emergency vehicle) detour routes where necessary to avoid conflicts with construction zone operations and traffic.

- Provide safe driveway access during construction for pedestrian, bicycle, and vehicles (including transit and emergency vehicle) through the use of steel plates, signage, and similar measures.

- Require temporary directional signage along all construction zone detour routes for motorists, pedestrians, and bicyclists.

- Identify construction coordinator and post contact information for construction coordinator in visible locations on the project site. Construction coordinator shall receive complaints and coordinate on resolution of issues with the City.

- Describe, in coordination Sacramento Regional Transit, the approach to minimizing conflicts between light rail and construction traffic on 7th Street.

- Require construction fencing around the work area perimeter.

A copy of the Traffic Management Plan as approved by City Department of Public Works shall be submitted to local emergency response agencies and these agencies shall be notified at least 30 days before the commencement of construction that would partially or fully obstruct roadways. In addition, construction activities are not to interfere with transit service and pedestrian access to transit stops and light rail.

Discussion

Some commenters requested traffic mitigation be adopted to address construction traffic-related impacts of the Project. As set forth in Mitigation Measure 4.11-5, the Project is required to prepare a Construction Traffic Management Plan that complies with the requirements of City Code sections 12.20.020 and 12.20.030. As stated in the mitigation measure, purposes of the plan include establishing "pedestrian, bicycle, and vehicular (including transit and emergency vehicle) detour routes where necessary to avoid conflicts with construction zone operations and traffic" and providing "safe driveway access during construction for pedestrian, bicycle, and vehicles (including transit and emergency vehicle) through the use of steel plates, signage, and similar measures." Therefore, as drafted,

Mitigation Measure 4.11-5 requires a traffic management plan be prepared that provides for safe and reasonable access and egress to residents of the project site and adjacent properties. Additionally, Mitigation Measure 4.11-5 has been revised to provide additional details regarding the Plan as set forth above. No further mitigation is required to address construction traffic-related impacts of the Project.

Other requests for revisions to, or addition of, mitigation measures did not require changes to the DEIR. For example:

- Some commenters requested that Mitigation Measure 4.3-2 be revised to require 48-inch box replacement trees be provided to mitigate the impact resulting from the removal of four Heritage Trees. According to the biologists and arborists that analyzed the Project's impacts on trees, smaller plant stock will adapt better to given site conditions, and invariably have a higher survival rate than larger specimens. Consequently, the effects of shock are lessened, and smaller trees may catch up to trees installed at a larger size. To the extent commenters are concerned with aesthetic impacts of planting smaller versus larger trees, the City is committed to implementing the best tree mitigation plan to provide adequate canopy coverage and, therefore, will not require 48-inch box trees that may achieve short term aesthetic benefits but are less desirable long term. No revisions to the mitigation measure are required.

- Some commenters requested that Mitigation Measure 4.3-2 be revised to identify the species that will be planted as replacement trees. Tree species selection will be finalized in coordination with the City's Urban Forester and will include species that are suitable to the post-development environment, as identified in Arborist Report and Mitigation Measure 4.3-2. Tree species selection will consider planting stock (size and quality), available growing space, shade tolerance, root damage potential, growth rates, shading capacity, biogenic emissions, and aesthetics, amongst other factors.

  Additionally, based on species-specific biogenic emissions data provided by Selectree (Urban Forest Ecosystems Institute, *Selectree: A Tree Selection Guide* (January 12, 2012) Cal. Polytechnic State U., San Louis Obispo <selectree.calpoly.edu> [as of June 9, 2015]), the project site's existing trees are classified with the following ratings for volatile organic compound emissions: Low (90 trees]31%]), Moderate (63 trees [22%]), High (81 trees [28%]), and Unknown (57 trees [19%]). The retained trees exhibit a similar distribution of classifications: Low (34 trees [37%]), Moderate (24 trees [26%]), High (27 trees [29%]), and Unknown (7 trees [8%]). Tree species selection for newly-planted trees will be conducted in coordination with the City's Urban Forester and will need to balance multiple site constraints and demands, including, but not limited to, growth rate, shade tolerance, species diversity, aerosol emissions, and carbon sequestration rates. Based on the biogenic emissions classifications of retained trees and species diversity of newly-planted trees, it is expected that the post development tree

population will exhibit a similar distribution of biogenic emissions classifications as the existing tree population. No revisions to the mitigation measure are required.

- Some commenters requested that Mitigation Measure 4.3-2 be revised to require trees to be monitored for more than 5 years. To ensure trees are retained and maintained on-site after planting, Mitigation Measure 4.3-2 requires on-site trees in the post-construction landscape (including Heritage Trees, City Street Trees, and Non- Heritage Trees proposed for retention plus newly-planted landscape trees) to be monitored by an ISA Certified Arborist for 5 years. This requirement will be enforced through the MMRP. The 5 year monitoring requirement included in Mitigation Measure 4.3-2 is adequate to ensure trees included in the post-project development landscape are capable of thriving on-site and exceeds the establishment timeframe of three years for City Street Tree replacements, as presented in City Code Section 12.56.050.

  The City does not require a private property owner to maintain trees on their properties in perpetuity. Today, under baseline conditions, the applicant is under no obligation to maintain non-protected trees on the project site or to replant non-protected trees that are removed. The City finds that the 5 year monitoring requirement included in Mitigation Measure 4.3-2 provides an added benefit to the City and the neighborhood and is sufficient to ensure trees that are replanted as part of the Project are healthy and capable of long-term success on the site. No revisions to the mitigation measure are required.

- The City's Preservation Commission requested that Mitigation Measure 4.4-2(b) be revised to ensure that a qualified museum professional be involved in preparation of the interpretive materials and exhibits. Pursuant to mitigation measure 4.4-2(b), all measures to interpret the property's historic significance shall be implemented "under the direction of the City's Preservation Director and the City's History Manager." Pursuant to City Code section 15.152.020, "History manager" means "the manager of Sacramento archives and museum collection or designee." Therefore, Mitigation Measure 4.4-2b already requires interpretive materials be prepared under direction of a museum professional. No revisions to the mitigation measure are required.

- The City's Preservation Commission and State Historic Preservation Office suggested a mitigation measure requiring the City to establish, and the Project to pay into, a Preservation Fund to pay for surveys of similar resources and fund projects to stabilize or restore similar resource in Sacramento. The City does not have an established preservation fee program by which it could accept monetary contributions earmarked for future historic preservation efforts, nor does the City have any policies providing for the assessment of ad hoc fees for historic preservation purposes. In *Anderson First v. City of Anderson* (2005) 130 Cal.App.4th 1173 the court explained that, to satisfy CEQA, fee-based mitigation must "specify

an amount" that will be paid by the Project applicant, and the payment of the fee must be "part of a reasonable, enforceable plan or program that is sufficiently tied to the actual mitigation of the [] impacts at issue." (*Id.* p. 1188). A mitigation measure requiring payment of an unspecified amount of money at an unspecified time in compliance with a not-yet-developed funding mechanism is inadequate because it is impossible to evaluate its effectiveness. (*San Franciscans for Reasonable Growth v. City & County of S.F.* (1984) 151 Cal.App.3d 61, 79 (*San Franciscans*).) In addition, mitigation must be "roughly proportional" to the impacts actually caused by the project in question. (CEQA Guidelines, § 15126.4(a)(4)(B); *Dolan v. City of Tigard* (1994) 512 U.S. 374.) In consideration of these requirements, the City Council finds that mitigation requiring payment into a preservation fee program is infeasible.

CEQA defines feasibility to include the ability to implement a mitigation measure in "a reasonable period of time." (CEQA Guidelines, § 15364.) Because the City does not currently have a preservation fund in place, a nexus study would be required to establish such a fund. Preparation of a nexus study would require a substantial amount of time and City resources and be subject to its own future City review and approval process. The City Council finds that the time that would be required to develop and adopt a fund and associated nexus study does not constitute a "reasonable period of time" in the context of imposing a preservation fund payment requirement as mitigation for the Project.

The City desires that project applicant commence development of the Project quickly in order to address the existing housing deficit in Downtown Sacramento. Not only would imposing a mitigation measure requiring payment into a not-yet-established preservation fund be inadequate mitigation pursuant to CEQA, but such a requirement could delay development of the Project because the City believes it is unlikely that the project applicant would move forward with constructing the Project until the City informed the project applicant of the amount owed pursuant to the yet-to-be developed preservation fund program. For this reason, the City Council finds that adopting a preservation fund contribution mitigation measure is infeasible for the purposes of CEQA. Moreover, as explained in the FEIR, even if the City had a preservation fund and could feasibly require the Project pay into that fund, the loss of significant historic resources would remain a significant and unavoidable impact. (FEIR, p. 2-725.)

- Neighbors of Capitol Towers and Villas requested the developer post a bond to pay for damage to adjacent properties caused subsidence. The analysis contained in the DEIR relied, in part, on a Geotechnical Feasibility Report prepared for the project by ENGEO (2014) (see DEIR Appen. E.) As is common in the downtown Sacramento area, soils generally consist of artificial fill brought in the mid- to late 1800s and a high groundwater table is present. The low structural bearing capacity of the artificial fill, the high groundwater table, and the potential for liquefaction,

subsidence, and settlement must be addressed for any project constructed in the downtown area.

Because the project may include basements with finish floors about 12 feet below existing grade, groundwater may be encountered during construction. ENGEO's May 27, 2014 Geotechnical Feasibility Report (see DEIR Appen. E.) included groundwater data from nearby monitoring wells over the period 2002 to 2013 that showed the low groundwater level has been about 18 to 20 feet below the site grade. ENGEO expects that any dewatering required during basement construction would not likely lower the groundwater below these maximum recorded depths. Since "ground settlement" from groundwater drawdown can only be triggered by lowering the groundwater below historic "low" levels, it is ENGEO's opinion that dewatering for the Project is unlikely to cause off-site ground settlement and distress to adjacent properties.

Additionally, the Project is required by California law to be designed and constructed to meet the standards contained in the California Building Standards Code (CBC), the requirements of which have been specifically designed to reduce geotechnical hazards and address and provide for building safety and stability, including subsidence and settlement. Compliance with City building codes requires the project applicant to submit all proposed plans for building design and site construction to the City for engineering review and to determine compliance with the CBC. Thus, the Project would not result in adverse effects to nearby buildings related to settlement or subsidence, and the impact would be less than significant. Therefore, there is no need to locate the proposed buildings further away from the Pioneer and Bridgeway Towers (however, it should be noted that the project applicant agreed to setback the mid-rise buildings an additional 15 feet for a total of a 55 foot building-to-building setback), nor is there a need to require that the project applicant to post a bond. No additional mitigation measure is required.

- Neighbors of Capitol Towers and Villas requested the developer post a bond to pay for damage to adjacent properties caused by pile driving vibrations. Vibration amplitudes are commonly expressed in peak particle velocity (PPV) or root-mean-square (RMS) vibration velocity. PPV is defined as the maximum instantaneous positive or negative peak of a vibration signal. PPV is typically used in the monitoring of transient and impact vibration and has been found to correlate well to the stresses experienced by buildings. PPV and RMS vibration velocity are normally described in inches per second (in/sec). (DEIR Appen. G, p. G1-6.) The City's significance thresholds provide that a vibration impact will be considered significant if the project would expose adjacent residential and commercial areas to vibration peak particle velocities greater than 0.5 inch per second or vibration levels greater than 80 VdB due to project construction, or expose historic buildings and archaeological sites to vibration-peak particle velocities greater than 0.2 inch per second due to project construction. (DEIR, pp. 4.9-21 to 4.9-22.)

As discussed in the Draft EIR, depending on the technique selected for installation of building piles the maximum vibration levels for the closest sensitive receptors could range from 0.04 PPV/81 VdB for the closest sensitive receptors within 40 feet located north of proposed construction sites if auger drilling pile installation is used to 0.75 PPV/106 VdB for the closest sensitive receptors within 40 feet located north of proposed construction sites for the upper range if impact pile driving is selected. Foundations of the high-rise buildings proposed on-site would typically require the installation of deep piles to support the weight of the building and to protect the building against uplift that could be created by shallow groundwater that is present in the vicinity of the project site. There are a variety of options for installation of foundation piles, including typical impact pile driving, as well as a pre-drilled method, including either cast-in-place or auger displacement. Once the building design is finalized, it will be possible to select the method of pile installation. For the purposes of the EIR, because it is not known what type of methods would be used to install the building piles, vibration associated with this activity could result in vibration levels greater than 80 VdB. Therefore, the impact was considered potentially significant, requiring mitigation. (DEIR, pp. 4.9-29 to 4.9-30.)

Mitigation Measure 4.9-3b requires that, prior to the issuance of any building permit for any phase of project development that proposes the use of piles for foundations, the project applicant shall develop a Noise and Vibration Control Plan, in coordination with an acoustical consultant, geotechnical engineer, and construction contractor, and submit the Plan to the City's Chief Building Official for review and approval. The Plan shall include measures demonstrated to ensure construction noise exposure for the interior of nearby residential dwellings is less than 75 dB Leq and that vibration exposure for all buildings and vibration-sensitive receptors in the vicinity of the project site is less than 0.5 PPV and 80 VdB and less than 0.2 PPV for historic buildings. These performance standards shall take into account the reduction in vibration exposure that would occur through coupling loss provided by each affected building structure. Measures and controls shall be identified based on project-specific final design plans, and may include, but are not limited to, some or all of the following:

► Buffer distances, the type of equipment, and use of attenuation devices designed to minimize construction noise and vibration for adjacent existing buildings and noise- and vibration-sensitive uses.

► Use of "quiet" pile driving technology (such as auger displacement installation).

(DEIR, p. 4.9-29.)

The 75 dB Leq noise limit and vibration exposure limit for all buildings and vibration-sensitive receptors in the vicinity of the project site of less than 0.5 PPV and 80 VdB and less than 0.2 PPV for historic buildings is achievable through the above techniques. With implementation of Mitigation Measure 4.9-3b, the impact of vibration on properties adjacent to the project area would be reduced to less than significant. (DEIR, p. 4.9-28.) As such, no additional mitigation is required to address the commenters' property concern. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

- A commenter requested a mitigation measure require the public be allowed to use the Project's pedestrian walkways. The DEIR evaluates the Project's potential impact on park and recreation services within the City (see Impact 4.10-4, pages 4.10-24 to 4.10-27). The City Council finds that the Project's park and recreation services impact is less than significant because the Project is required to make its fair-share contribution to meet the City's Parkland Dedication and Park Development Impact Fee requirements. Additionally, the project description includes providing a variety of onsite recreational and parkland amenities available to residents, guests, and the general public. The Development Agreement for the Project affirms this commitment by requiring the project applicant post signs at each entrance to the property in conformance with Civil Code section 1008 to inform the public of the right to and limitations on reasonable use of and access through the Project's East-West Promenade, North-South Promenade, central plaza, and community plaza on the northwest corner of P Street and 7th Street. No mitigation is required to address this issue.

  Additionally, some commenters expressed concern that a draft Development Agreement, and not the final agreement, was available at the time the Planning and Design Commission made its recommendation on the Project. The City Code does not require the Planning and Design Commission to review the final Development Agreement prior to making its recommendation on a project. Moreover, such a requirement would be impractical as a Development Agreement is by its nature a document that evolves through the project review process. A detailed draft Development Agreement was available to the Planning and Design Commission at the time of its action and the staff report to the Planning and Design Commission clearly identified additional terms that City staff recommended for inclusion in the Development Agreement. The Planning and Design Commission considered the Development Agreement and additional terms recommended by City staff. After consideration of those materials, the Planning and Design Commission made recommendations on Development Agreement and its terms. The Development Agreement, including additional terms recommended by City staff and the Planning and Design Commission, was made available for public review and was included in the City's staff report to the City Council. Members of the public had the opportunity to comment on the terms of the Development Agreement prior to the City Council's final action on the Project. CEQA requires no more. Indeed, an EIR need only identify a development agreement in the

project description to "alert[] persons interested in [the agreement] to its relevance in the decisionmaking process." (*Native Sun/Lyon Communities v. City of Escondido* (1993) 15 Cal.App.4th 892, 909.) "Provisions of the [development] agreement [are] not germane to an analysis of the project's potential environmental impacts." (*Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 927.)

- The California Department of Transportation requested the Project pay a development fee to provide for State Highway System improvements. As discussed in the DEIR (see Draft EIR, pages 4-4 to 4-16), because the Project meets the criteria relating to SB 375, SB 226, and SB 743, the Project qualifies for several CEQA streamlining benefits. Pursuant to SB 375, "project-specific or cumulative impacts from cars and light-duty truck trips generated by the Project on the regional transportation network are not required to be referenced, described, or discussed." (Pub. Resources Code, § 21159.28, subd. (a)(2); Sen. Bill No. 375 (2007-2008 Reg. Sess.).) As such, the Project does not result in an impact to the State Highway System, and no mitigation is required pursuant to CEQA. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

  Furthermore, while not required to address transportation impacts pursuant to CEQA, the Project is required to pay the Downtown Development Impact Fee established by Chapter 18.36 of the City Code. As explained in the Railyards/Richards/Downtown Nexus Study, the fee is designed to fund improvements to freeways, major roads, and rail/transit. The Downtown Development Impact Fee provides funding for freeway improvements such as the Richards I-5 interchange and I-5 auxiliary lanes.

- Some commenters requested a traffic management plan be implemented during operation of the Project to ensure safe and reasonable access and egress to and from 500 N Street and 515 P Street. A post-construction traffic management plan to address traffic associated with project operations is not required. The operation of the hotel at 7th Street and N Street was included in the DEIR Chapter 4.11.7 (Other Considerations) which provides a full evaluation about project access points and on site circulation. (See DEIR starting on page 4.11-69.) Additionally, it shows that inbound queuing for the hotel drop off/ pick up area can accommodate up to nine vehicles without spillback onto N Street causing any impact to the roadways or adjacent properties. The City maintains standard specifications for construction of streets which are required to be adhered to for projects within the City limits and designed, in part, to protect the public safety in the context of new improvements.

  The Project was reviewed for appropriate access and circulation, with appropriate considerations and recommendations included in the DEIR. (See pages 4.11-69 through 4.11-72.) Potential queuing was reviewed to determine whether high congestion periods would restrict movements at the upstream intersections. None of these queues were found to affect upstream intersections other than those

specifically mentioned above. Therefore, the driveways are expected to operate satisfactorily at the locations specified in the Project's site plan and under minor street stop control. (DEIR, page 4.11-72.) Most of the proposed development's driveways provide direct access to parking garages. A final design of the driveways' throat depth and the set back of the gates will be subject to review and approval by the department of Public Works to ensure against adverse effects on access. (DEIR, page 4.11-72.) No revisions to the mitigation measure are required.

- Some commenters suggested additional mitigation should be required to ensure safe pedestrian access to transit stops during construction. Sacramento Regional Transit (RT) has a process to evaluate transit stops and provide specifications for replacement stops that may be required if proposed projects would adversely affect access during construction or operational phases. RT staff would visit the proposed locations for transit stops to determine the need for replacement bus stops and to ensure that any needed replacement stops meet RT's operational standards including requirements to meet Americans with Disabilities Act (ADA) guidelines. RT provides specifications for replacement stops, including concrete pad space and electrical connections and RT directs their contractor to move and install benches or shelters after the pads are in place, as determined necessary.

  Additionally, Mitigation Measure 4.11-5 requires the Project to prepare a Traffic Management Plan in consultation with affected transit providers. The mitigation measure requires the Traffic Management Plan ensure maintenance of acceptable operating conditions on transit routes including consideration of potential conflicts between light rail and construction traffic on 7th Street. The mitigation measure expressly prohibits construction activities from interfering with transit services and pedestrian access to transit stops and light rail. City Code sections 12.20.020 and 12.20.030 provide detailed requirements for preparation of the Traffic Management Plan including preparation of diagrams, identification of traffic control measures, and time limitations to address both vehicular and pedestrian traffic issues. (City Code, § 12.20.020(A).) Moreover, City Code provides the Director of Public Works with the authority to modify the Traffic Management Plan or to suspend construction to further address vehicular or pedestrian safety concerns if necessary. (City Code, § 12.20.030(C).) While construction traffic may result in some level of inconvenience to pedestrians including transit users, after implementation of Mitigation Measure 4.11-5 including preparation of a Traffic Management Plan pursuant to the requirements of City Code sections 12.20.020 and 12.20.030, consistent with the conclusion in the EIR, the City Council finds that impact will be less than significant. As such, no additional mitigation is required to address the commenters' property concern. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

- Some commenters suggested that the City should require the developer to comply with the Uniform Relocation Act and fund the costs of moving households, or to otherwise address impacts associated with relocating existing residents. The

project is not federally funded and not, therefore, subject to the requirements of the Uniform Relocation Act. However, the City provides a comprehensive discussion of population and housing that is related to the comment in Chapter 3 of the DEIR.

Consistent with the proposed phased approach to project construction, demolition of
garden apartment units would also be phased. As a result, the 206 units would be vacated gradually over several years. The EIR analyzed the potential for displacement of existing residents, and concluded that given the size of the housing market in the Central City and the region, the temporary loss of 206 units during construction of the Project would not lead to a significant loss of housing or displacement for the residents of the 206 units. Due to the availability of existing vacant housing units in and near the Central City, and additional housing units now under construction (to be completed within the timeframe that leases would be terminated on the 206 units), the Project would not necessitate the construction of new housing units elsewhere to accommodate these residents. (DEIR, pp. 3-33 to 3-34.) Therefore, phased demolition of garden apartment units and associated residential displacement does not have the potential to result in a significant housing or displacement related impact. Pursuant to CEQA, no mitigation is required where impacts are found to be less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

- Some commenters requested the City require the mid-rise buildings proposed adjacent to Pioneer Towers and 500 N Street be reduced in height and/or to be set back further from the Pioneer Towers and 500 N Street properties. The Legislature has declared that aesthetic impacts of infill projects located within Transit Priority Areas shall not be considered significant effects on the environment. (Pub. Resources Code, § 21099(d).) Furthermore, California landowners do not have a right of access to air, light and view over adjoining property. (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 493.) For this reason, CEQA case law has establishes that, where CEQA requires consideration of aesthetic impacts, the focus of the analysis should be on public views not private views. For example, in *Association for Protection of Env. Values in Ukiah v. City of Ukiah* (1991) 2 Cal.App.4th 720, 734, the court concluded it "must differentiate between adverse impacts upon particular persons and adverse impacts upon the environment of persons in general." For this reason, "obstruction of a few private views in a project's immediate vicinity is not generally regarded as a significant environmental impact." (*Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 902; *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 279; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 586-587.)

  The City Council finds that the building heights and building bases proposed for the mid-rise buildings included in the Project are consistent with the Central Core Design Guidelines and the intent of the City's 2030 and 2035 General Plans and

Zoning Code. Moreover, the project applicant has agreed to increase the minimum building-to-building setback from 40 feet to 55 feet; approximately a 40% increase in the overall minimum setback as compared to its original proposal. As a result, the Project will provide a minimum of a 35-foot setback from the 500 N Street property line as compared to the 20-foot setback provided on the 500 N Street side of the property line. The City Council finds that the building heights and setbacks proposed by the Project do not have the potential to result in any potentially significant impacts. Pursuant to CEQA, no mitigation is required where impacts are found to be less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

- Some commenters requested the City require the Project provide mixed-income housing and/or housing affordable to middle income residents. The project site in its existing condition contains 409 market rate housing units, including 206 low-rise units and 203 high-rise tower units. The Project removes the 206 low-rise units and adds diverse housing opportunities within the CBD including approximately 965 to 1,061 for-sale condominiums and rental housing units in high-rise towers, mid-rise buildings, and live/work units. Units will vary from studio apartments to three bedroom units. As a result, the Project will provide a variety of housing options in the CBD capable of meeting the needs of future residents in downtown Sacramento of various age ranges and family sizes.

  Units will continue to be offered at market rates. Due to the cost of construction, amenities and associated market demand, and preferred locations, rents in high-rise towers are typically higher than rents in low-rise and mid-rise buildings. The Project not only adds a substantial number of high-rise residential units to the project site (up to 756 units), but also replaces the 206 low-rise units with 462 mid-rise units. By adding a substantial number of mid-rise and high-rise units to downtown Sacramento and increasing the overall housing stock within the Central City, the Project will increase the amount of housing available within the Central City affordable to a diverse range of residents as compared to existing conditions.

  Additionally, pursuant to City Code, the Project is not required to provide affordable housing units. Section 17.712 of the City of Sacramento Zoning Code ("Mixed Income Housing") is intended to ensure that residential projects in new growth areas contain a defined percentage of housing affordable to low income and very low income households, to provide for a program of incentives and local public subsidy to assist in this effort, and to implement the mixed income policies of the Housing Element of the City General Plan. By applying the Mixed Income Housing Ordinance only to new growth areas, the City recognized the unique and sometimes limiting development environments that are present in building in existing neighborhoods. Such challenges include site availability and site specific infrastructure needs, as well as housing needs and overall cost burden on the feasibility of certain geographically situated infill development projects. The project site is not identified as a "new growth area" in the Mixed Income Housing

Code and is, therefore, not required to include affordable housing. No additional mitigation measures are required to address these comments.

- Some commenters have suggested that the Project is not economically feasible and, as a result, may be abandoned by the project applicant before the Project is completed. These concerns are not required to be addressed further in the EIR. "[N]othing in CEQA requir[es] an EIR to discuss the economic feasibility of a project…." (*Sierra Club*, *supra*, 121 Cal.App.4th at p. 1503, citing *San Franciscans*, *supra,* 102 Cal.App.4th at pp. 689-690; *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1462, fn. 13.) "As is self-evident from its name, an EIR is an environmental impact report…. not one that must include ultimate determinations of economic feasibility." (*Flanders Foundation, supra,* 202 Cal.App.4th at p. 618 [rejecting petitioner's argument that an economic feasibility analysis undertaken by the city was required to be included within either the draft or final EIR], quoting *San Franciscans*, *supra*, 102 Cal.App.4th at p. 689.) Similarly, "nothing in CEQA requir[es]… an agency to receive public input on the question of economic feasibility." (*Sierra Club*, *supra*, 121 Cal.App.4th at p. 1506.)

  Courts have stated that "no proponent, whether wealthy or not, is likely to proceed with a project that will not be economically successful." (*Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 449; see also *Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 883, fn. 5.) CEQA does not require an EIR to evaluate every asserted "possibility" as the mere possibility of an unintended consequence does not constitute a "legal or factual basis" to conclude an EIR is deficient. (*Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 222; see also *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1145 ["Agencies are not required to engage in 'sheer speculation' as to future environmental consequences of the project."]). Therefore, CEQA does not require the EIR to address the unlikely scenario in which the Project is commenced, but not completed. Nevertheless, the Development Agreement includes a term requiring a bond as security to ensure against adverse aesthetic impacts arising from demolition of buildings, uncompleted grading and/or improvements from any phase of development of the Project in the unlikely event a phase is not completed.

As is often evident from the specific responses given to specific suggestions, City staff and consultants spent time carefully considering and weighing proposed or requested mitigation language. As discussed above, in some instances, the City revised mitigation measures in accordance with comments. In other instances, the City developed alternative mitigation language or proposed conditions of approval addressing the same issue that was of concern to a commenter. In no instance, however, did the City fail to take seriously a suggestion made by a commenter or fail to appreciate the sincere effort that went into the formulation of suggestions. The City Council finds that the mitigation measures included in the DEIR, as amended by the FEIR in response to comments, reduce nearly all significant and potentially significant project impacts to a less than significant level. Two effects, Impact 4.4-2 and Impact 4.4-6, however,

cannot be avoided by the adoption of feasible mitigation measures or alternatives, and thus remain significant and unavoidable. These unavoidable significant effects can be substantially lessened by the adoption of feasible mitigation measures, but will not be reduced to a less than significant level. For reasons set forth in Section XVIII *infra*, however, the City Council has determined that overriding economic, social, and other considerations outweigh the significant, unavoidable effect of the project.

B. Revisions to the EIR

After the FEIR was released, the City identified a few issue in the EIR requiring further clarification. These corrections are provided below:

- In the DEIR, the Summary of Project Impacts and Mitigation Measures (Table E0-1) lists an Impact 4.1-8. (DEIR, p. ES-6.) Impact 4.1-8, as identified in the table, is identical to Impact 4.1-7 and is deleted from the table as shown below:

Impacts	**Significance Before Mitigation**	**Mitigation Measures**	**Significance After Mitigation**
4.1-7 Cumulative impact related to a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	LCC	None required.	N/A
~~4.1-8 Cumulative impact related to a new source of substantial light or glare which would adversely affect day or nighttime views in the area.~~	~~LCC~~	~~None required.~~	~~N/A~~

(DEIR, p. ES-6.)

- In Chapter 4.1 (Aesthetics), Impact 4.1-7 is identified as Impact 4.1-8. The impact number is, therefore, revised as follows:

IMPACT 4.1-~~8~~7	Cumulative impact related to a new source of substantial light or glare which would adversely affect day or nighttime views in the area. *The impact is considered less than cumulatively considerable.*

(DEIR, p. 4.1-23.)

- Mitigation Measure 4.4-2 includes a footnote that references materials prepared by the National Parks Service. The website link to the "National Park Service Guidelines for Architectural and Engineering Documentation" has changed and the National Parks Service has updated the "Photography Guidelines." Therefore, the footnote is revised where referenced in the DEIR (p. 4.4-24) and FEIR (pp. 2-50, 2-606, 3-6) as follows:

National Parks Service, "Federal Register, Vol. 68, No. 139, Monday July 21, 2003 Notices, Department of the Interior,
National Park Service Guidelines for Architectural and Engineering Documentation,"
~~http://www.nps.gov/history/hdp/standards/standards_regs.pdf (accessed August 2014)~~
http://www.nps.gov/hdp/standards/standards_regs.pdf (accessed June 2015); National Parks Service, "Heritage
Documentation Programs HABS/HAER/HALS Photography Guidelines, November 2011 (updated June 2015)," Standards and Guidelines,
~~http://www.cr.nps.gov/hdp/standards/PhotoGuidelines_Nov2011.pdf (accessed August 2014)~~ http://www.nps.gov/hdp/standards/PhotoGuidelines.pdf (accessed June 2015).

- Mitigation Measure 4.4-3, as set forth on pages 4.4-29 through 4.4-30 of the DEIR (and in the Executive Summary), is revised to clarify the applicable laws relating to discovery of human bone or bone of unknown origin. Specifically, the final bullet of the mitigation measure is revised to read:

… If a human bone or bone of unknown origin is found during construction, ~~pursuant to Public Resources Code Section 5024.1~~pursuant to Section 5097.98 of the Public Resources Code and Section 7050.5 of the Health and Safety Code, all work shall stop in the vicinity of the find, and the county coroner and the City of Sacramento Community Development Department shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-interment of the human remains and any associated artifacts. No additional work is to take place within 100 feet of the find until the identified appropriate actions have taken place.

(DEIR, p. 4.4-30.)

- As explained in Response to Comment A6-6, the City has determined that although HABS/HALS Level II would typically be prepared for a project site like Capitol Towers (Patricia Ambacher, MA, AECOM Architectural Historian), the Level of HABS and HALS documentation required by Mitigation Measure 4.4-2 should be determined in coordination with the City's Preservation Director based on the availability of original materials describing development of the project site. Consistent with this conclusion, Response to Comment H1-49 (FEIR, pp. 2-605 through 2-607), Master Responses 2.3.4.4 (FEIR, p. 2-724), and Master Response 2.3.12.4 (FEIR, p. 2-797) are revised as follows:

As explained by the National Park Service in Guidelines for Architectural and Engineering Documentation issued in 2003, "Generally, Level I documentation is required for nationally significant buildings defined as National Historic Landmarks, and primary historic units of the National Park Service" (Federal Register, Vol. 68, No 139, July 21, 2003). Therefore, a HABS/HALS Level II would typically be prepared for a project site like Capitol Towers (Patricia Ambacher, MA, AECOM Architectural Historian). ~~Therefore, HABS/HALS Level I is not necessary for the proposed project. The level of effort, content, and possibly format of the documentation should be appropriate to the nature and significance of the subject property. Because the project site was formally determined eligible at the local level of significance and not the national level [Roland-Nawi 2015:3], a HABS/HALS Level II is appropriate.~~ Level II would provide adequate documentation, including copies of the existing architectural plans of the property, for the designated repositories identified, with the help of the City's Preservation Director. (Patricia Ambacher, MA, AECOM Architectural Historian). Additionally, t~~T~~he National Park Service Guidelines for Architectural and Engineering Documentation further explain that Level I measured drawings may be appropriate where existing drawings are unavailable. (Federal Register, Vol. 68, No 139, July 21, 2003). For the project, existing drawings are available for the project site. (Inventory of William W. Wurster/Wurster, Bernardi & Emmons Collection, 1922-1974 [Collection Number 1976-2] and Inventory of the Vernon DeMars Collection, 1933-2005 [Collection Number 2005-13], University of California, Berkeley Environmental Design Archives). ~~Therefore, for this additional reason preparation of new measured drawings, which is required with a Level I HABS/HALS, is unnecessary. The existing conditions of the property can be documented with photography.~~

The Mitigation Measure ~~already~~ requires that the documentation be prepared by a professional that meets the Secretary of Interior Standards for Architectural History and has experience with documenting landscapes. (Secretary of the Interior's Professional Qualifications Standards, 36 CFR Part 61, Appendix A). Consistent with this requirement, a professional photographer with demonstrated experience in photographing properties for HABS/HALS will be used. Additionally, Mitigation Measure 4.4-2 has been revised to require the Level of HABS and HALS documentation to be selected in coordination with the City's Preservation Director based on the availability of original materials describing development of the project site (page 4.4-24 of the DEIR)…

(FEIR, pp. 2-605 through 2-606, 2-724 through 2-725.)

As explained by the National Park Service in Guidelines for Architectural and Engineering Documentation issued in 2003, "[g]enerally, Level I documentation is required for nationally significant buildings defined as National Historic Landmarks, and primary historic units of the National Park Service." (Federal Register, Vol. 68, No 139, July 21, 2003).

The level of effort, content, and possibly format of the documentation should be appropriate to the nature and significance of the subject. ~~Because the project site was formally determined eligible at the local level of significance and not the national level [Roland-Nawi 2015:3], a~~

~~HABS/HALS Level II is proper.~~ HABS/HALS Level II would typically be prepared for a project site like Capitol Towers (Patricia Ambacher, MA, AECOM Architectural Historian). HABS/HALS Level II would provide adequate documentation, including copies of the existing architectural plans of the property, for the designated repositories identified, with the help of the City's Preservation Director. (Patricia Ambacher, MA, AECOM Architectural Historian). Additionally, the National Park Service's Guidelines for Architectural and Engineering Documentation further explain that Level I measured drawings may be appropriate where existing drawings are unavailable. (Federal Register, Vol. 68, No 139, July 21, 2003). Existing drawings are available for the project site. (Inventory of William W. Wurster/Wurster, Bernardi & Emmons Collection, 1922-1974 (Collection Number 1976-2) and Inventory of the Vernon DeMars Collection, 1933-2005 (Collection Number 2005-13), University of California, Berkeley Environmental Design Archives). ~~Therefore, preparation of new measured drawings, which is required with a Level I HABS/HALS, is unnecessary. The existing conditions of the property can be documented with photography.~~

Mitigation Measure 4.4- 2(a) ~~already~~ requires that the documentation be prepared by a professional that meets the Secretary of Interior Standards for Architectural History and has experience with documenting landscapes. [Secretary of the Interior's Professional Qualifications Standards, 36 CFR Part 61, Appendix A.] Consistent with this requirement, a professional photographer with demonstrated experience in photographing properties for HABS/HALS will be used. Additionally, Mitigation Measure 4.4-2 has been revised to require the level of documentation to be determined in coordination with the City's Preservation Director, based on the availability of original materials describing development of the project site.

(FEIR, pp. 2-796 through 2-797.)

The City Council ratifies, adopts, and incorporates into these findings the analysis and explanation in the Draft and Final EIRs, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Draft and Final EIRs relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings. Modifications and clarifications to the EIR made in these findings do not require recirculation of the EIR. (See, *infra*, Section XVI, for further findings concerning recirculation of the EIR.)

XIV. CEQA STREAMLINING APPLICABLE TO THE PROJECT

As explained in the EIR, the Legislature, recognizing that the state's greenhouse gas (GHG) emissions reductions goals cannot be met without improved land use and transportation policies, enacted a number of bills designed to promote development patterns that would encourage "land use and transportation planning decisions and investments that reduce vehicle miles traveled and contribute to the reductions in greenhouse gas emissions." (DEIR, pp. 4-4 and 4-5.) Senate Bill (SB) 375, SB 226 and SB 743, include CEQA streamlining provisions that apply to infill projects, such as the Project, based on density and proximity to

public transit. As demonstrated in the EIR and summarized below, the Project qualifies for a number of CEQA streamlining benefits pursuant to SB 375, SB 226 and SB 743.

SB 375

As demonstrated in the EIR, the Project qualifies as a transit priority project (TPP) because it satisfies the following criteria (see DEIR, p. 4-5; see also Public Resources Code, §§ 21155, subds. (a)-(b).):

1. Criteria One: Contains at least 50 percent residential use, based on total building square footage (and has a floor area ratio of at least 0.75 if between 26 and 50 percent of total building square footage is dedicated to non-residential uses);

2. Criteria Two: Includes a minimum density of at least 20 units per acre;

3. Criteria Three: Is located within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan; and

4. Criteria Four: Is consistent with the use, designation, density, building intensity and applicable policies specified for the project in a sustainable communities strategy (SCS) for which the Air Resources Board (ARB) has accepted the metropolitan planning organization's determination that the SCS would, if implemented, achieve the greenhouse gas emission reduction targets established by ARB.

Specifically, as discussed in the EIR, both the Hotel/Condo/Retail Scenario and the Condo/Retail Scenario include over 50 percent residential uses. (DEIR, p. 4-6.) In addition, the Project proposes an overall floor area ratio (FAR) of 3.2-3.3. (DEIR, p. 2-12.) Accordingly, the Hotel/Condo/Retail Scenario and Condo/Retail Scenario both satisfy Criterion One.

With regard to Criterion Two, the Hotel/Condo/Retail Scenario and Retail/Scenario both exceed the Criterion's minimum density of at least 20 units per acre (DEIR, p. 4-6.) As demonstrated by the Draft EIR, the total residential density of the project site under the Hotel/Condo/Retail Scenario is 135.6 units per acre and the total residential density of the project site under the Condo/Retail Scenario is 145.1 units per acre, well above Criterion Two's required TPP minimum density of 20 units per acre (DEIR, pp. 2-6, 2-7, 4-6.)

Moreover, the Project satisfies Criterion Three because it is located within one-half mile of a "major transit stop or high-quality transit corridor" (DEIR, p. 4-7; Pub. Resources Code § 21155, subd. (b)(3); see also Figure 4.11-3 and Table 4.11-3 of the Draft EIR, pp. 4-7, 4.11-10, 4.11-11.) Significantly, there are 26 Sacramento Regional Transit bus stops and 4 Sacramento Regional Transit Light Rail stops within a quarter-mile of the Project's center (DEIR, p. 4.11-10.) The closest major transit stop to the project site is a Light Rail Station located approximately 1 block away, at the intersection of 8th and O Streets – a split Light Rail Station serving the Sacramento Regional Transit District's Blue, Gold, and Green Lines (DEIR, pp. 4-7, 4.11-10.) There are also high-quality transit corridors located within one-half

mile of the project site, with several Sacramento Regional Transit bus routes that have service intervals no longer than 15 minutes during peak commute hours intersecting within one-half mile of the project site (e.g., routes 3, 30, 51, 86, and 88). (DEIR, pp. 4-7, 4.11-11.)

Finally, the Project satisfies Criterion Four because it is consistent with the use designation, density, building intensity, and applicable policies specified for the project area within SACOG's MTP/SCS. (DEIR, p. 4-7; Pub. Resources Code § 21155, subd. (a).) The Project is located within a Center and Corridor Community and a Sacramento Transit Priority Area (TPA), as identified in SACOG's MTP/SCS. (DEIR, pp. 3-5, 4-8.) The City concluded the Project is consistent with the MTP/SCS. SACOG has concurred with the City's conclusion that the project is consistent with SACOG's MTP/SCS, including all applicable land use designations, densities, building intensities, and policies applicable to the project site. (see FEIR, Appen. D [SACOG Letters]; see also DEIR, p. 4-8.)

In sum, the EIR properly concluded that the Project qualifies as a TPP because all of the SB 375 criteria are satisfied. The City has required the Project incorporate all feasible mitigation measures, performance standards, or criteria set forth in the applicable environmental impact reports; Appendix O of the Draft EIR identifies a complete cataloguing of relevant mitigation measures, performance standards, and criteria, as relevant to the Project (see DEIR, Appen. O; see also DEIR, pp. 4-8 to 4-9). Furthermore, as set forth in these findings, the City Council has made the findings required by Public Resources Code section 21081. Accordingly, the Project may avail itself to applicable streamlining benefits available under SB 375. (DEIR, pp. 4-8 to 4-9.) See Summary of Applicable Streamlining Benefits below for a summary of applicable streamlining benefits.

SB 226

As demonstrated in the EIR and summarized below, the Project qualifies for several streamlining benefits under SB 226 because meets:

1. Criteria One: Is an infill project;

2. Criteria Two: Is included in a region in which an environmental impact report was certified for a planning level decision;

3. Criteria Three: Is consistent with the use designation, density, building intensity, and applicable policies specified for the Project area in a qualifying SCS; and

4. Criteria Four: Satisfies all applicable statewide performance standards set forth in Appendix M of the CEQA Guidelines.

(See DEIR, pp. 4-10 to 4-11; see also Pub. Resources Code, § 21094, subd. (c).)

Specifically, the Project is an "infill project" as defined by SB 226, thereby satisfying Criterion One (see Pub. Resources Code § 21094.5, subd. (c]).) SB 226 defines an "infill project" as a project that includes one or a combination of uses (where less than half the project area is used for parking), that is proposed on a previously developed site within an urban area or on a vacant site where at least 75 percent of the perimeter is adjoined or separated by only an

improved public right-of-way from parcels that are developed with qualified urban uses (Pub. Resources Code § 21094.5, subd. (e)(1)(A)-(B).) The Project is currently developed with low-rise and high-rise residential units and all (100 percent) adjacent parcels surrounding the project site are developed with urban uses including residential, office, and commercial uses. (DEIR, pp. 2-5, 4-11.) Additionally, less than 34 percent of the project site is proposed to be used for parking (DEIR, p. 4-11.)

Consistent with Criterion Two, a planning level decision (both the City's 2030 and 2035 General Plans, and corresponding Master EIRs) has been certified and covers the project site (Public Resources Code § 21094.5, subd. [e][2]; DEIR, pages 4-9 to 4-11).

With regard to Criterion Three, the project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in SACOG's MTP/SCS (Pub. Resources Code § 21094.5, subd. (c)(1)(A); see also DEIR, pp. 4-8, 4-11.) Therefore, the Project satisfies Criterion Three. (See FEIR, Appen. D [SACOG Letters].)

Finally, as required by Criterion Four, the Project satisfies all applicable statewide performance standards set forth in CEQA Guidelines Appendix M (Pub. Resources Code § 21094.5, subd. (c)(2); see also DEIR, pp. 4-12 to 4-13.) The predominant uses contemplated by the Project under both the Hotel/Condo/Retail Scenario and the Condo/Retail Scenario are residential uses. Therefore, the Project must comply with the universal performance standards (CEQA Guidelines, Appen. M.III) and the residential standards (CEQA Guidelines, Appen. M.IV.A). The universal performance standards included in Appendix M require the lead agency to consider whether the infill project is located on a site included on the Cortese List (Gov. Code § 65962.5) or is located within 500 feet of a high volume roadway or other significant source of air pollution (CEQA Guidelines, Appen. M.III; see also DEIR, p. 4-12). The project site is not included on the Cortese list (see DEIR § 4.7, Hazards and Hazardous Materials), nor is it within 500 feet of a high volume roadway or other significant source of air pollution (see DEIR § 4.2, Air Quality). Moreover, the Project satisfies the residential performance standards because it is located within one-half mile of several existing major transit stop or stop along a high-quality transit corridor (CEQA Guidelines, Appen. M.IV.A; see also DEIR Figure 4.11-3 and Table 4.11-3, DEIR, pp. 4-7, 4.11-10, 4.11-11.) Accordingly, the Project meets all applicable universal and residential performance standards established by CEQA Guidelines Appendix M and satisfies Criterion Four. (DEIR, pp. 4-12 to 4-13.)

For these reasons, the project is a qualifying infill project that may avail itself of the streamlining benefits available under SB 226. The City Council also finds that, as articulated further in the initial study and EIR prepared for the Project as well as the Master EIRs for the 2030 and 2035 General Plans, numerous uniformly applicable development policies or standards have been adopted by the City to mitigate environmental effects of development projects within its jurisdiction that apply to the Project. The City Council incorporates by this reference the conclusions from the initial study and EIR prepared for the Project regarding the ability of applicable development policies or standards to reduce potential impacts of the Project to a less than significant level or to otherwise substantially mitigate such impacts. See Summary of Applicable Streamlining Benefits below for a summary of applicable streamlining benefits.

SB 743

As summarized below and demonstrated in the EIR, the Project qualifies for several streamlining benefits pursuant to SB 743 because the project:

1. Criteria One: Is a residential, mixed-use residential, or employment center project;

2. Criteria Two: Is located on an infill site; and

3. Criteria Three: Is located within a transit priority area.

(See DEIR, pp. 4-13 to 4-15; Pub. Resources Code § 21099, subd. (d).)

The Project satisfies Criterion One because it is a residential, mixed-use residential, or employment center project as defined in Public Resources Code Section 21099, subd. (d). SB 375 defines a residential or mixed-use residential project to include both a TPP and a "project where at least 75 percent of the total building square footage of the project consists of residential use" (Pub. Resources Code § 21159.28, subd, (d).) The Project qualifies as a TPP. Moreover, the Hotel/Condo/Retail Scenario and Condo/Retail Scenario both include over 75 percent residential uses. (*Ibid.*) Therefore, the project qualifies as a "residential" or "mixed-use residential" project.

The Project is located on an "infill site" as defined by SB 743, thereby satisfying Criterion Two (Pub. Resources Code § 21099, subd. (d).) Specifically, SB 743 defines "infill site" as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated by only an improved public right-of-way from, parcels that are developed with qualified urban uses" (Pub. Resources Code § 21099, subd. (a)(4).) As described in the EIR, the project site is currently developed with low-rise and high-rise residential units and all (100 percent) adjacent parcels surrounding the project site are developed with urban uses, including residential, office, and commercial uses. (DEIR, pp. 4-11, 4-14.)

Finally, the Project satisfies Criterion Three because the project site is located within a transit priority area, as defined by SB 743 (Pub. Resources Code § 21099, subd. (d).) A "transit priority area" under SB 743 is defined as an area within one-half mile of an existing or planned major transit stop that, if a planned transit stop, is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations. (Pub. Resources Code § 21099, subd. (a)(7).) As discussed in the EIR, the project site is located within one-half mile of several existing major transit stops. (DEIR, pp. 4-7, 4.11-10, 4-14.) See Summary of Applicable Streamlining Benefits below for a summary of applicable streamlining benefits.

Summary of Applicable Streamlining Benefits

As discussed in the EIR (see DEIR, pp. 4-4 to 4-16), because the Project meets the above-described criteria relating to SB 375, SB 226, and SB 743, the Project qualifies for several CEQA streamlining benefits including:

1. Cumulative effects that have been adequately addressed and mitigated in prior applicable certified environmental impact reports shall not be treated as cumulatively considerable for the Project (Pub. Resources Code § 21155.2, subd. (c)(1) [Sen. Bill. No. 375 (2007-2008 Reg. Sess.)]);

2. Growth-inducing impacts are not required to be referenced, described, or discussed (Pub. Resources Code §§ 21159.28, subd. (a)(1) [Sen. Bill. No. 375 (2007-2008 Reg. Sess.)], 21094.5, subd. (b)(2) [Sen. Bill. No. 226 (2010-2011 Reg. Sess.)]);

3. Project-specific or cumulative impacts from cars and light-duty truck trips generated by the Project on global warming are not required to be referenced, described, or discussed (Pub. Resources Code § 21159.28, subd. (a)(2) [Sen. Bill. No. 375 (2007-2008 Reg. Sess.)]);

4. Project-specific or cumulative impacts from cars and light-duty truck trips generated by the Project on the regional transportation network are not required to be referenced, described, or discussed (Pub. Resources Code § 21159.28, subd. (a)(2) [Sen. Bill. No. 375 (2007-2008 Reg. Sess.)]) and, in this context, the "regional transportation network" refers to all roadways contained in the regional SACOG model, which includes all State highway facilities, local arterials and many local collectors;

5. The EIR is only required to analyze those significant effects that uniformly applicable development policies or standards do not substantially mitigate, and that are either new specific effects or are more significant than a prior EIR analyzed (CEQA Guidelines § 15183.3, subd. (e); Pub. Resources Code § 21094.5, subd. (a)(2) [Sen. Bill. No. 226 (2010-2011 Reg. Sess.)]);

6. Off-site alternatives are not required to be analyzed (Pub. Resources Code § 21155.2, subd. (c)(2) [Sen. Bill. No. 375 (2007-2008 Reg. Sess.)]);

7. Alternative locations, densities, and building intensities to the project are not required to be analyzed (Pub. Resources Code § 21094.5, subd. (b)(1) [Sen. Bill. No. 226 (2010-2011 Reg. Sess.)]; see also Pub. Resources Code § 21159.28, subd. (b) [stating "reduced density alternatives are not required to be referenced, described, or discussed to address the effects of car and light-duty truck trips generated by the proposed project"] [Sen. Bill. No. 375 (2007-2008 Reg. Sess.)]);

8. Aesthetic impacts shall not be considered significant impacts on the environment (Pub. Resources Code § 21099, subd. (d)(1) [Sen Bill. No 743 (2012-2013 Reg. Sess.)]); and

9. Parking impacts shall not be considered significant impacts on the environment (*Ibid.* [Sen Bill. No 743 (2012-2013 Reg. Sess.)]).

(See DEIR, pp. 4-15 to 4-16.)

However, for the purposes of full disclosure the Draft EIR includes an analysis of growth inducement, aesthetics, parking, project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming and the regional transportation network, and considers alternatives that would reduce densities and building intensities below the amount contemplated by the Project. Therefore, even absent the applicable SB 375, SB 226 and SB 743 streamlining benefits, the City Council finds that the EIR is fully consistent with CEQA's requirements to analyze growth inducement, aesthetic impacts, parking impacts, project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming and the regional transportation network, and feasible alternatives.

XV. CONSISTENTY WITH SACRAMENTO 2035 GENERAL PLAN

The City of Sacramento's General Plan is the City's plan, identifying where and how the City will grow over the next 20 years. In addition, it describes how the City will continue to provide services, such as roads, sewer, water, drainage, parks, police and fire protection to existing development, while serving new development. The City's General Plan Implementation Program calls for an update of the General Plan every five years. This update schedule assures that the General Plan's policies, standards and strategic implementation program continue to reflect the City's vision and goals for growth and development, and are responsive to current economic, social, and technological trends.

A project is consistent with a general plan "if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." (*Corona-Norco Unified School Dist. V. City of Corona* (1993) 17 Cal.App.4th 985, 994.) A 100% match with each policy is not required. (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.) Rather, a lead agency must consider whether a project is "compatible with 'the objectives, policies, general land uses and programs specified in the general plan." (*Ibid.*) A project will only be considered inconsistent if it "conflicts with a general plan policy that is fundamental, mandatory, and clear." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782.)

This need for flexibility is also reflected in the City's 2035 General Plan, which acknowledges it is in the City's "sole discretion" to determine whether a project is consistent with the City's General Plan, and recognizes that "*a proposed project may be consistent with the overall objectives of the General Plan, but not with each and every policy thereof.*" (2035 General Plan, p. 1-1. Emphasis added.) The Project is consistent with the Sacramento 2035 General Plan, and such

consistency can be seen in the EIR, these findings, and is supported by substantial evidence in the record.

The 2035 General Plan Update Demonstrates the City's Commitment to "Smart Growth"
Starting in 2012, the City began an extensive technical review and update of the 2030 General Plan, which entailed an extensive outreach process engaging residents, businesses, developers, and decision-makers. (Resolution, p. 2.) The update "focused on updating policies and programs to reflect changed conditions and priorities, streamline development review and implementation, and address new state laws." (PC Staff Report, p. 1.) The 2035 General Plan includes updates to housing, employment, and population projections, consistent with the 2035 planning horizon for the Metropolitan Transportation Plan; incorporation of greenhouse gas reduction measures, as addressed in the City's Climate Action Plan; and updates to traffic modeling to implement flexible, context-sensitive level of service standards. (DEIR, pp. 2-1 – 2-2.) The overarching theme of the 2035 General Plan is the City's commitment to "grow smarter" and "live lightly" by "emphasizing infill development and reuse of underutilized properties, intensifying development near transit and mixed use activity centers, and locating jobs closer to housing, all of which increase walking, biking, and transit use, and reduce automobile use, gasoline consumption, air pollution, greenhouse gas emissions, and personal commute times." (Resolution, pp. 2-3, 4-5.)

Underlying the City's General Plan vision are six reoccurring themes:

- Making Great Places
- Growing Smarter
- Maintaining a Vibrant Economy
- Creating a Healthy City
- Living Lightly-Reducing Our "Carbon Footprint"
- Developing a Sustainable Future

(2035 GP, p. 1-3.)

The General Plan identifies a number of strategies to accomplish these overarching themes. As summarized by the City's March 3, 2015 resolution adopting the 2035 General Plan key strategies included in the 2035 General Plan consist of:

> . . .land use patterns that focus on infill and mixed-use development that support public transit and increase opportunities for pedestrians and bicycle use; quality design guidelines and "complete streets" to enhance neighborhood livability and the pedestrian experience; "green building" practices including the use of recycled construction materials and alternative energy systems; and adaption to climate change, such as reducing the impacts from the urban heat island effect, managing water use, and increasing flood protection. The 2035 General Plan also functions as a climate action plan.

The 2035 General Plan, which also serves as the City's Climate Action Plan (CAP), favors developing inward over expanding the outer edges of the City. (2035 GP, p. 1-3.) Significantly, the City's growth pattern under the 2035 General Plan is intended to be more

compact, include "infill" and reuse of underutilized properties, intensify development near transit and mixed-use activity centers, and locate jobs closer to housing, which will lead to increased walking and reduced automobile use. (Ibid.) In turn, gasoline consumption, air pollution, greenhouse gas emissions, and personal commute times will be reduced, which will facilitate and increase the time working parents have to spend with their children and families. (Ibid.) The 2035 General Plan incorporates strategies to reduce carbon emissions that contribute to climate change – such as mixed-use development that encourages walking and biking, use of public transit, "green building" practices, use of solar energy systems, architectural design to reduce heat gain, recycled construction materials and water conservation measures. In addition, the 2035 General Plan provides for coordination with the Sacramento Area Council of Governments (SACOG) in preparing its Metropolitan Transportation Plan and for consistency with SACOG's strategies in the City's planning efforts to facilitate and streamline the development of residential mixed-use projects and transit priority projects as a means of reducing Vehicle Miles Traveled (VMT) within the region. (2035 GP, p. 2-7; DEIR, p. 4.2-29.)

Sacramento Commons is In-Line with the City's 2035 General Plan Visions for Smart Growth

Sacramento Commons fits into the City's vision of compact "smart growth" – it furthers regional and citywide goals and policies within the Central City for mixed-use urban infill development close to transit. (DEIR, p. 3-3.) In order to achieve these overarching goals, the project includes up to 1,374 residential dwelling units (not counting hotel rooms, but including the 203 existing Capitol Towers units that would remain) under the Hotel/ Condo/ Retail Scenario and up to 1,470 residential dwelling units under the Condo/ Retail Scenario (which includes the 203 existing Capitol Towers units), as well as retail uses and parking. The project's land uses fall within the range of general uses and densities contemplated by the Metropolitan Transportation Plan/Sustainable Communities Strategy, the City's General Plan, and the City's Zoning Code.
Significantly, the project is located in close proximity to the City's largest employment center in the Sacramento Transit Priority Area within one-half mile of the 8th and O Light Rail Station, a split light rail station on the Sacramento Regional Transit District's Blue, Gold, and Green Lines. The station is located at the intersection of 8th and O Streets, with the split platforms located on each side of 8th Street where the line splits into one-way couplets. The project is located within a high-quality transit corridor with fixed-route bus service with service intervals no longer than 15 minutes during peak commute hours. Sacramento Regional Transit bus routes within ½ mile of the project include but are not limited to regular routes 2, 6, 15, 34, 38, 51, and 88, as well as peak-only routes 3, 7, 29, and 109. (See DEIR, Appendix A, p.5.)

A number of regional agencies and organizations have recognized the Project's integral role in achieving the 2035 General Plan's overarching goals. In June and December 2014, SACOG provided letters of concurrence with the City's determination that the proposed project is consistent with the Metropolitan Transportation Plan/Sustainable Communities Strategy for 2035. In addition, SACOG reviewed the project as it relates to the Preferred

Blueprint Scenario map and principles in May 2015. SACOG indicated that "compact development and a variety of housing options[, such as those proposed by the project,] are critical to Blueprint planning principles." (FEIR, Appendix D, p. 2.) Moreover, SACOG's modeling demonstrates that "residents of locations like [Sacramento Commons] will generate less than one-half the VMT of residents of typical suburban locations. The residents will also walk, bike, or use transit at two to four times the rate of residents of typical suburban locations . . . The reduced vehicle miles of travel will generate carbon dioxide (CO2) reductions per day resulting in significant greenhouse gas emissions saving for the region over time." (Ibid.)

In addition, the Sacramento Metropolitan Air Quality District (SMAQMD) recognizes that "Residents within this neighborhood generate less vehicle miles per capita than the regional average. The proposed project increases the share of the regional population within low VMT neighborhoods." (SMAQMD 2015, p. 1.) SMAQMD also acknowledged that the "project's pedestrian plazas create additional public pedestrian paths with[in] the central city, facilitating [a] walking and cycling environment." (Ibid.)

Sacramento Regional Transit (RT) commends the addition of Sacramento Commons to the existing City Center: "The Sacramento Commons project is a prime example of infill development near public transit that should rejuvenate [the Central City,] making it a more vibrant, livable area where people will be comfortable using transit at any time of day." (RT 2015, p. 1.) In fact, RT encourages the development of infill projects near light rail and bus service, so that as many individuals as possible may avail themselves of public transit. (Ibid.) RT indicated that the Sacramento Commons Project meets RT's Guidelines for Transit Oriented Development (TOD) because it includes: 136-145 dwelling units per acre; a mix of residential/commercial/retail development; good pedestrian access; bike storage for tenants; outdoor and public space; and live/work housing. (Ibid.)

The Sacramento Area Bicycle Advocates (SABA), a community organization that's mission is to improve the quality of life in the region by advocating for conditions to enable more people to safely choose bicycling as a form of everyday travel, has celebrated Sacramento Commons project efforts. (SABA 2015, p. 1.) SABA commented on the long-term benefits of increased residential densities and mixed uses that promote bicycle commuting. (Ibid.) SABA indicated that "Sacramento Commons can help turn downtown from an employment district for commuters who have little stake in the vitality of downtown into a bikeable, walkable 24-hour neighborhood for residents who value what downtown has to offer." (Ibid.)

In sum, the proposed project is consistent with the City's overarching desire to promote infill development. The proposed project constitutes an infill project because it is located within the Central Business District in close proximity to the City's largest employment center and directly adjacent to an existing light rail station. The proposed project is anticipated to incentivize walking and reduced automobile use as compared to citywide averages. (DEIR, p. 4.6-15; FEIR, p. 2-766.)

Below is a list of a few of the key General Plan goals and policies the Project is consistent with:

Environmental Resources

The Project is consistent with General Plan Environmental Resources goals such as 1.1 (water quality protection), 4.2 (growth and agriculture), and 6.1 (improved air quality). The Project incorporates mitigation measures that ensure compliance with the City's no net increase policy in stormwater runoff and that require project-specific design standards to be used to address such stormwater runoff. Additionally, the Project is an infill project intended to reduce development pressure in agricultural areas. And lastly, the Project complies with all state and federal ambient air quality standards, is designed to minimize air pollutant emissions, and would not exceed any relevant SMAQMD thresholds. (See Appen. O, pp. O-29 to O-32; see also FEIR, pp. 2-762 to 2-793.)

Land Use

The Project is consistent with General Plan Land Use goals and policies, including Land Use goals 5.5 (urban centers), 6.1 (corridors), and 7.1 (employment centers). The Project is a transit-oriented development project, which contains wide sidewalks to accommodate significant pedestrian traffic and the integration of public amenities and landscaping, and proposes residential development in the primary employment center of the downtown Sacramento. (See Appen. O, pp. O-76 to O-77; see also FEIR, pp. 2-762 to 2-793.) Furthermore, the 2035 General Plan expressly requires the City to consider whether a project is consistent with SACOG's MTP/SCS in order to incentive projects that the state, in enacting SB 375, has identified as capable of reducing greenhouse gas emissions and helping to align planning for transportation and housing needs. (2035 General Plan, Policy LU 1.2.3.) Consistent with this policy, the City considered whether the Project is consistent with SACOG's MTP/SCS, including all applicable land use designations, densities, building intensities, and policies applicable to the project site. The City concluded the Project is consistent with the MTP/SCS, and, to confirm its determination, the City submitted a request for SACOG to evaluate the Project. In response, SACOG has submitted several letters to the City, which establish that SACOG concurs with the City's conclusion that the project is consistent with SACOG's MTP/SCS, including all applicable land use designations, densities, building intensities, and policies applicable to the project site. (See FEIR, Appen. D [SACOG Letters]; see also DEIR, p. 4-8.)

Historic and Cultural Resources

The City of Sacramento recognizes the importance of its historic and cultural resources, which create a distinct sense of place for residents and visitors, as well as tell the story that differentiates Sacramento from other cities. The Project requires demolition of existing garden apartments and will replace much of the existing tree canopy and landscaping onsite, both of which are considered significant features of the Capitol Towers Historic District for the purposes of CEQA. However, the Project's impacts on historic features of the site as defined by CEQA does not render the Project inconsistent with the Historic and Cultural Resources Element of the General Plan. The General Plan acknowledge and authorizes

demolition of historic resources as a last resort under three separate circumstances: (1) rehabilitation of the resource is not feasible, (2) demolition is necessary to protect the health, safety, and welfare of its residents, or (3) the public benefits outweigh the loss of the historic resource. (See 2035 General Plan, Policy HCR 2.1.14.) The City Council finds that demolition of garden apartments and impacts existing landscaping are justified and consistent with the City's General Plan because the public benefits of the Project outweigh the loss of the historic resource. Specifically, development of the Project benefits the public and promotes a variety of local, regional, and statewide housing and environmental goals by providing substantial additional opportunities for Sacramento residents to live within walking distance of the City's largest employment center within Downtown Sacramento, helping to reduce average vehicle miles traveled and greenhouse gas emissions per resident within the City, increasing substantially the residential population located immediately adjacent to a light rail station serving all light rail lines operating within the City, and reducing pressures to develop on the urban fringes by providing a variety of for sale and rental options within the Central City. After carefully weighing these and other public benefits of the Project identified in the EIR and throughout these findings against the loss of the historic resource, the City Council finds that the public benefits outweigh the loss of and impacts to the historic resource. In addition, through implementation of Mitigation Measure 4.4-2, which requires salvage and reuse the Overhoff sculptural wall, preparation of interpretation materials, and development of exhibits to educate Project residents and the general public regarding the Capitol Towers Historic District, the Project will support and provide for public education and appreciation of the value of Sacramento's historic and cultural resources consistent with Goal HCR 3.1. (See Appen. O, pp. O-35 to O-40; see also FEIR, pp. 2-762 to 2-793.)

Mobility

The Project is consistent with General Plan Mobility goals and policies. The Project is consistent with and helps further Mobility goals 1 (circulation system), 2 (walkable communities), 3 (public transit), 4 (roadways), 5 (bikeways), and 6 (parking) because the Project site maintains existing public rights-of-ways, maintains and enhances the planted landscape buffer between the street and sidewalks at the perimeter of the project site, and ensures efficient vehicular access for the project so to minimize curb cuts and conflicts with the safety of pedestrians, bicyclists, and transit users. Additionally, the Project contains on-site parking in garages and structures that serve the needs of residents, occupants, and other guests to the community so not to dominate the street scene. (See Appen. O, pp. O-62 to O-74; see also FEIR, pp. 2-762 to 2-793.)

Housing

The Project is consistent with General Plan Housing Element goals and policies. The Project is consistent with and helps promote Housing goals relating to sustainability (H-1.1), diversity in housing size and types (H-1.2), and development of balanced communities (H-1.3). There is a shortage of market rate housing within Downtown Sacramento. Through the development of 965 to 1,061 market rate for-sale condominiums and rental housing units in high-rise towers, mid-rise buildings, and live/work units the Project will help to bring a greater

balance to the housing options within Downtown Sacramento. Additionally, as explained by the Legislative Analyst's Office (LAO) report "California's High Housing Costs" (March 17, 2015) (http://www.lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf), building less housing than people demand drives high housing costs. (LAO Report, p. 10.) The report further finds that through developing higher density projects, "the effect of high land costs on home prices and rents is reduced." (*Id.* at p. 13.) Based on the Project's density and overall proposed unit count, the Project constitutes a significant step towards addressing the existing housing shortage in Downtown Sacramento and associated pressures on housing costs. (See Appen. O, pp. O-74 to O-76; see also FEIR, pp. 2-762 to 2-793.)

Environmental Constraints

The Project is consistent with Environmental Constraints policies and goals relating to noise (Goal 3.1). This is because the Project would not exceed the City's General Plan noise land use compatibility standards, it would not increase noise levels during operations by more than the allowable noise increment, the maximum interior noise levels for noise sensitive uses during operations would be below the City's acceptable 45-dBA Ldn standard, and lastly the project site is not located in an area exposed to frequent, high-noise events (such as aircraft over-flights, or train and truck pass-bys). (See Appen. O, pp. O-44 to O-45; see also FEIR, pp. 2-762 to 2-793.)

General Plan Consistency Conclusion

The City Council finds that the Project, including the Development Agreement and the PUD Guidelines, is consistent with the Sacramento 2030 General Plan and the 2035 General Plan because it supports the overall objectives of the current 2035 General Plan and prior 2030 General Plan. As explained above, a 100% match is not required; "[c]onsistency is achieved if a project will further the overall objectives and policies of the General Plan and not obstruct their attainment…" (2035 General Plan, p. 1-1.) And it is in the City's discretion to find that *overall* consistency. (*North Coast Rivers Alliance v. Marin Municipal Water District Board* (2013) 216 Cal.App.4th 614, 632-633 (*NCRA*), quoting *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719 ["Determining whether a project is consistent with general plan policies is left to the lead agency; '[i]t is emphatically, not the role of the courts to micromanage…' such decisions."]; *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 142 ["the body which adopted the general plan policies in its legislative capacity has unique competence to interpret those policies when applying them in its adjudicatory capacity"].) As evidenced above, the Project helps further the overall goals and policies of both the 2030 and 2035 General Plan, thus the City Council has determined the Project is consistent with the City's General Plan. (See DEIR, Appen. O [MTP/SCS and General Plan Discussion] for more information on the Project's compatibility with the City's General Plan goals and policies; see also FEIR, pp. 2-762 to 2-793.)

XVI. FINDINGS REGARDING RECIRCULATION OF THE DEIR

The City Council adopts the following findings with respect to whether to recirculate the DEIR. Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when "significant new information" is added to the EIR after public notice is given of the availability of the DEIR for public review but prior to certification of the FEIR. The term "information" can include changes in the project or environmental setting, as well as additional data or other information. 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 project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(CEQA Guidelines, § 15088.5.)

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 Univ. of Cal.* (1993) 6 Cal.4th 1112, 1132 (*Laurel Heights*).) "Recirculation was intended to be an exception, rather than the general rule." (*Ibid.*)

The City Council recognizes that commenters suggested a number of additional project alternatives in comments on the DEIR, that the FEIR includes revisions to a few mitigation measures included in the DEIR, and that the project applicant requested the Project be revised to include substantially greater setbacks (an increase from 40 feet to 55 feet) between the proposed mid-rise apartment buildings and the adjacent 500 N Street and Pioneer Towers high-rise buildings. The City Council finds that these comments and changes do not require recirculation of the DEIR.

As discussed further below, the City Council finds that all the additional alternatives raised by commenters fall into one or more of the following categories (1) alternatives that are not required to be analyzed pursuant to CEQA for the Project, (2) alternatives that are infeasible,

or (3) alternatives that do not substantially lessen or avoid the Project's significant and unavoidable historic resource impacts. Moreover, the City Council finds the EIR examined a reasonable range of project alternatives in detail, exploring their comparative advantages and disadvantages with respect to the Project. Additionally, revisions to mitigation measures included in the FEIR and the change in the Project to increase the setback between neighboring buildings do not have the potential to result in any new significant impacts or increase in the significance of any impact addressed in the DEIR. Therefore, the City Council finds that no comments received, EIR revisions made, or Project changes require recirculation of the DEIR.

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.) Here, the changes made to the DEIR in the FEIR and changes made to the Project are exactly the kind of revisions that the case law recognizes as legitimate and proper.

Furthermore, a request for an additional alternative to be considered does not compel recirculation of an EIR. For a new alternative to require recirculation, the alternative must constitute "significant new information." (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 Cal.App.4th 316, 330.) For an alternative to constitute significant new information, "it must be feasible; it must be considerably different from other alternatives previously analyzed; it must clearly lessen the significant environmental impacts of the proposed project; and the project's proponents must decline to adopt it." (*Id.* at p. 331.) As discussed, *infra*, Section XVII.D, no alternative raised by a commenter qualifies as significant new information because no alternative that has been suggested is feasible, considerably different from other alternatives previously analyzed, and clearly lessens the significant environmental impacts of the Project. (See also, *supra*, Section XIV [discussing additional limitations applicable to the alternatives analysis for this Project].) Therefore, for all of the above reasons, the City Council finds that recirculation of the EIR is not required.

XVII. PROJECT ALTERNATIVES

A. BASIS FOR ALTERNATIVES

CEQA requires the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur.

Project modification or alternatives are not required, however, where significant environmental impacts will not occur.

As is discussed in Chapter 4 of the DEIR, "Environmental Impact Analysis," and as evidenced from the attached table describing the disposition of the significant effects of the Project, the Project would result in the following significant and unavoidable adverse effects:

- **Impact 4.4-2:** the Project could result in a substantial adverse change in the historical significance of Capitol Towers and Villas. (DEIR, p. 4.4-16.)

- **Impact 4.4-6:** Cumulative Historical Resources Impacts. (DEIR, p. 4.4-33.)

Under CEQA, project alternatives are developed in order to give agency decisionmakers options for reducing or eliminating the significant environmental effects of proposed projects, while still meeting most if not all of the basic project objectives. "Alternatives and mitigation measures have the same function – diminishing or avoiding adverse environmental effects." (*Laurel Heights*, *supra*, 47 Cal.3d at p. 403.) Here, the adoption of the mitigation measures set forth in the Project EIR is sufficient to reduce all significant impacts to less-than-significant levels, with the exception of individual historical impacts to Capitol Towers and Villas and cumulative impacts to historical resources within the City.

Additionally, several applicable infill streamlining provisions apply to this Project, allowing limitations to the required scope of the CEQA alternatives analysis for the Project. These provisions include: (1) Public Resources Code sections 21155.2(c)(2) and 21094.5(b)(1) do not require the EIR to evaluate an offsite alternative even if adequate offsite locations were available; (2) Public Resources Code section 21159.28(a) provides that the EIR is not required to describe or discuss a reduced residential density alternative to address effects of cars and light trucks generated by the Project; and (3) Public Resources Code section 21094.5(b)(1) states that the EIR is not required to evaluate any reduced density or building intensity alternatives.

In an effort to develop alternatives with the potential to avoid or substantially lessen the significant and unavoidable historical resource impact caused by the Project, the City and the environmental consultant worked with an historical consultant (Carey & Co.). Project alternatives were initially formulated by Carey & Co. to substantially lessen or avoid the Project's significant historical resource impact without requiring changes to the density, intensity, or location of the Project. However, Carey & Co. concluded that reducing the density or building intensity of the Project was the only way to develop an on-site alternative with the potential to substantially lessen or avoid the Project's significant historical resource impact.

As a result, notwithstanding that SB 226 does not require any analysis of alternative locations, densities, and building intensities (See FEIR, Master Response 2.3.9 [CEQA Streamlining]), Carey & Co. was then asked to develop project alternatives that would maintain the greatest density and building intensity possible as compared to the Project and have the potential to

substantially lessen or avoid the significant and unavoidable historical impact caused by the Project. Carey & Co. determined the most likely way to reduce the historical resource impact while allowing for increased residential density on the project site would be by permitting some development to occur on the edges of the project site while retaining the central core. Consistent with this approach, an alternative was designed (Alternative 3: 24-Story Core Retention Alternative) that would retain existing low-rise units and most of the landscape features within the interior of the project site while constructing four new 24-story towers and two 7-level garages, two 6-level garages, and a 5-level parking structure along the perimeter of the project site. After the site plan was prepared for the alternative, Carey & Co. concluded that the historical resource impact would remain significant and unavoidable. (See DEIR, §5.3.5.)

The height difference between the proposed 24-story towers in Alternative 3 and the existing 15-story Capitol Towers high-rise was one of the factors resulting in the conclusion that historical resource impacts under Alternative 3 would remain significant and unavoidable. Therefore, Carey & Co. also considered whether reducing the height of the high-rise buildings proposed under the 24-Story Core Retention Alternative to 15-stories would be sufficient to avoid or substantially lessen the Project's significant and unavoidable historical resource impact (see Alternative 2). As discussed further below, while the reduction in building height and commensurate reduction in height of structured parking in the 15-Story Core Retention Alternative would lessen impacts over the 24-Story Core Retention Alternative, the historical resource impact would remain significant and unavoidable. (See DEIR, § 5.3.5.)

Finally, Carey & Co. considered whether, through a significant reduction in building intensity, in the form of limiting development to only half of the four-square block superblock and preserving the other half, would substantially lessen or avoid the Project's significant and unavoidable historical resource impact. As discussed further below, preserving two of the four quadrants (see DEIR Figure 5-1 [p. 5-6]) would result in greater historical resource impacts than either the 24-Story (Alternative 3) or 15-story Core Retention (Alternative 2) alternatives. Thus, Alternative 4 was also determined to have a significant and unavoidable historical resource impact. (See DEIR, § 5.3.5.)

B. ALTERNATIVES CONSIDERED AND DISMISSED FROM FURTHER CONSIDERATION

As noted previously, the purpose of an alternatives analysis is to develop alternatives to the Project that substantially lessen at least one of the significant environmental effects identified as a result of the project, while still meeting most, if not all, of the basic project objectives. Potential alternatives that were explored by the City in preparing the alternatives analysis were found to limit the footprint or size of the Project. However, they were rejected from further consideration because they were similar to the three alternatives analyzed, they would not avoid the Project's significant and unavoidable historical resource impact, and they did not meet most of the basic project objectives.

Specifically, an alternative that would retain the western two quadrants of the project site was rejected from further consideration because it would be similar to Alternative 4 and would only minimally reduce effects on the historical resource as compared to the Project. Other alternatives that would not significantly increase the density or intensity existing on the project site were rejected because they would not meet the Project's basic objectives to provide high-density residential uses on the project site – densities that are supported in the City's 2030 General Plan, 2035 General Plan, and the MTP/SCS. Additionally, lower density or intensity alternatives are not required pursuant to Public Resources Code section 21094.5. (DEIR, pp. 5-5 to 5-6.)

C. ALTERNATIVES CONSIDERED IN THE EIR

Unless applicable CEQA streamlining provision provide further limitations, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where significant environmental impacts will not occur.

Except for the individual historical impacts to Capitol Towers and Villas, including the existing landscaping and tree canopy, and the cumulative impacts to historical resources, significant effects of the project would be mitigated to less-than-significant levels by the adoption of feasible mitigation measures. The following alternatives would also avoid and/or lessen project impacts, including the significant and unavoidable impacts related to historical resources, but would not reduce this impact to a less-than-significant level. The EIR evaluates the following alternatives to the Project:

- **Alternative 1: No Project/No Development.** This alternative assumes the Project would not be built. The Project site is already in a developed state, so continuation of existing conditions would involve continued occupancy and operation of Capitol Towers and Villas in its current configuration.

- **Atlernative 2: 15-Story Core Retention Alternative.** This alternative focuses development along the edges of the four-block project site, with four buildings of 15-stories each, containing a total building footprint of 164,000 square feet. This alternative retains and restores historical features within the core of the project site, which includes many of the landscape features of Capitol Towers and Villas.

- **Alternative 3: 24-Story Core Retention Alternative.** This alternative is similar to the 15-Story Core Retention Alternative with respect to the number and location of new buildings and parking structures and landscaping design approach. The difference is the construction of four buildings of 24-stories each.

- **Alternative 4: Retention of Eastern Half of the Superblock Alternative.** This alternative would entail redeveloping the two western quadrants of the project site, while retaining and restoring the remaining northeast and southeast quadrants.

A table comparing some differences between the Project and project alternatives are included below followed by a more detailed description of each alternative and an assessment of each alternative's impacts relative to the Project.

	Alternative 1	Alternative 2	Alternative 3	Alternative 4	Project
Number of New Buildings	0	4	4	2	5
Number of Existing Buildings Removed	0	24	24	28	67
New Building Footprint	0	109,500	109,500	114,000	250,000
Total Building Footprint	90,500	164,000	164,000	178,490	260,053
New Residential Units	0	566	862	682	1,171-1,267
Total Residential Units	409	899	1,195	1,007	1,374-1,470
Residential Units Removed	0	76	76	84	206
New Commercial Area (sq. ft.)	0	25,500	25,500	9,000	52,000-70,000
Total Commercial Area (sq. ft.)	4,122	29,622	29,622	13,122	56,122-74,122
Parking	3-level parking structure, 6 surface lots	Three 5-level garages, two 4-level garages, and retention of portions of the existing surface lots	Two 7-level garages, two 6-level garages, 5-level garage, retention of portions of the existing surface lots	Two 2-level garages, and retention of four of the surface lots	Two 6-level garages, 5-level garage, two 2-level garages
Hotel Rooms	0	0	0	0	0-300

DRAFT

Note: Ranges are provided for the Project to reflect the Hotel / Condo / Retail Scenario and Condo / Retail Scenario.
Source: Compiled by AECOM 2014

Alternative Description

ALTERNATIVE 1: NO PROJECT/NO DEVELOPMENT

Under CEQA, the No Project Alternative must consider the effects of not developing the Project. The No Project/No Development Alternative describes the environmental conditions that exist at the time the environmental analysis commences. (CEQA Guidelines, § 15126.6, subd. (e)(2).) In the case of the Project, the project site is already in a developed state, so continuation of existing conditions would involve continued occupancy and operation of Capitol Towers and Villas in its current configuration. Existing conditions are described in the Environmental Setting of each environmental impact section in the DEIR. (See generally DEIR, Ch. 4.)

Under the No Project/No Development Alternative, the City Council would not approve any project, and none of the mitigation measures identified within the DEIR would be implemented. No demolition would occur because existing structures, landscape features, and site layout would remain, and, therefore, no impact to historical resources would result. (DEIR, pp. 5-8 to 5-9.)

ALTERNATIVE 2: 15-STORY CORE RETENTION ALTERNATIVE

The 15-Story Core Retention Alternative focuses development along the edges of the four-block project site (also called "superblock"), retaining most of the property's existing core. (See DEIR, p. 5-11 [Figure 5-2, Alternative 2 Concept Plan, illustrating the concept plan for Alternative 2]; DEIR, p. 5-13 [Figure 5-3, Alternative 2 Conceptual Illustration, presenting conceptual illustrations of building height and placement].) This alternative's total building footprint, 164,000 square feet, would be less than the Project's, which is 260,053 square feet. Alternative 2 proposes to retain 130 of the 206 existing garden apartments, while adding 566 new dwelling units in four buildings of 15 stories each, 718 parking spaces in five parking structures, and no hotel, compared to 965-1,061 new dwelling units and 1,552-1,620 parking spaces for the Project, with an option to include a hotel. This alternative would also include 25,500 square feet of new retail and support service uses, compared to 52,000-70,000 square feet of new retail and services uses in the Project.

Alternative 2 retains and restores the historical features within the core of the project site, which includes many of the landscape features of the existing Capitol Towers and Villas. The retained areas would include landscaped areas that reflect the trend from the mid-20th century of creating a fully integrated design of buildings and landscape. The landscape architect, Lawrence Halprin's stylistic hallmark features that would be retained under this alternative, include the patterned concrete plaza with neatly arranged trees with a small fountain, the

axial walkways, and most of the smaller organized garden courtyard areas. (DEIR, pp. 5-9 to 5-13.)

ALTERNATIVE 3: 24-STORY CORE RETENTION ALTERNATIVE

Alternative 3 is similar to Alternative 2 with respect to the number and location of new buildings and parking structures and landscaping design approach. Like Alternative 2, Alternative 3 would remove 76 of the 206 existing garden apartment units, and has a total building footprint of 164,000 square feet, less than the Project, which is 260,053 square feet. (See DEIR, p. 5-15 [Figure 5-4, Alternative 3 Concept Plan].) Unlike Alternative 2, Alternative 3 proposes 862 new dwelling units in four buildings of 24 stories each (240 foot maximum tower height), 1,204 parking spaces in five parking structures (up to seven stories above ground), compared to 965-1,061 new dwelling units and 1,552-1,620 parking spaces for the Project. This alternative would not include a new hotel. Alternative 3 would include 25,500 square feet of new retail and service uses, compared to 52,000-70,000 square feet of retail and support uses in the Project. Alternative 3 would retain and restore building and landscape features. (See DEIR, p. 5-17 [Figure 5-5, Alternative 3 Conceptual Illustration]; DEIR, pp. 5-13 to 5-14.)

ALTERNATIVE 4: RETENTION OF EASTERN HALF OF THE SUPERBLOCK ALTERNATIVE

Alternative 4 would redevelop two quadrants of the project site, while retaining and restoring the remaining two quadrants. (See DEIR, p. 5-19 [Figure 5-6, Alternative 4 Conceptual Plan].) This alternative would remove approximately 84 garden apartment units, comprising 28 separate low-rise structures, and retain and restore approximately 122 garden apartment units, comprising 39 separate low-rise structures. This alternative includes five parking structures with up to six levels above ground. Under this alternative, the northeast and southeast quadrants would be retained. The western two quadrants would, therefore, be available for development and would accommodate the same mid-rise buildings constructed above parking podiums, as in the Project. The eastern two quadrants were chosen for retention in this alternative because these quadrants include more garden apartments than the other two quadrants, thereby retaining more of the property's contributing resources than would be accommodated under a different two-quadrant option. The total building footprint, 178,490 square feet, would be less than the Project's, which is 260,053 square feet.

Alternative 4 would include 682 new dwelling units in two mid-rise buildings (5 stories each over a two-level parking podium), 640 parking spaces, and no hotel, compared to 965-1,061 new dwelling units and 1,552-1,620 parking spaces for the Project. This alternative would not include a hotel, but would include approximately 9,000 square feet of new retail and service uses, compared to 52,000-70,000 square feet of retail and support uses in the Project. (See DEIR, p. 5-21 [Figure 5-7, Alternative 4 Conceptual Illustration].)

Under Alternatives 2 through 4, new construction adjacent to the retained area would be designed to be compatible with the historical resources, but visually differentiated from those

resources, in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties, Rehabilitation*. (DEIR, pp. 5-14 to 5-21.)

Relative Impacts of the Alternatives

In an EIR, the relative environmental effects of alternatives can be described using different organizational approaches. For this Project, the alternatives are focused on reducing historical resources impacts. For other environmental topics, the impacts of the different alternatives are relatively similar to one another. Therefore, this section is organized by impact topic so to more easily compare the different alternatives.

AESTHETICS

California Public Resources Code, section 21099, subdivision (d), provides that the "[a]esthetic…impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment." As discussed previously in Section IV, Subsection A, *supra*, the Project is a mixed-use residential project located on an infill site in downtown Sacramento, within a transit priority area. Therefore, pursuant to Public Resources Code section 21099, subdivision (d), the Project would have less-than-significant aesthetics impacts.

Alternative 1

Because the existing buildings and site elements would remain under Alternative 1 (No Project/No Development), there would be no change in the visual character of the area.

Alternatives 2, 3, 4

Aesthetics changes would be reduced in Alternatives 2 (15-story core retention) and 4 (eastern half retention) compared to the Project because more of the existing structures, open space, landscape, and trees on the project site would be retained, and because the building heights would be lower than with the Project, reducing the visual change perceptible from adjacent streets and the light rail station.

Alternative 3 (24-story core retention) would have similar aesthetics impacts to the Project; although more of the existing buildings at the core of the project site would be retained, the addition of 24-story towers along the site perimeter would have similar effects on public views of the project site from adjacent streets and light rail stations as the Project, since the current visibility into the site, due to relatively large amounts of open landscaped areas and the number of low-rise garden apartments along much of the surrounding street frontages would be impacted.

Light and glare effects would be similar for Alternatives 2, 3, and 4 as the Project. Although the alternatives would include varying building heights and orientations, all the alternatives

would be required to comply with PUD Guidelines to reduce or avoid spillover lighting effects into adjacent buildings and offsite areas.

Overall, impacts associated with aesthetics would remain less-than-significant, the same as the Project. (DEIR, pp. 5-21 to 5-22.)

AIR QUALITY

The Project's construction-related air quality impacts and impacts related to particulate matter concentrations are less-than-significant with mitigation. Operational impacts, impacts related to carbon monoxide concentrations, impacts related to substantial pollutant concentrations, and impacts related to odors are less-than-significant for the Project.

Alternative 1

There would be no construction air quality impacts, and no increase in operational air pollutant emissions under Alternative 1, since there would be no new development or traffic.

Alternatives 2, 3, 4,

Alternatives 2, 3, and 4 would all have a reduced amount of demolition and new construction on-site compared to the Project. This would result in a reduction in the amount of grading, construction, and foundation work in Alternatives 2, 3, and 4, which in turn would reduce construction-related air quality impacts as compared to the Project.

Operational air pollutant emissions impacts for Alternatives 2, 3, and 4 would be less than for the Project because of the reduced number of residents, no hotel guests, and the reduced amount of non-residential uses in these alternatives. This reduction would be approximately proportional to the reduction in the amount of residential and non-residential development (measured in population, employees, customers, and building square footage). (See DEIR, p. 5-23 [Table 5-2, Net New Air Pollutant Emissions]; see generally DEIR, § 4.2.) However, while mass emissions would be lower under these alternatives, the alternatives would also provide reduced opportunities for per capita emission benefits within the City as compared to the Project because fewer units would result in fewer residents living on the project site in close proximity to the City's largest employment center and ample public transit options. Impacts associated with air quality would remain less-than-significant, the same as the Project. (DEIR, pp. 5-22 to 5-23.)

BIOLOGICAL RESOURCES

The Project would have potentially significant impacts associated with project construction and the potential to disturb special-status or protected nesting bird species and impact mature trees protected by City's Code. Mitigation Measures 4.3-1 (avoid direct loss of Swainson's Hawk, White-Tailed Kite, Peregrine Falcon, and nesting birds protected by the Migratory Bird Treaty Act and California Fish and Game Code) and 4.3-2 (avoid and minimize impacts

on trees) would reduce these impacts to a less-than-significant level. (See DEIR, p. 4.3-22, pp. 4.3-27 to 4.3-28).

Alternative 1

There would be no impacts on trees and associated biological resources under Alternative 1, as there would be no new structures constructed at the site or tree removal.

Alternatives 2, 3, 4

Alternatives 2, 3, and 4 would have reduced biological resources impacts compared to the Project since these alternatives would remove a smaller number of mature trees and trees that could potentially provide nesting habitat for special-status bird species. (See DEIR, p. 5-23 [Table 5-3, Project and Alternatives: Tree Retention, Removal, and Planting].) As with the Project, Mitigation Measures 4.3-1 and 4.3-2 would still be required for these alternatives to reduce impacts to a less than significant level. (DEIR, p. 5-23.)

CULTURAL RESOURCES:

The Project has significant project-specific and cumulative impacts on historical resources as a result of its impact on the Capitol Towers and Villas. These impacts remain significant and unavoidable under the Project even after implementation of Mitigation Measure 4.4-2 (Documentation, Interpretation, Reuse, and the Retention/Rehabilitation of the Residential Tower, see DEIR, pp. 4.4-24 to 4.4-27). Based on this conclusion, project alternatives were developed to address and evaluate possible scenarios that could lessen the Project's significant and unavoidable historical resource impact.

The Project would also have potentially significant impacts on archaeological resources, and human remains, however, the impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.4-3 (Protect or Mitigate Impacts on Prehistoric or Historic Era Archaeological Resources and Human Remains, see DEIR, pp. 4.4-29 to 4.4-30). The Project's potential significant impact on paleontological resources would also be reduced to a less-than-significant level with implementation of Mitigation Measure 4.4-4 (Protect or Mitigate Impacts on Paleontological Resources, see DEIR, pp. 4.4-31 to 4.4-32).

Alternative 1

Under Alternative 1, no buildings or site landscape features would be demolished and therefore, there would be no impacts on historical or pre-historic resources.

Alternative 2

Overall, development of Alternative 2 would retain most of the large-scale, pedestrian-oriented, multi-family residential complex at the historic core of the superblock. Alternative

2 would have fewer historical resources impacts compared to the Project, and compared to Alternatives 3 and 4, although these impacts would remain significant and unavoidable. Alternative 2 would retain much of the site's overall composition, balance, and juxtaposition of the low-rise garden apartment units with the 15-story high-rise towers, along with retaining many other elements of the property's character-defining features. Under this alternative, 76 garden apartments would be removed to accommodate the project and Mitigation Measure 4.4-2 would still be required. Alternative 2 would retain the seven aspects of integrity as follows:

- Location: most of the site features would remain in their existing locations, and the superblock assembly would be retained.

- Design: a majority of the center portion of the original plan would be retained, along with the structure and style of the property. However, design would most be affected by the removal of the perimeter low-rise buildings, the perimeter landscape features, and the addition of the large perimeter buildings which would almost wall off the site, which currently has more open views into the site from surrounding streets.

- Setting: most of the historic setting of Capitol Towers and Villas would remain. There would be some loss of aspects of existing spatial relationships, as well as loss of some of the low-rise buildings.

- Materials: since all of the perimeter low-rise buildings and some perimeter landscape site elements would be demolished, there would be a loss of materials related to the property's historic configuration.

- Workmanship: by retaining most of the historic center of Capitol Towers and Villas, this alternative would retain most of the historic workmanship.

- Feeling: the addition of perimeter high-rise buildings in this alternative would result in increased shadows and a loss of the existing feeling of openness. However, this alternative would retain some of the historic feeling of the site.

- Association: the historic association could be impacted by the addition of larger perimeter buildings.

In comparison to the Project, Alternative 2 would reduce impacts on the historical resource, Capitol Towers and Villas, but the City's Preservation Director and Carey & Co. determined the impact would still remain significant and unavoidable.

Other cultural resource impacts would be reduced in severity compared to the Project due to the smaller development footprint associated with this alternative, but the same mitigation measures (Mitigation Measures 4.4-2 [Documentation, Interpretation, Reuse, and the Retention/Rehabilitation of the Residential Tower] and 4.4-3 [Protect of Mitigate Impacts on

Prehistoric and Historic-Era Archaeological Resources and Human Remains]) would still be required to reduce those impacts to a less-than-significant level.

Alternative 3

Alternative 3 would include similar restoration activities to those described in Alternative 2 where historic features would be retained. However, Alternative 3 would include substantially higher towers on the site perimeter than those included in Alternative 2. Because the towers in this alternative would be greater in height than the existing towers, and the garage structures would have more levels than under Alternative 2, this alternative would reduce the integrity of the site as compared to Alternative 2 by further altering the site's setting and feeling. Under this alternative, as with Alternative 2, 76 garden apartments would be removed to accommodate the project. This alternative would have reduced impacts on historical resources compared to the Project, but the City's Preservation Director and Carey & Co. determined the impact on the historical resource would remain significant and unavoidable.

Other cultural resource impacts would be reduced in severity compared to the Project due to the smaller development footprint associated with Alternative 3; however, the same mitigation measures (Mitigation Measures 4.4-2 and 4.4-3) would still be required to further reduce those impacts to a less than significant level.

Alternative 4

Alternative 4 would still result in historical impacts to Capitol Towers and Villas by developing new buildings on two quadrants of the project site that would change the setting and spatial relationships among the existing buildings and the site's design. The western two quadrants of the project site would be redeveloped with new mid-rise structures, which would affect the existing setting, and the feeling of the prominent circulation patterns within this area that help to define this historical resource would also be lost. Under this alternative, 84 garden apartments would be removed requiring Mitigation Measure 4.4-2. The City's Preservation Director and Carey & Co. determined Alternative 4 would result in greater historical resource impacts than Alternatives 2 and 3, and the impact would remain significant and unavoidable, as with the Project.

Other cultural resources impacts would be reduced in severity compared to the Project due to the smaller development footprint associated with Alternative 4. However, the same mitigation measures (Mitigation Measures 4.4-2 and 4.4-3) would be required to reduce those impacts to a less than significant level. (DEIR, pp. 5-24 to 5-28.)

GEOLOGY AND SOILS

The Project would have potentially significant impacts related to unstable soils, reduced to a less-than-significant level with implementation of Mitigation Measure 4.5-2 (Prepare a Final Design-Level Geotechnical Report and Implement Recommendations Contained in the

Report, see DEIR, pp. 4.5-12 to 4.5-13). Impacts related to seismic ground shaking, surface fault rupture, and soil erosion would be less than significant.

Alternative 1

Project impacts related to geology and soils would not occur under Alternative 1, since this alternative would not involve changes to the project site.

Alternatives 2, 3, 4

Alternatives 2, 3, and 4 would have smaller development footprints compared to the Project. Due to the earth disturbance, Mitigation Measure 4.5-2 would still be required for Alternatives 2, 3, and 4. Overall, the reduction in construction and foundation work in Alternatives 2, 3, and 4 would further reduce less-than-significant geology and soils impacts compared to the Project. (DEIR, pp. 5-28 to 5-29.)

GREENHOUSE GAS EMISSIONS

Greenhouse gas emissions impacts would be less-than-significant for the Project because the project complies with the City's Climate Action Plan. (See DEIR, Appen. F.)

Alternative 1

There would be no construction greenhouse gas emission impacts and no change to operational greenhouse gas emissions under Alternative 1, since this alternative does not include any new construction or traffic. Since the Project proposes new dwelling units in Downtown Sacramento, and since current building code requirements require higher energy efficiency compared to codes than applied at the time existing on-site units were constructed, the Project would have lower average operational greenhouse gas emissions related to energy use per-unit and provide greater benefits associated with reductions in vehicle miles traveled as compared to Alternative 1.

Alternatives 2, 3, 4

Alternatives 2, 3, and 4 have reduced amounts of development compared to the Project, which would further reduce construction-related greenhouse gas impacts compared to the Project.

Operational greenhouse gas impacts for Alternatives 2, 3, and 4 would be reduced compared to the Project because of the reduction in the total number of residents, fewer cars on the site, no hotel guests, fewer trees removed, and the reduction in the amount of non-residential uses under these alternatives. However, since the Project has a greater number of new proposed dwelling units and replaces a greater number of existing dwelling units compared to the alternatives, the Project would have lower average operational greenhouse gas emissions related to energy use per-unit, compared to Alternatives 2, 3, and 4 because current building

code requirements require higher energy efficiency, unless existing units could be and were retrofitted to meet or exceed current energy efficiency requirements.

Furthermore, due to the project site proximity to amenities (e.g., distance to jobs, shopping, entertainment) and feasibility of using non-motorized transportation to reach those amenities, regional modeling developed by SACOG demonstrates that increased residential density downtown reduces transportation-related greenhouse gas emissions compared to a project located on the urban fringe without access to transit, with fewer bicycle/pedestrian amenities, reduced access to jobs and amenities, and with lower development densities (SACOG 2014). Since the Project contains a greater number of dwelling units and non-residential square footage compared to Alternatives 2, 3, and 4, the Project would allow a greater amount of development to occur in this greenhouse gas-efficient location. For this additional reason, the Project may provide greater greenhouse gas-related benefits as compared to the alternatives.

Impacts associated with greenhouse gas emissions would remain less-than-significant, the same as the Project. (DEIR, p. 5-29.)

HAZARDS AND HAZARDOUS MATERIALS

The Project would have potentially significant impacts related to exposure to hazardous materials during construction of the Project. This impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 4.7-1 (Identify and Remediate for Discovery of Unknown Hazardous Materials and Implement Mitigation Measure 4.8-1, see DEIR pp. 4.7-18 to 4.7-19). Other hazards and hazardous materials impacts of the Project would be less than significant.

Alternative 1

Project impacts related to hazards and hazardous materials would not occur under Alternative 1, since this alternative does not propose on-site changes.

Alternatives 2, 3, 4

Alternatives 2, 3, and 4 would have smaller project footprints compared to the Project. The same mitigation measure required for the Project would be required for the alternatives. Alternatives 2, 3, and 4 would further reduce less-than-significant, construction-related hazardous materials impacts compared to the Project, because these alternatives would develop smaller areas and would have fewer residential units, no hotel, and less retail and service uses compared to the Project. Operational hazards and hazardous materials impacts would be reduced compared to those associated with implementation of the Project and would be less-than-significant as with the Project. (DEIR, p. 5-30.)

HYDROLOGY AND WATER QUALITY

Construction-related water quality impacts, long-term operational water quality impacts, and impacts related to flooding and stormwater pollution of the Project would be less-than-significant with mitigation. The Project would have less-than-significant impacts related to groundwater and flooding related to levee failures and dam inundation.

Alternative 1

Project impacts related to hydrology and water quality would not occur under Alternative 1 because no construction or change from the existing site configuration would occur.

Alternatives 2, 3, 4

Alternatives 2, 3, and 4 would have smaller development footprints compared to the Project, proportionally reducing construction effects on water quality and stormwater runoff. These impacts would remain less than significant for Alternatives 2 through 4, the same as the Project. The reduced number of new units and square footage of new retail and other services and associated parking would result in proportional reductions in operational impacts related to water quality.

Hydrology and water quality impacts would be less under Alternatives 1, 2, 3, and 4 as compared to the Project. Although the change in impervious coverage across the project site would vary among the alternatives, all alternatives would be required to comply with the City's "Do No Harm" policy requiring infill projects to fully mitigate any potential increase in stormwater flows leaving the project site. Impacts related to flood hazards would be similar for the alternatives as for the Project. Under these alternatives, impacts associated with hydrology and water quality would remain less than significant, the same as the Project. (DEIR, p. 5-30.)

NOISE AND VIBRATION

The Project would have less-than-significant impacts related to operational ambient noise levels and interior noise levels. The Project would have potentially significant impacts related to construction noise and vibration that can be mitigated to less-than-significant levels. The Project would have a less-than-significant impact related to operational vibration.

Alternative 1

There would be no noise or vibration impacts under Alternative 1, because there would be no new development or change to traffic patterns.

Alternatives 2, 3, 4

Alternatives 2, 3, and 4 would include a reduced amount of development compared to the Project. The reduction in construction activity may reduce the length of time when construction noise and vibration would be generated. However, construction activity would

still on the project site and would still effect surrounding noise- and vibration-sensitive uses in the vicinity of the site, just as with the Project. Overall, during construction, construction noise and vibration effects would be similar to those of the Project. The same mitigation measures would be required for the alternatives as the Project.

Operational noise and vibration impacts would be reduced for Alternatives 2, 3, and 4 compared to the Project since these alternatives would have fewer residential units, no hotel use, and reduced non-residential use. Noise associated with these land uses and traffic generated would be reduced compared to the Project, although on-site/noise-sensitive uses would be exposed to approximately the same traffic noise levels. These alternatives would have fewer sources of noise, reduced sensitive receptor exposure, and reduced traffic volumes compared to the Project. Under these alternatives noise impacts would remain less-than-significant, the same as the Project. (DEIR, p. 5-31.)

PUBLIC SERVICES

Public services impacts of the Project, including demand for fire protection services, police protection services, school services, and parks and recreation services would be less-than-significant (with mitigation for fire access and construction-related police services).

Alternative 1

Under Alternative 1, uses on the project site and associated demand for public services would not change; there would be no public services impacts.

Alternatives 2, 3, 4

Public services impacts for Alternatives 2, 3, and 4 would be less than for the Project because of the lower number of residents, no hotel users, and a reduced amount of non-residential uses in these alternatives. The Project would increase the population on the project site by approximately 1,700 to 1,900 new residents. At the 1.8 person household size typical for the Central City, Alternative 2 would have about 1,000 new residents, Alternative 3 would have about 1,550 new residents, and Alternative 4 would have about 1,200 new residents. Demand for fire, police, and parks and recreation services would be proportionally reduced, as compared to the Project.

Alternative 1 would not generate any new students, and Alternatives 2, 3, and 4 would each generate fewer new students than the Project, resulting in reduced impacts related to school services compared to the Project. (See DEIR, p. 5-32 [Table 5-4, Student-Yield Generation Rates for the Sacramento City Unified School District].)

Under these alternatives, impacts associated with public services would remain less-than-significant, the same as the Project. (DEIR, pp. 5-31 to 5-32.)

TRANSPORTATION AND TRAFFIC

The Project would have less-than-significant transportation impacts.

Alternative 1

There would be no transportation-related impacts under Alternative 1 because there would no new trips. However, because Alternative 1 would have lower residential density than the Project, this alternative would not have the Project's beneficial effects related to increased transit ridership. Due to the project site proximity to amenities (e.g., distance to jobs, shopping, entertainment) and feasibility of using non-motorized transportation to reach those amenities, regional modeling developed by SACOG demonstrates that development in locations such as the project site would reduce vehicular transportation demand compared to a project located on the urban fringe without access to transit, with fewer bicycle/pedestrian amenities, reduced access to jobs and amenities, and with lower development densities (SACOG 2014).

Alternative 2, 3, 4

Traffic impacts would be reduced under Alternatives 2, 3, and 4 compared to the Project since these alternatives have fewer residential units and a reduced amount of non-residential development. (See DEIR, p. 5-33 [Table 5-5, Project and Alternatives: Daily Trip Generation].) However, because of the lower density of these alternatives, they would not have the same beneficial effects on transit ridership or the same potential to reduce average annual vehicle miles traveled within the region. Specifically, due to the project site proximity to amenities (e.g., distance to jobs, shopping, entertainment) and feasibility of using non-motorized transportation to reach those amenities, regional modeling developed by SACOG demonstrates that development of the project site would reduce vehicular transportation demand compared to a project located on the urban fringe without access to transit, with fewer bicycle/pedestrian amenities, reduced access to jobs and amenities, and with lower development densities (SACOG 2014). Since the project proposes a greater number of dwelling units and non-residential square footage compared to Alternatives 2, 3, and 4, the project would allow a greater amount of development to occur in this location, which may help to reduce regional travel demand relative to the other alternatives. (DEIR, pp. 5-32 to 5-33.) Nevertheless, under these alternatives, impacts associated with transportation and traffic would remain less-than-significant, the same as the Project.

UTILITIES AND SERVICE SYSTEMS

The Project would have less-than-significant utilities and service system impacts, including water, wastewater, and solid waste impacts

Alternative 1

Under Alternative 1, uses on the project site and associated demand for utilities would not change compared to the existing baseline conditions.

Alternatives 2, 3, 4

Utilities impacts for Alternatives 2, 3, and 4 would be reduced compared to the Project since these alternatives would have fewer new residents and a reduced amount of non-residential development compared to the Project.

Water demand would be reduced from an estimated 170-230 acre-feet per year for the Project to approximately 62-180 acre-feet per year for the alternatives. (See DEIR, p. 5-33 [Table 5-6, Alternative Water Demands].) Modern building codes include water conservation measures that would apply to new development (and would not have been required for existing development). Since the Project includes a greater amount of new development compared to Alternatives 2 through 4, per-unit water use associated with the Project would be less than the alternatives, unless existing units could and were retrofitted to meet or exceed new conservation measures. (DEIR, pp. 5-33 to 5-34.)

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA Guidelines section 15126.6 requires that each EIR identify the "environmentally superior alternative" among those considered. If the No Project Alternative is identified as environmentally superior, then the EIR must also identify the environmentally superior alternative among the other alternatives. (CEQA Guidelines, § 15126.6, subd. (e)(2).)

As discussed in the EIR, Alternative 1, the No Project/No Development Alternative, would avoid the significant impact of the Project related to historical resources, and would have less severe impacts in all other issue areas. However, since the No Project/No Development Project is the environmentally superior alternative, pursuant to the CEQA Guidelines, an environmentally superior alternative must be identified from among the other alternatives. Of the three development alternatives (Alternatives 2 through 4), the City considers the CEQA Environmentally Superior Alternative to be Alternative 2.

Alternatives 3 and 4 would have less severe impacts to historical resources than the Project by retaining a portion of the garden apartments within the superblock and restoring some of the historical features of the project site, however, the historical resource impacts under Alternatives 3 and 4 would be greater than Alternative 2. Alternative 2 (15-story core retention) would achieve the greatest reduction in the Project's significant and unavoidable impact related to historical resources by retaining and restoring the core of the historical superblock (unlike Alternative 4) and developing residential high-rise buildings that are similar in height to the existing high-rise building within the project site (unlike Alternative 3), although this impact would still be significant and unavoidable for Alternative 2.

Therefore, while the historical impacts associated with Alternative 2 would remain significant and unavoidable, Alternative 2 would be the environmentally superior alternative. (DEIR, pp. 5-34 to 5.-35; see DEIR, p. 5-35 [Table 5-8, Alternative Impact Comparison to the Project] for comparison of alternative impacts.)

CONSISTENCY WITH PROJECT OBJECTIVES

"[D]ecision makers may reject as 'infeasible' an alternative that does not fully satisfy the objectives associated with a proposed project." (*Cal. Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 998 [citation omitted].) The four project alternatives analyzed in the DEIR were not adopted in place of the Project because they all fail to "fully satisfy the [fundamental] objectives" of the Project.

The Project has nine objectives (see Section IV, Subsection G, *supra*) that pertain to infill development and buildup of downtown Sacramento. The alternatives and their corresponding consistency with the Project objectives are as follows:

Alternative 1

If the Project was not approved and the project site were to continue its existing conditions, the No Project/No Development Alternative would not meet the project objectives. Although this alternative would eliminate the significant and unavoidable impacts on historical resources (since no development would occur), it fails to meet the fundamental objectives of the Project.

Under the No Project Alternative there would be no intensification or augmentation of the existing site characteristics, which are two main objectives of the Project: (1) intensification of the existing urban downtown residential community close to urban amenities, and (2) augmentation of existing infill development with a new project that includes additional residential uses near the major employment centers of downtown Sacramento.

Additionally, this alternative is less consistent with SACOG's MTP/SCS as well as the City's 2030 and 2035 General Plans because existing conditions are below the minimum density identified for the project site in the City's General Plan and would not provide high-density residential uses near surrounding transit uses or additional housing choices for Sacramento's diverse population. Furthermore, since the current, older, on-site buildings would remain, this alternative does not incorporate sustainability features that help the City and region meet its sustainability targets. (See also FEIR, p. 2-53 [Table 2-3: Energy and GHG Analysis payback].)

Alternative 2

Under the 15-Story Core Retention Alternative, the Project would retain the core of the project site, and introduce 15-story buildings at each of the four corners of the project site. This alternative reduces impacts to historical resources as compared to the Project, however,

the impact remains significant and unavoidable and the alternative fails to meet many of the Project objectives.

This alternative would retain the existing walkways, but it would not improve them, thus failing to enhance pedestrian movement through the central portions of the project site. This alternative would also retain more of the original units than the Project. The CalGreen Code addresses energy and water efficiency, as well as material conservation. These codes were not in place when the existing on-site units were constructed, thus retaining the current on-site units would result in fewer new units that adhere to the CalGreen Code. Furthermore, this alternative would not provide the additional housing choices for Sacramento's diverse population since it would result in fewer residential units available for residents to choose from.

This alternative does, however, meet the objectives of supporting investment and reinvestment in downtown Sacramento, particularly with provision of more residential uses. Additionally, the alternative allows for open space areas that support on-site uses and provides places for community gathering, activity, privacy, and connectivity.

Alternative 3

Similar to Alternative 2, the 24-Story Core Retention Alternative would fail to meet the objective of enhancing pedestrian movement through the central portions of the project site. While this alternative contains more residential units than Alternative 2, it still contains substantially less residential development in total than the Project. This reduced amount of residential and non-residential development under this alternative would reduce the extent to which existing infrastructure in the vicinity of the project site can be leveraged in the context of development of the project site. This alternative is less consistent with the Project's fundamental objectives regarding infill development and intensification of development in downtown Sacramento near transit. However, this alternative meets the objectives of providing open space and helping to invest and reinvest in downtown Sacramento by providing more residential options than is currently available on the project site.

Alternative 4

Similar to Alternatives 2 and 3, the Retention of the Easter Half of the Superblock Alternative fails to meet the fundamental project objectives of enhancing pedestrian movement and is less consistent with the objective to provide a dense infill project because it includes substantially fewer units than the Project. Because of the lower density of this alternative, it would not have the same beneficial effects on transit ridership or the same potential to reduce average annual vehicle miles traveled within the region. Additionally, since it has less residential and non-residential development, it would not allow for a greater amount of development to occur on the project site, which encompasses several of the main goals of the Project: intensify existing urban downtown residential community; intensify an existing infill development project with a new project; provide high-density residential uses that utilize surrounding

transit; and provide additional housing choices. Thus, it fails to meet the most fundamental objectives of the Project.

Conclusion Regarding Consistency with Project Objectives

While Alternatives 2, 3, and 4 all meet the goals of providing open space for community gatherings and helping invest and reinvest in downtown Sacramento, they all fail to as effectively meet the majority of the other project objectives, especially pertaining to development density, housing options, and transit benefits. The project site is located at the center of downtown Sacramento, in a walkable neighborhood with close proximity to transit and to the region's largest job center. The reduced amount of residential and non-residential development in all four of the alternatives limits the extent to which the project site could be used and developed to meet the project objectives of developing a sustainable, transit-oriented, infill development project, which provides housing for the City's diverse population and revitalizes downtown Sacramento.

FEASIBILITY OF ALTERNATIVES

CEQA Guidelines, section 15126.6, subdivision (f), provides a discussion of the factors that can be taken into account in determining the feasibility of alternatives. These factors include:

- Failure to achieve the basic objectives of the project;
- Failure to avoid or substantially lessen significant environmental effects of the project;
- Site suitability;
- Economic viability;
- Availability of infrastructure;
- General plan consistency;
- Limitations of other plans or regulations;
- Jurisdictional boundaries;
- Ability of the project proponent to reasonably acquire, control, or otherwise have access to an alternative site; and
- Alternatives for which effects cannot be reasonably ascertained and whose implementation is remote and speculative.

The feasibility of each alternative is discussed below:

Alternative 1:

Although the City is not required by law to consider the feasibility of the No Project/No Development Alternative, the City Council nevertheless does so and rejects the Alternative as undesirable and infeasible. The City Council believes the Project is consistent with the City's development goals and regulatory planning documents. The City Council, therefore, sees no need to forestall development on the Project site and instead chooses to approve the Project as proposed. The Project also reflects the applicant's/landowner's considered judgment regarding how to develop the property in light of the realities of the marketplace. The City Council believes it is appropriate to give some weight to this judgment. (See *Laurel Hills Homeowners Assn. v. City Council* (1978) 83 Cal.App.3d 515, 521.)

Alternative 2:

Pursuant to CEQA, a lead agency should adopt a feasible project alternative that substantially lessens or avoids significant environmental effects of the Project. (Pub. Resources Code, § 21002; *Stockton Citizens for Sensible Planning v. City of Stockton* (2010) 48 Cal.4th 481, 498 ["[An] agency may not . . . approve the project as proposed if there are feasible alternatives . . . that would avoid or substantially lessen the adverse environmental effects."] (*Stockton Citizens*); *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2011) 190 Cal.App.4th 316, 348 ["'in the event specific economic, social, or other conditions make infeasible project alternatives [that would otherwise substantially lessen or avoid the project's significant environmental impacts],' the project may be approved despite its significant environmental impacts"] (*Cherry Valley*).) As discussed above and in the EIR, the 15-Story Core Retention Alternative fails to reduce the Project's significant and unavoidable historical resource impacts to a less than significant level. Therefore, CEQA does not require the City adopt this alternative even if it were feasible.

Moreover, the City finds that the alternative is not feasible. For the purposes of CEQA, feasible includes desirability from a policy standpoint. (*CNPS*, *supra*, 177 Cal.App.4th at 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].) 2035 General Plan Policy HCR 2.1.15 (Policy 2.1.14 in the 2030 General Plan) establishes three reasons that support demolition of an historic resource. The City Council finds that demolition of the portions of the Capitol Towers Historic District (i.e. the garden apartments and historic trees and landscaping) are justified based on the city, regional, and statewide goals to increase residential densities in downtown centers, like Downtown Sacramento, to help reduce per capita energy, GHG, and VMT within the City. Because these per capita benefits increase as project site density increases, the City Council finds that a reduced density alternative such as the 15-Story Core Retention Alternative is less desirable from a policy / project benefit perspective as compared to the Project. Furthermore, because the City Council finds the alternative is less desirable from a policy / project benefit perspective, the City Council also finds that there is less justification for demolishing a portion of the Capitol Towers Historic District under the alternative as compared to the Project. Because the alternative is less desirable from these policy perspectives, the City Council finds the alternative to be infeasible.

Additionally, the City's Housing Element includes a policy to promote a range of housing opportunities. (See City of Sacramento Housing Element, Policy H-1.3.4.) The 15-Story Core Retention Alternative provides a reduced range of housing opportunities as compared to the Project. Under this alternative all units on the project site, with the exception of the 130 Capitol Villas garden apartments, would be high-rise residential units. Under the Project, 442 mid-rise residential units would be developed. Due in part to the cost of developing high-rise residential units (as compared to mid-rise units), high-rise residential units are typically leased at a premium over low-rise and midrise units. Because the Project would include 442 non-high-rise units, as compared to 130 non-high-rise units under the 15-Story Core Retention Alternative, the alternative would provide a reduced range of housing opportunities as compared to the Project. The City Council finds this alternative infeasible from a policy perspective for this additional reason.

Finally, based on the project sites location in the heart of the City of Sacramento's CBD land use designation, the City desires the project site to be built out with substantial density. In recognition of the City's desire to increase density on the Project site, the 2030 General Plan designated the project site to allow for between 61 and 450 units per acre. The City Council reaffirmed its desire for additional density on the project site in March of 2015 when it approved the 2035 General Plan, which retains the CBD designation calling for 61 and 450 units per acre. The current density of the project site is approximately 40 units per acre. While the 15-Story Core Retention Alternative would increase the density on the project site above the minimum density contemplated in the 2030 and 2035 General Plan, the alternative would not achieve the density proposed by the Project. In consideration of the City's land use and housing goals, the City Council, therefore, finds this alternative to be less desirable than the Project. Furthermore, because the 15-Story Core Retention Alternative includes 475 to 571 fewer units than the Project (approximately a 35 to 40 percent reduction in units), Public Resources Code Section 21094.5 subdivision (b)(1) provides that the EIR is not required to evaluate this reduced density or building intensity alternatives. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].) Therefore, for this additional reason, CEQA does not require this alternative to be adopted in response to the Project's significant and unavoidable historical resource impacts.

Alternative 3:

Pursuant to CEQA, a lead agency should adopt a feasible project alternative that substantially lessens or avoids significant environmental effects of the Project. (Pub. Resources Code, § 21002; *Stockton Citizens, supra,* 48 Cal.4th at p. 498 ["[An] agency may not . . . approve the project as proposed if there are feasible alternatives . . . that would avoid or substantially lessen the adverse environmental effects."]; *Cherry Valley, supra,* 190 Cal.App.4th at p. 348 ["'in the event specific economic, social, or other conditions make infeasible project alternatives [that would otherwise substantially lessen or avoid the project's significant environmental impacts],' the project may be approved despite its significant environmental impacts"].) As discussed above and in the EIR, the 24-Story Core Retention Alternative fails to reduce the Project's significant and unavoidable historical resource impacts to a less than significant

level. Therefore, CEQA does not require the City adopt this alternative even if it were feasible.

Moreover, the City finds that the alternative is not feasible. For the purposes of CEQA, feasible includes desirability from a policy standpoint. (*CNPS, supra,* 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].) 2035 General Plan Policy HCR 2.1.15 (Policy 2.1.14 in the 2030 General Plan) establishes three reasons that support demolition of an historic resource. The City Council finds that demolition of the portions of the Capitol Towers Historic District (i.e. the garden apartments and historic trees and landscaping) are justified based on the city, regional, and statewide goals to increase residential densities in downtown centers, like Downtown Sacramento, to help reduce per capita energy, GHG, and VMT within the City. Because these per capita benefits increase as project site density increases, the City Council finds that a reduced density alternative such as the 24-Story Core Retention Alternative is less desirable from a policy / project benefit perspective as compared to the Project. Furthermore, because the City Council finds the alternative is less desirable from a policy / project benefit perspective, the City Council also finds that there is less justification for demolishing a portion of the Capitol Towers Historic District under the alternative as compared to the Project. Because the alternative is less desirable from these policy perspectives, the City Council finds the alternative to be infeasible.

Additionally, the City's Housing Element includes a policy to promote a range of housing opportunities. (See City of Sacramento Housing Element, Policy H-1.3.4.) The 24-Story Core Retention Alternative provides a reduced range of housing opportunities as compared to the Project. Under this alternative all units on the project site, with the exception of the 130 Capitol Villas garden apartments, would be high-rise residential units. Under the Project, 442 mid-rise residential units would be developed. Due in part to the cost of developing high-rise residential units (as compared to mid-rise units), high-rise residential units are typically leased at a premium over low-rise and midrise units. Because the Project would include 442 non-high-rise units, as compared to 130 non-high-rise units under the 24-Story Core Retention Alternative, the alternative would provide a reduced range of housing opportunities as compared to the Project. The City Council finds this alternative infeasible from a policy perspective for this additional reason.

Finally, based on the project sites location in the heart of the City of Sacramento's CBD land use designation, the City desires the project site to be built out with substantial density. In recognition of the City's desire to increase density on the Project site, the 2030 General Plan designated the project site to allow for between 61 and 450 units per acre. The City Council reaffirmed its desire for additional density on the project site in March of 2015 when it approved the 2035 General Plan, which retains the CBD designation calling for 61 and 450 units per acre. The current density of the project site is approximately 40 units per acre. While the 24-Story Core Retention Alternative would increase the density on the project site above the minimum density contemplated in the 2030 and 2035 General Plan, the alternative would not achieve the density proposed by the Project. In consideration of the City's land use and housing goals, the City Council, therefore, finds this alternative to be less desirable than the

Project. Furthermore, because the 24-Story Core Retention Alternative includes 179 to 275 fewer units than the Project (approximately a 13 to 19 percent reduction in units), Public Resources Code Section 21094.5(b)(1) provides that the EIR is not required to evaluate this reduced density or building intensity alternatives. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].) Therefore, for this additional reason, CEQA does not require this alternative to be adopted in response to the Project's significant and unavoidable historical resource impacts.

Alternative 4:

Pursuant to CEQA, a lead agency should adopt a feasible project alternative that substantially lessens or avoids significant environmental effects of the Project. (Pub. Resources Code, § 21002; *Stockton Citizens, supra,* 48 Cal.4th at p. 498 ["[An] agency may not . . . approve the project as proposed if there are feasible alternatives . . . that would avoid or substantially lessen the adverse environmental effects."]; *Cherry Valley, supra,* 190 Cal.App.4th at p. 348 ["'in the event specific economic, social, or other conditions make infeasible project alternatives [that would otherwise substantially lessen or avoid the project's significant environmental impacts],' the project may be approved despite its significant environmental impacts"].) As discussed above and in the EIR, the Retention of the Eastern Half of the Superblock Alternative fails to reduce the Project's significant and unavoidable historical resource impacts to a less than significant level. Therefore, CEQA does not require the City adopt this alternative even if it were feasible.

Moreover, the City finds that the alternative is not feasible. For the purposes of CEQA, feasible includes desirability from a policy standpoint. (*CNPS, supra,* 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].) 2035 General Plan Policy HCR 2.1.15 (Policy 2.1.14 in the 2030 General Plan) establishes three reasons that support demolition of an historic resource. he City Council finds that demolition of the portions of the Capitol Towers Historic District (i.e. the garden apartments and historic trees and landscaping) are justified based on the city, regional, and statewide goals to increase residential densities in downtown centers, like Downtown Sacramento, to help reduce per capita energy, GHG, and VMT within the City. Because these per capita benefits increase as project site density increases, the City Council finds that a reduced density alternative such as the Eastern Half of the Superblock Alternative is less desirable from a policy / project benefit perspective as compared to the Project. Furthermore, because the City Council finds the alternative is less desirable from a policy / project benefit perspective, the City Council also finds that there is less justification for demolishing a portion of the Capitol Towers Historic District under the alternative as compared to the Project. Because the alternative is less desirable from these policy perspectives, the City Council finds the alternative to be infeasible.

Additionally, based on the project sites location in the heart of the City of Sacramento's CBD land use designation, the City desires the project site to be built out with substantial density. In recognition of the City's desire to increase density on the Project site, the 2030 General Plan designated the project site to allow for between 61 and 450 units per acre. The City

Council reaffirmed its desire for additional density on the project site in March of 2015 when it approved the 2035 General Plan, which retains the CBD designation calling for 61 and 450 units per acre. The current density of the project site is approximately 40 units per acre. While the Retention of the Eastern Half of the Superblock Alternative would increase the density on the project site above the minimum density contemplated in the 2030 and 2035 General Plan, the alternative would not achieve the density proposed by the Project. In consideration of the City's land use and housing goals, the City Council, therefore, finds this alternative to be less desirable than the Project. Furthermore, because the Retention of the Eastern Half of the Superblock Alternative includes 367 to 463 fewer units than the Project (approximately a 26 to 31 percent reduction in units), Public Resources Code Section 21094.5 subdivision (b)(1) provides that the EIR is not required to evaluate this reduced density or building intensity alternatives. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].) Therefore, for this additional reason, CEQA does not require this alternative to be adopted in response to the Project's significant and unavoidable historical resource impacts.

D. ADDITIONAL ALTERNATIVES SUGGESTED BY COMMENTERS

Commenters have suggested a number of additional alternatives to the Project. The City finds that no alternatives have been identified by commenters that, in consideration of applicable streamlining provisions (FEIR, Master Response 2.3.9 [CEQA Streamlining]), are required to be evaluated in this EIR. Moreover, the City finds that the DEIR included a reasonable range of alternatives. Importantly, the rule of reason does not require a lead agency "consider every conceivable alternative to a project…" (CEQA Guidelines, § 15126.6(a); *Goleta II*, *supra*, 52 Cal.3d at p. 574) or "each and every conceivable variation of the alternatives stated." (*Jones, supra,* 183 Cal.App.4th at p. 827.) Nevertheless, while additional alternatives raised by commenters are not required to be analyzed in the EIR, the City Council has considered all comments submitted on the project, including comments relating to additional alternatives. A discussion of additional alternatives suggested by commenters is included below.

Off-Site Alternatives

Several commenters identified various sites within the City, some of which are located outside the General Plan's Central Business District (CBD), and suggest the Project should be developed on one of those alternative sites. Pursuant to both SB 375 (Pub. Resources Code § 21155.2, subd.(c)(2)) and SB 226 (Pub. Resources Code § 21094.5 subd. (b)(1)) the EIR for the Project was not required to evaluate an offsite alternative to comply with CEQA. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].) Additionally, as explained in the DEIR, the City has not identified any offsite locations of similar size and zoning within the CBD that are available for the project proponent to obtain and are sufficient in size to accommodate the Project. (DEIR, p. 5-1.) Therefore, even if the EIR was required to consider a feasible offsite alternative, no feasible offsite location has been identified.

Similarly, other commenters noted that there are a large number of residential infill projects within the City, some of which are located in the CBD, that are in the permitting pipeline. Commenters suggested that development of those offsite locations should be considered as an

alternative to the Project and that it would be consistent with the City's Housing Element, 2013-2021, because it concludes that there is enough vacant land and pipeline project in the City to accommodate housing needs through 2021. Because no single parcel, or even a combination of offsite parcels, have been identified that are available for the project applicant to acquire to achieve a similar level of mixed-use and residential intensity as the Project within the CBD, comments suggesting development of these other "pipeline projects" is akin to the no project alternative. In other words, the project site would remain as is, and the Project would not be developed, no similar project would be developed offsite by the project applicant, and the City would rely on other developers to complete different projects to increase the residential density and intensity within the CBD. Therefore, this "offsite alternative" is encompassed by the No Project Alternative, which, as required by CEQA, was analyzed in the DEIR.

Other commenters requested the EIR consider the potential to grant a transfer of development rights to allow the development to occur at another location where it would not impact an historical resource. Where permitted, transferring development rights is typically a method used to move development rights from a parcel that a city or county has determined should not be developed to another parcel that, without the transferred rights, could not be used to develop the project contemplated on the original parcel. Neither the City's 2030 or 2035 General Plan nor City Code permit or provide a mechanism for the transfer of development rights. Therefore, based on the City's existing policies, this is not a feasible alternative. Additionally, as discussed above, no other similar sized sites or combination of sites, either publically or privately owned, are available for development of the Project within downtown Sacramento. Furthermore, transferring development rights to an area of the City outside of downtown Sacramento would be inconsistent with the fundamental project objective to develop a dense residential project within downtown Sacramento. (DEIR, p. 2-6.) A transfer to an area outside of downtown Sacramento would also conflict with goals of the 2035 General Plan, as well as 2030 General Plan, to focus the type of dense residential development contemplated by the Project within the CBD, "Sacramento's most intensely developed area" in order to "add vitality to the CBD by extending the hours of activity and the built-in market for retail, services, and entertainment." (See, e.g., 2035 General Plan, p. 2-68.)

Additionally, as discussed in *Goleta II*, *supra*, 52 Cal.3d 553, where a project is consistent with an approved general plan, no offsite alternative need be analyzed in the EIR. The EIR "is not ordinarily an occasion for the reconsideration or overhaul of fundamental land-use policy." (*Goleta II, supra*, 52 Cal.3d at p. 573.) In approving a general plan, the local agency has already identified and analyzed suitable alternative sites for particular types of development and has selected a feasible land use plan. "Informed and enlightened regional planning does not demand a project EIR dedicated to defining alternative sites without regard to feasibility. Such ad hoc reconsideration of basic planning policy is not only unnecessary, but would be in contravention of the legislative goal of long-term, comprehensive planning." (*Goleta II, supra*, 52 Cal.3d at pp. 572-573.) The Project is consistent with the goals and policies in both the 2035 General Plan and 2030 General Plan (DEIR, pp. 3-15 to 3-26; DEIR, Appen. O; FEIR, Master Responses 2.3.4.5 and 2.3.10 [General Plan Consistency]), thus the City, for CEQA purposes, need not consider an offsite alternative for this additional reason.

Moreover, during the process of adopting the 2030 General Plan, some residents of 500 N Street requested the project site's land use designation not be changed so as to preserve the site in its current state. Residents also advocated for alternative sites to be developed. (See, e.g., 2030 General Plan Planning Commission Comment Matrix (Oct. 30, 2008), p. 8 [comment from resident stating the City should "focus the expansion of the Downtown/CBD onto the Railyards or the River District"].) However, in adopting the 2030 General Plan and certifying the Master EIR evaluating impacts of its implementation the City Council changed the land use designation for the project site to CBD. The focus on onsite alternatives is particularly appropriate for the project site due to the fact that the 2030 General Plan designated the site as within the CBD. Moreover, after Capitol Towers was determined eligible for listing in the National Register by the Keeper of the Register and was automatically listed in the California Register of Historical Resources, the City Council approved the 2035 General Plan, which reaffirmed the 2030 General Plan designation of the site as within the CBD. Within the CBD both the 2030 and 2035 General Plans call for a density of between 61.0 units/acre and 450.0 units/acre. (DEIR, p. 3-10; 2035 General Plan, Figure LU1 [Land Use & Urban Form Diagram].)

While the designation of the site as CBD does not require an increase in onsite density, existing density as compared to the CBD designation density is a relevant policy consideration. Existing conditions on the project site include 409 units in the Capitol Towers high-rise and Capitol Villa garden apartments on 10.13 net acres, for a density of 40.4 units/acre. As a result, existing density on the project site falls substantially below the minimum density of 61.0 units/acre envisioned for the site's land use designation in the 2030 and 2035 General Plans. Only an onsite alternative is capable of increasing density on the project site to bring it within the density range contemplated in the 2030 and 2035 General Plans. Therefore, the City concludes an offsite alternative is both not required by CEQA and is infeasible because it is "undesirable from a policy standpoint." (*CNPS, supra,* 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].)

New Development in Parking Areas Rehabilitation Alternative

Pursuant to the Secretary of the Interior's Standards for the Treatment of Historic Properties, the
Standards for Rehabilitation may include related new construction that will not destroy historic materials, features, and spatial relationships that characterize the property. Some commenters identified a "New Development Only in Parking Areas" alternative as a potential rehabilitation alternative. Specifically, in order to permit new infill construction alongside the historic buildings and landscaping onsite, some commenters proposed an alternative in which new development would only occur within the existing parking lots on the project site and within the footprint of the existing parking structure. As explained further below, the City Council finds this alternative would not be able to accommodate the density included in the Project and is infeasible.

As discussed in the FEIR (FEIR, pp. 2-744 to 2-748), the New Development in Parking Areas Rehabilitation Alternative would include 625 new residential units. Including the existing the 409 existing residential units on the project site, this alternative would include 1,034 units. Thus, this alternative would result in 340 to 436 fewer units than the Project, or approximately a 25 to 30 percent reduction in residential units. Public Resources Code Section 21094.5 subdivision (b)(1) provides that the EIR is not required to evaluate reduced density or building intensity alternatives. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].) Therefore, CEQA does not require this alternative to be adopted in response to the Project's significant and unavoidable historical resource impacts.

Additionally, the design of the "new development only in parking areas" alternative is inconsistent with the City's policy to create an active street front within the CBD. Specifically, 2035 General Plan Policy LU 2.7.7 provides that the City "shall require buildings to be oriented to and actively engage and complete the public realm through such features as building orientation…." The City's Central Core Design Guidelines reiterate the "importance of maintaining and creating active streetscapes" which requires "retail, commercial, community or other active uses… [to be] visible from the street to both pedestrians and motorists." (See, e.g., Central Core Design Guidelines, pp. 2-18, 4-40.) The towers proposed along 5th Street in the "new development only in parking areas" alternative would face away from 5th Street and would also be separated from the O Street pedestrian walkway by a row of Capitol Villas garden apartments. Moreover, opportunities provided by the Project to further activate the street front near the corner of N Street and 7th Street by developing a new building with ground floor retail and constructing a plaza on the corner P Street and 7th Street would not be provided by the "new development only in parking areas" alternative. For these reasons, the City Council finds that "new development only in parking areas" alternative is infeasible from a City policy perspective. (*CNPS, supra*, 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].)

No New Development Rehabilitation Alternative

In addition to the "New Development Only in Parking Areas" rehabilitation alternative, some commenters requested the EIR include a rehabilitation alternative that does not include new development on the project site. Neither CEQA nor the City's General Plan requires the City consider a rehabilitation alternative. 2035 General Plan Policy 2.1.15 (Policy 2.1.14 in the 2030 General Plan) provides that the infeasibility of a rehabilitation alternative is one of three reasons that the City may authorize demolition of an historic structure. However, as discussed in these findings, the City Council finds that the benefits of the Project outweigh the loss of the historic resource; 5 General Plan Policy 2.1.15 (Policy 2.1.14 in the 2030 General Plan) requires nothing more.

Additionally, no new development rehabilitation alternatives have been required where such an alternative would not conflict with a projects fundamental purpose. For example, in *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587 the project involved demolition of an historic mansion to build a new single family residence. As a rehabilitated

mansion could effectively serve as a single family residence, the rehabilitation alternative did not conflict with the fundamental objectives of that project. (*Id*. at p. 595, fn. 4 [stating rehabilitation alternatives "would achieve the desired end result of a habitable single-family home on the property"].) Here, however, the Project's basic objectives include intensifying an existing urban downtown residential community and developing additional high-density residential uses. A "No New Development" rehabilitation alternative would not meet these fundamental project objectives because it would not increase the density or residential population on the project site. CEQA only requires reasonable alternatives which could feasibly obtain the basic objectives of the project. Therefore, the City finds this alternative to be infeasible.

Public Benefit Zoning Alternative

A commenter requested the City consider a "Public Benefit Zoning" Alternative. Public Benefit Zoning is the process by which a City or County agrees to "up-zone" a property to allow for increased development on a parcel that has become more desirable to develop do to access to public transit and other desirable resources in exchange for the landowner providing additional public benefits. A necessary condition of Public Benefit Zoning is that properties have not yet been up-zoned because the benefits should be negotiated as part of the up-zoning process in conjunction with required nexus studies.

The Project does not require an up-zone as the City Code already permits density of up to 175 units per acre. Moreover, allowing the project site to be developed at an increased density in exchange for additional community benefits would not address the Project's significant and unavoidable historical resource impacts. Therefore, this alternative is neither feasible nor capable of substantially reducing or avoiding the Project's significant and unavoidable impacts.

Reorient Tower B Variation of Alternatives 2 and 3

A few commenters suggested a variation of Alternatives 2 and 3, which would reorient Tower B from its proposed north/south orientation to an east/west orientation. Changing the orientation of Tower B would have the potential to preserve an additional three Capitol Villas garden apartments. Turning Tower B to an east/west orientation would also turn the widest face of the building away from the street frontage along 5th Street. As a result, like the "new development only in parking areas" alternative, this variation of Alternatives 2 and 3 would be inconsistent with the City's policy to create an active street front within the CBD. Additionally, the three additional Capitol Villas garden apartments that would be preserved under the "Reorient Tower B" variations of Alternatives 2 and 3 would separate the reoriented Tower B from the O Street pedestrian walkway. As a result, this variation of Alternatives 2 and 3 would substantially reduce the ability to create an active streetscape along either 5th Street or the O Street pedestrian walkway. For these reasons, the City Council finds that this alternative is infeasible. (*CNPS, supra,* 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].)

Additionally, the City's Housing Element includes a policy to promote a range of housing opportunities. (See City of Sacramento Housing Element, Policy H-1.3.4.) The Reorient Tower B Variation of Alternatives 2 and 3 provides a reduced range of housing opportunities as compared to the Project. Under this alternative all units on the project site, with the exception of the 140 Capitol Villas garden apartments, would be high-rise residential units. Under the Project, 442 mid-rise residential units would be developed. Due in part to the cost of developing high-rise residential units (as compared to mid-rise units), high-rise residential units are typically leased at a premium over low-rise and midrise units. Because the Project would include 442 non-high-rise units, as compared to 140 non-high-rise units under the Reorient Tower B Variation of Alternatives 2 and 3, the alternative would provide a reduced range of housing opportunities as compared to the Project. The City Council finds this alternative infeasible from a policy perspective for this additional reason.

Furthermore, even if preserving the three additional buildings did not conflict with the City's active streetscape and housing goals and policies, the "Reorient Tower B" variation, like Alternatives 2 and 3, would still significantly affect the historical resource by developing new high-rise towers surrounding the central core of the project site, demolishing a substantial number of the Capitol Villas garden apartments, and impacting three of the seven aspects of integrity (i.e. design, setting and feeling), and, as a result, would not be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards). (See *Treasure Island, supra,* 227 Cal.App.4th 1036, 1066 ["The Secretary's Standards are the benchmark that CEQA uses to establish whether a project will have a significant adverse impact to a historic property."].) The "Reorient Tower B" variation would also impact the property's integrity of materials and workmanship by demolishing contributing buildings (Ambacher, Patricia, pers. comm. 2015a). Therefore, like Alternatives 2 and 3, preserving these additional buildings would not be sufficient to reduce the historical resource impacts under Alternatives 2 and 3 to a less-than-significant level since there would be demolition of a significant number of contributing buildings and the new construction of towers will impact the landscape, which also contributes to the Capitol Towers Historical District's eligibility.

Consolidate Parking Structures and Residential Towers Variation of Alternatives 2 and 3

Some commenters suggested consolidating the residential towers proposed as part of Alternatives 2 and 3 with parking garages included in the alternatives. If a podium level of parking was included below each residential tower and Alternative 2's 15-story maximum height was retained, then this variation of Alternative 2 would allow for 352 new units and provide for a total of 727 units on the project site; approximately half of the total units included in the Project. If a podium level of parking was included below each residential tower and the City's Planning and Development Code-allowed maximum height of 24-stories was maintained as in Alternative 3, then this variation of Alternative 3 would allow for 692 new units and provide for a total of 1,067 units on the project site; approximately a 20 to 30 percent reduction in units as compared to the Project. (See FEIR, pp. 2-751 to 2-753.) Therefore, like the "new development only in parking areas" alternative, this variation of Alternatives 2 and

3 would reduce the density and intensity of the Project and, therefore, CEQA does not require this variation to be considered. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].)

While the "Consolidate Parking Structures and Residential Towers" variation of Alternatives 2 and 3 would avoid demolition of an additional 12 Capitol Villas garden apartment buildings as compared to Alternatives 2 and 3, the variation would still require demolition of approximately 20 percent of the existing Capitol Villas garden apartment buildings (i.e. demolition of 12 of the 67 buildings [including a total of 34 units]). Therefore, while the variation would further reduce historical impacts as compared to Alternatives 2 and 3, the variation would still significantly affect the historical resource by developing new high-rise towers surrounding the central core of the project site, demolishing a substantial number of the Capitol Villas garden apartments, and impacting three of the seven aspects of integrity (i.e. design, setting and feeling), and, as a result, would not be consistent with the Secretary's Standards. (See *Treasure Island, supra*, 227 Cal.App.4th at p. 1066 ["The Secretary's Standards are the benchmark that CEQA uses to establish whether a project will have a significant adverse impact to a historic property."].) The "Consolidate Parking Structures and Residential Towers" variation of Alternatives 2 and 3 would also impact the property's integrity of materials and workmanship by demolishing contributing buildings (Ambacher, Patricia, pers. comm. 2015a). Therefore, like Alternatives 2 and 3, consolidating the parking garages with the high-rise towers would not be sufficient to reduce the historical resource impacts under Alternatives 2 and 3 to a less than significant level since there would be demolition of a significant number of contributing buildings and the new construction of towers will impact the landscape, which also contributes to the district's eligibility.

Additionally, the City's Housing Element includes a policy to promote a range of housing opportunities. (See City of Sacramento Housing Element, Policy H-1.3.4.) The "Consolidate Parking Structures and Residential Towers" variation of Alternatives 2 and 3 provide a reduced range of housing opportunities as compared to the Project. Under the "Consolidate Parking Structures and Residential Towers" variation all units on the project site, with the exception of the 172 Capitol Villas garden apartments, would be high-rise residential units. Under the Project, 442 mid-rise residential units would be developed. Due in part to the cost of developing high-rise residential units (as compared to mid-rise units), high-rise residential units are typically leased at a premium over low-rise and midrise units. Because the Project would include 442 non-high-rise units, as compared to 172 non-high-rise units under the "Consolidate Parking Structures and Residential Towers" variation, the variation would provide a reduced range of housing opportunities as compared to the Project.

Substantial Reduction in Parking Variation

Some commenters suggested an alternative be considered in which the Project or one or more of the Alternatives addressed in the DEIR or FEIR include substantially less (or no parking) as compared to the Project. CEQA requires an EIR consider alternatives that would feasibly accomplish most of the basic objectives of the project and would avoid or substantially lessen one or more of the significant effects of the project where feasible. (CEQA Guidelines, § 15126.6, subd. (c).) To the extent commenters request a reduced parking alternative be

considered to address concerns other than the Project's significant an unavoidable historical resource impacts, CEQA does not require alternatives to be considered for the purposes of reducing a project's already less than significant impacts. (*Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 930 [concluding an EIR was not required to include an alternative that did not substantially mitigate the significant environmental impacts of the proposed project]; see also *NCRA, supra,* 216 Cal.App.4th at p. 649.)

To the extent reduced parking alternatives were suggested to address the Project's significant an unavoidable historical resource impacts, the City Council finds that a reduced parking alternative is infeasible. As defined under Section 17.608.030 of the Sacramento City Code, the project site and most of downtown Sacramento is located within a parking district that does not require that land uses provide vehicle parking (the Central Business and Arts & Entertainment District). However, the lack of a minimum required parking ratio for the project site does not mean eliminating all or a substantial amount of the parking provided by the Project or any of the alternatives would be desirable from a City policy perspective.

The Hotel / Condo / Retail Scenario would eliminate the 390 existing surface and garage parking spaces and build up to 1,701 new parking spaces within four parking garages, for a net increase of 1,311 parking spaces on the site. The Scenario proposes to retain the existing Capitol Towers (which contains 203 apartments) and construct a 300-room hotel and 110 condominium units (in conjunction with and above the hotel floors), providing up to 1,171 new dwelling units (increasing the total number dwelling units within project site to 1,374). The Hotel / Condo / Retail Scenario would provide 1,402 parking spaces for 1,374 residential units, or an average of 1.02 parking spaces per unit, which is similar to existing parking conditions on the project site of 0.96 parking spaces per unit. (See DEIR, Table 2-3 for further discussion of Project parking.)

For the Condo / Retail Scenario, the project would eliminate the 390 surface and garage parking spaces and build up to 1,635 new parking spaces within four parking garages, for a net increase of 1,245 parking spaces on the site. The Condo / Retail Scenario would construct up to 1,267 new dwelling units (increasing the total number of dwelling units within the project site to 1,470). The Condo / Retail Scenario would provide 1,522 parking spaces for 1,470 residential units, or an average of 1.04 parking spaces per unit, which is also similar to existing parking conditions on the project site 0.96 parking spaces per unit. (See DEIR, Table 2-3 for further discussion of Project parking.)

In 2006 the City prepared a comprehensive Central City Parking Master Plan (Parking Plan). The project site is located with Focus Area 1 as defined in the Parking Plan. The Parking Plan found that Focus Area 1 had the greatest on-street weekday midday parking demand occupancy level within the entire study area. (Parking Plan, p. 9.) Within Focus Area 1, the Parking Plan also projected both off-street residential and commercial parking deficits to continue beyond 2016. As a result, the Parking Plan concluded that on-street parking impacts could occur in areas near residential projects. (*Id*. at pp. 32-33.) This conclusion is supported by comments that the City has received during the administrative process for this Project in

which concerns have been expressed regarding the existing high demand for on-street parking surrounding the project site. (See, e.g., FEIR, pp. 2-638 to 2-639 [Comment H2-42].)

The Parking Plan estimated that residential parking demand in the Central City is 1.5 spaces per dwelling unit. (Parking Plan, p. 32.) Because the Project is located adjacent to multiple public transit options (including light rail stations) and the project site currently provides approximately a 1:1 parking ratio, the City believes that the Project can provide approximately one parking space per dwelling unit without resulting in a substantial increase in demand for on-street parking. A residential 1:1 parking ratio is also comparable to the typical ratio being provided by other residential and mixed use projects proposed within the CBD and surrounding area. (See FEIR, pp. 2-325 to 2-326.) Particularly in consideration of the number of senior housing developments near the Project (e.g. Pioneer Towers and Pioneer House), the City Council desires to avoid substantially increasing the existing demand for on-street parking so that senior residents and visiting family members are more likely to be find parking near the existing senior residences. Furthermore, when residents with residential parking passes park on-street in a metered parking space within the project area, revenue that would otherwise be generated by the metered spaces is lost to the City. Therefore, substantial City policy and budgetary reasons support requiring the Project include a sufficient number of off-street parking spaces. The City Council finds that providing approximately one parking space per dwelling unit on average is feasible and that a parking ratio below 1:1 would be undesirable for the above-described City policy reasons and is rejected as infeasible for those reasons. (*CNPS, supra,* 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].)

The Project proposes slightly more than one space (i.e. 1.02 to 1.04 spaces) per residential unit on average. A slight reduction in parking to bring the Project to a ratio of 1:1 would not allow for the elimination of any of the parking structures included in the Project. A minor change in the Project's proposed parking ratio is not required by CEQA because a minor change in the ration would have no impact on the Project's significant and unavoidable historical resource impacts.

Moreover, as explained in the EIR, even if all parking was eliminated from the Project or Alternatives 2 or 3, the Project's significant and unavoidable historical resource impacts would not be reduced to a less than significant level. For example, even if Alternatives 2 and 3 included no parking, the alternatives would require the demolition of at least 10 Capitol Villas garden apartment buildings (including a total of 30 garden apartment units). By requiring the demolition of approximately 15% of the garden apartment units, developing new high-rise towers surrounding the central core of the project site, and impacting three of the seven aspects of integrity (i.e. design, setting and feeling), a no parking variation of Alternatives 2 and 3 would still not be consistent with the Secretary's Standards. (See *Treasure Island, supra*, 227 Cal.App.4th at p. 1066 ["The Secretary's Standards are the benchmark that CEQA uses to establish whether a project will have a significant adverse impact to a historic property."].) This variation would also impact the property's integrity of materials and workmanship by demolishing contributing buildings (Ambacher, Patricia, pers. comm. 2015a). Therefore, this variation of Alternatives 2 and 3 would not reduce the historical

resource impacts under Alternatives 2 and 3 to a less than significant level since there would be demolition of a significant number of contributing buildings and the new construction of towers will impact the landscape, which also contributes to the district's eligibility.

Finally, a reduced parking alternative is also not required in the EIR because a reduced parking alternative would constitute a reduced development intensity alternative, which is not required for the Project. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].)

Additional Alternatives Suggested on May 29, 2015

On May 29, 2015, after the close of the public comment period, the City received an email from Carr Kunze that included drawing of two additional onsite alternatives described as Schemes B and C (dated April 20, 2015). The City has considered both of these onsite alternatives and, as discussed further below, concludes the alternatives are infeasible. It should be noted that even the commenter describes their proposed Scheme B as "sub-optimum" and does not recommend implementation of Scheme C.

Retain Capitol Towers and Villas Schemes B and C

Mr. Kunze suggests Scheme B allows for 220 to 323 new units (depending on the height of the proposed high-rise) and provides for a total of 629 to 746 units on the project site; approximately 45 to 57 percent reduction in units as compared to the Project. Mr. Kunze suggests Scheme C allows for 865 new units and provides for a total of 1,216 total units on the project site; approximately 11 to 17 percent reduction in units as compared to the Project. Therefore, these alternatives would reduce the density and intensity of the Project and, thus, CEQA does not require these alternatives to be considered for the Project. (See FEIR, Master Response 2.3.9 [CEQA Streamlining].)

Moreover, Schemes B and C are infeasible for several City policy reasons. First, City Code requires that high-rise towers are separated by a minimum setback of 80 feet. Both Scheme B and C proposed the development of a high-rise tower adjacent to the existing Capitol Towers well short of the 80 foot setback requirement. (See also Central Core Design Guidelines, p. 4-26 [explaining that "[d]ensely packed towers can have numerous deleterious effects"].) Second, the Central Core Design Guidelines require a 10% bulk reduction for the top 20% of the tower height, measured from grade. (Central Core Design Guidelines, p. 4-33.) As proposed, Schemes B and C do not comply with this requirement and, as a result, the schemes overestimate the potential number of units that could be developed. Third, both schemes propose a parking garage to be located directly in front of Capitol Towers high-rise (approximately 20 feet from Capitol Towers). The City Council finds that developing a parking structure in such close proximity to the existing high-rise is undesirable. Fourth, with respect to Scheme C, the scheme includes development over an area subject to an existing easement. (See FEIR, Master Response 2.3.8.) Finally, due to the proximity between the Capitol Towers high-rise and the proposed parking garage as well as the distances between the high-rises proposed in the schemes and the existing residential units (both the Capitol Towers high-rise and the nearest garden apartments) the schemes both create significant fire

access challenges. For all of the above reasons, the City Council finds that the schemes are infeasible.

Additionally, the City's Housing Element includes a policy to promote a range of housing opportunities. (See City of Sacramento Housing Element, Policy H-1.3.4.) The proposed schemes provide a reduced range of housing opportunities as compared to the Project. Under the schemes all units on the project site, with the exception of the 206 Capitol Villas garden apartments, would be high-rise residential units. Under the Project, 442 mid-rise residential units would be developed. Due in part to the cost of developing high-rise residential units (as compared to mid-rise units), high-rise residential units are typically leased at a premium over low-rise and midrise units. Because the Project would include 442 non-high-rise units, as compared to 206 non-high-rise units under these schemes, the variation would provide a reduced range of housing opportunities as compared to the Project. The City Council finds the schemes proposed by the commenter are undesirable for this additional reason. (*CNPS, supra,* 177 Cal.App.4th at p. 1001 ["an alternative that 'is impractical or undesirable from a policy standpoint' may be rejected as infeasible"].)

XVIII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth in the preceding sections, the City of Sacramento's approval of the Project will result in two significant adverse historical resource-related environmental effects that cannot be avoided even with the adoption of all feasible mitigation measures; there are no feasible Project alternatives that would avoid or lessen these impacts to a less than significant level. Despite the occurrence of these effects, however, the City Council, in accordance with CEQA Guidelines section 15093, chooses to approve the Project because, in the Council's view, the economic, social, and other benefits that the Project will produce will render this significant effect acceptable.

A. SIGNIFICANT AND UNAVOIDABLE IMPACT

As discussed in Section XII, *supra*, the Project will result in the following potentially significant and unavoidable impacts, even with the implementation of all feasible mitigation measures:

> **Impact 4.4-2**: Substantial adverse change in the historical significance of Capitol Towers and Villas. This impact is considered *significant and unavoidable*.
>
> **Impact 4.4-6**: Cumulative historical resources impacts. This is a *significant cumulative* impact, the project would have a *cumulatively considerable contribution,* and the cumulative impact is *significant and unavoidable.*

B. OVERRIDING CONSIDERATIONS

"The wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (*Goleta II, supra*, 52 Cal.3d at p. 576.) After careful consideration of EIR and supporting administrative record, in the City Council's judgment, the Project and its benefits outweigh its unavoidable impacts. While some commenters have suggested that the City Council lacks the discretion to find the Project's benefits outweigh its historic resource impacts, the City Council notes that CEQA case law explicitly supports a lead agency's ability to override significant and unavoidable impacts to historic resources. (See, e.g., *Dusek v. Redevelopment Agency* (1985) 173 Cal.App.3d 1029, 1029 [implementation of redevelopment plan was overriding consideration justifying demolition of historic building even though no specific plan for developing property in accordance with redevelopment plan had been adopted].) Because CEQA necessarily requires a balancing of environmental impacts and benefits of a project (such as the transportation and greenhouse gas benefits of this Project) and also allows for consideration of non-environmental overriding considerations, CEQA does not and cannot guarantee that governmental decisions made with historical consequences in mind will always be those which favor historical considerations. (See *Foundation, supra*, 106 Cal.App.3d at p. 917.)

The following statement identifies the specific reasons why, in the City Council's judgment, the benefits of the Project as approved outweigh its unavoidable significant effects. It is the City Council's judgment that any one of these reasons is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the City Council would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found in the Record of Proceedings, as defined in Section VI above.

The benefits of the Project, which outweigh the impacts of the Project, include:

- **The Project is consistent with and supportive of SACOG's Blueprint Plan, SACOG's MTP/SCS as well as the City's 2030 General Plan and 2035 General Plan.** The Project is an infill project that meets the goals of the 2004 SACOG Blueprint, and is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in SACOG's MTP/SCS. Additionally, the Project makes efficient use of the land and infrastructure by increasing the density of the project site from approximately 40 units/acre to at least 135 units/acre, which is within the density range identified for the project site within the 2030 General Plan and 2035 General Plan (i.e. 61-450 units/acre). Furthermore, the Project is consistent with and supported by the environmental analysis included in the Program EIR prepared for SACOG's MTP/SCS and the Master EIRs prepared for the City's 2030 and 2035 General Plans.

- **The Project implements state goals established by the Sustainable Communities and Climate Protection Act of 2008 (SB 375).** SB 375 was adopted to support the State's

climate action goals to reduce greenhouse gas (GHG) emissions and per capita vehicle miles traveled (VMT) through coordinated transportation and land use planning with the goal of more sustainable communities. SB 375 requires the region's MTP/SCS to contain land use, housing, and transportation strategies that, if implemented, would allow the region to meet its GHG emission reduction targets. On June 12, 2012, the Air Resources Board determined that SACOG's MTP/SCS, if implemented, would allow the region to meet or exceed its GHG emission reduction targets. The Project, by bringing approximately 1,000 net new residential units into Downtown Sacramento, constitutes a significant step towards the City's continued effort to implement SACOG's MTP/SCS. Specifically, as an infill project located close to transit, the Project is designed and built to encourage walking, bicycling, and transit use over the driving of cars. Additionally, the Project provides neighborhood and community retail near residential development, thus shortening and reducing the number of vehicle trips. The reduction in vehicle trips correlates to a reduction in greenhouse gas emissions, further helping the state and City achieve their greenhouse gas emissions goals.

- **The Project addresses the housing-to-jobs imbalance in the CBD.** As a mixed-use residential infill project in the CBD in downtown Sacramento, the Project helps to address the existing housing to jobs imbalance in the CBD. As a result of the Project's location in downtown Sacramento, the Project will provide more Sacramento residents with opportunities to live in close proximity to where they work.

- **The Project will provide diverse housing opportunities in close proximity to an employment base.** The Project includes a net increase between approximately 965 and 1,061 residential units including mid-rise, high-rise, and live-work rental units as well as for sale condominiums. As a result, the Project provides a variety of housing choices for Sacramento's diverse population, giving the people of Sacramento more options to choose from.

- **The Project will help address the shortage of rental and for sale housing options available in Downtown Sacramento.** Based on the Project's density and overall proposed unit count, the Project constitutes a significant step towards addressing the existing housing shortage in Downtown Sacramento and associated pressures on housing costs.

- **The Project will support continued expansion of and improvements to Sacramento Regional Transit's bus and light rail services.** State and federal funding is critical to the continued expansion of and improvements to the region's transit network. Many potential sources of funding, such as the Federal Urbanized Area Formula Funding program (49 U.S.C. § 5307), are directly linked to factors such as population density, bus passenger miles, and fare box revenues. The Project, based on its density and location directly adjacent to a light rail stop serving all existing light rail lines in the region, will assist the region in obtaining funding necessary for expansion of and

improvements to the region's transit network including the planned Green Line to the Airport light rail extension project.

- **The Project provides a unique opportunity to provide a four-square block area of pedestrian-oriented high-density mixed-use living within Downtown Sacramento.** No other four-square block area is available for acquisition in Downtown Sacramento where the applicant's dense infill Project could be replicated. Furthermore, the Project provides a unique opportunity for dense infill with extensive pedestrian and bicycle connections within and through the development as a result of the Project's North-South and East-West Promenades.

- **The Project promotes energy conservation.** The Project contains several features that support energy conservation and sustainability, such as constructing new buildings that are more energy and water efficient and meet the CalGreen Building Code requirements.

- **The Project provides revenue to the City of Sacramento.** The Project will provide revenue to the City from sales taxes generated by the commercial portions of the Project, as well as increased property tax revenues to fund public services and facilities. Additionally, the Project will generate revenues to the City through payment of building and development impact fees as well as through increased sales taxes from the goods purchased by residents from the Project site as well as from the surrounding communities.

- **The Project provides employment opportunities for highly trained workers.** The Project will provide many temporary construction jobs, as well as permanent office, retail, and neighborhood uses jobs, available to Sacramento residents and these employment opportunities will financially benefit the City.

- **The Project will activate downtown Sacramento and provide open spaces.** The Project furthers the objective of the City to create more residential mixed-use development in the Central City (and Downtown Sacramento specifically). Additionally, the Project will enhance pedestrian walkways, including through the creation of the North-South and East-West Promenades, with accompanying landscaping and open space to meet the City's vision for high-quality public urban spaces, as well as to provide stormwater management benefits.

C. CONCLUSION

As explained above, the City Council has balanced these benefits and considerations against the significant unavoidable environmental effect of the Project and has concluded that both the individual historical impact to Capitol Towers and Villas, including the existing tree canopy and landscaping, and the cumulative impact to historical resources are outweighed by these benefits, among others. After balancing environmental costs against Project benefits, the City Council has concluded that the benefits the City of Sacramento community and

economy will derive from the Project outweigh the risks. The City Council believes the Project benefits outlined above override the significant and unavoidable environmental impacts associated with the Project.

DRAFT

Back to Report Table of Contents

SACRAMENTO COMMONS PROJECT
SACRAMENTO, CALIFORNIA
TABLE A TO CEQA FINDINGS

TABLE OF IMPACTS, MITIGATION MEASURES AND CEQA FINDINGS

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
AESTHETICS			
4.1-1: The proposed project could have a substantial adverse effect on a scenic vista. (NI)	None required (DEIR, p 4.1-13.)	No Impact	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.1-2: The proposed project could substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. (NI)	None required (DEIR, p. 4.1-14.)	No Impact	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.1-3: The proposed project could substantially degrade the existing visual character or quality of the site and its surroundings. (LS)	None required (DEIR, p. 4.1-20.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.1-4: The proposed project could create a new source of substantial light or	None required (DEIR, p. 4.1-21.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant.

No Impact = NI Less than Significant = LS Potentially Significant = PS Significant = S Cumulatively Considerable = CC Less than Cumulatively Considerable = LCC
Not Cumulatively Considerable = NCC Significant and Unavoidable = SU

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
glare which would adversely affect day or nighttime views in the area. (LS)			(CEQA Guidelines, § 15126.4, subd. (a)(3).)
Cumulative Impact 4.1-5: Related to scenic vistas. (NCC)	None required (DEIR, p. 4.1-22.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.1-6: Related to existing visual character or quality of	None required (DEIR, p. 4.1-23.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
the site and its surroundings. (LCC)			cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.1-7: Related to a new source of substantial light or glare which would adversely affect day or nighttime views in the area. (LCC)	None required (DEIR, pp. 4.1-24.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			Plans.
AIR QUALITY			
4.2-1: The proposed project could result in short-term (construction) emissions of NOx above 85 pounds per day. (PS)	Mitigation Measure 4.2-1: Implement SMAQMD Basic Construction Emission Control Practices. Prior to commencement of each phase of construction, the project applicant shall provide evidence that maximum daily emissions remain below applicable SMAQMD significance thresholds. City approval of any grading or improvement plans shall require the following Basic Construction Emission Control Practices: • Water all exposed surfaces two times daily. Exposed surfaces include, but are not limited to, soil piles, graded areas, unpaved parking areas, staging areas, and access roads. • Cover or maintain at least 2 feet of free board space on haul trucks transporting soil, sand, or other loose material on the site. Cover any haul trucks that will be traveling along freeways or major roadways. • Use wet power vacuum street sweepers to remove any visible trackout mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited. • Limit vehicle speed on unpaved roads to 15 mph. • Complete pavement of all driveways and sidewalks to be paved as soon as possible. In addition, lay building pads as soon as possible after grading unless seeding or soil binders are used. • Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [required by California Code of Regulations, Title 13, Sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site. • Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment shall be checked by a certified mechanic and determined to be running in proper condition before it is operated. (DEIR, pp. 4.2-21 to 4.2-22.)	Less than Significant	Finding: Implementation of Mitigation Measure 4.2-1, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the potentially significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: The proposed project would result in the temporary generation of ROG and NO_x, emissions during construction activities. Rog and NO_x, emissions are primarily associated with exhaust from mobile equipment, including off-road construction equipment and on-road motor

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			vehicles. (DEIR, p. 4.2-20.) Mitigation Measure 4.2-1 calls for the implementation of the SMAQMD Basic Construction Emission Control Practices. (DEIR, p. 4.2-21.) SMAQMD's Basic Construction Emission Control Practices include practices such as watering the construction site twice daily, limiting vehicle speeds on unpaved roadways to 15 miles per hour, minimizing vehicle idling, covering haul trucks transporting soil, and cleaning paved roads. (*Ibid.*) Implementation of Mitigation Measure 4.2-1, would reduce fugitive PM dust and equipment exhaust emissions to a level that is less than significant. (DEIR, p. 4.2-21.)
4.2-2: The proposed project could result in long-term (operational) emission of NOx or ROG above 65 pounds per day. (LS)	None required (DEIR, p. 4.2-23.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
4.2-3: The proposed project could violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in PM_{10} concentrations equal to or greater than 5% of the state ambient air quality standard (i.e., 50 micrograms/cubic meter for 24 hours) during project construction. (PS)	Mitigation Measure 4.2-3: Implement Mitigation Measure 4.2-1 (Implement SMAQMD Basic Construction Emission Control Practices). (DEIR, p. 4.2-24.)	Less than Significant	Implementation of Mitigation Measure 4.2-3, which has been required or incorporated into the project, will reduce this potential impact to a less than considerable level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the potentially significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).)
4.2-4: The proposed project could result in CO concentrations that exceed the 1-hour state ambient air quality standard (i.e., 20.0 ppm) or the 8-hour state ambient standard (i.e., 9.0 ppm). (LS)	None required (DEIR, p. 4.2-25.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.2-5: The project could result in exposure of sensitive receptors to	None required (DEIR, p. 4.2-26.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant.

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
substantial pollutant concentrations. (LS)			(CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.2-6: The proposed project could create objectionable odors affecting a substantial number of people. (LS)	None required (DEIR, p. 4.2-27.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
Cumulative Impact 4.2-7: Related to ozone precursors. (LCC)	None required (DEIR, p. 4.2-29.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.2-8: Related to particulate matter concentrations. (LCC)	Mitigation Measure 4.2-8: Implement Mitigation Measure 4.2-1 (Implement SMAQMD Basic Construction Emission Control Practices). (DEIR, p. 4.2-30.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.)

No Impact = NI Less than Significant = LS Potentially Significant = PS Significant = S Cumulatively Considerable = CC Less than Cumulatively Considerable = LCC
Not Cumulatively Considerable = NCC Significant and Unavoidable = SU

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			While not required to mitigate a potentially cumulatively considerable impact under Impact 4.2-8, Mitigation Measure 4.2-1 will further reduce the less than cumulatively considerable impacts associated with particulate matter concentrations. Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.2-9: Related to carbon monoxide (CO) concentrations. (LCC)	None required (DEIR, pp. 4.2-31.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.2-10: Related to exposure of sensitive receptors to substantial pollutant concentrations. (LCC)	None required (DEIR, pp. 4.2-32.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.2-11: Related to odors. (LCC)	None required (DEIR, pp. 4.2-33.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
BIOLOGICAL RESOURCES			
4.3-1: The proposed project could result in substantial degradation of the quality of the environment or reduction of habitat or population below self-sustaining levels of threatened or endangered species of plant or animal, substantially reduce the number or restrict the range of a special-status species, substantially reduce the habitat of a fish or wildlife species, or cause a fish or wildlife population to drop below self-sustaining levels. (PS)	Mitigation Measure 4.3-1(a): Avoid Direct Loss of Swainson's Hawk. Swainson's hawk: • If construction, tree removal, trimming, or pruning for any project phase on the project site is to begin during the nesting season for Swainson's hawk (March 1–August 31), a preconstruction survey for Swainson's hawk shall be conducted. Surveys for Swainson's hawk nests shall be conducted no more than 30 days before the beginning of construction for all project phases. Surveys for Swainson's hawk nests shall be conducted in all suitable nesting habitat within line of sight of construction activities within a 0.25-mile radius of the project site. • If active Swainson's hawk nests are found within the nest survey area, the construction contractor shall avoid impacts on such nests by establishing a no-disturbance buffer around the nest. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest. Based on guidance for determining a project's potential for impacting Swainson's hawks (Swainson's hawk Technical Advisory Committee 2000), projects in urban areas have a low risk of adversely affecting nests greater than 600 feet from project activities. Therefore, 600 feet is the minimum adequate buffer size for protecting nesting Swainson's hawks from disturbances associated with the proposed project. However, the qualified biologist shall consult with the California Department of Fish and Wildlife to confirm the adequacy of the no-	Less than Significant	Finding: Implementation of Mitigation Measures 4.3-1(a) and 4.3-1(b), which have been required or incorporated into the project, will reduce this potential impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the potentially significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).)

No Impact = NI Less than Significant = LS Potentially Significant = PS Significant = S Cumulatively Considerable = CC Less than Cumulatively Considerable = LCC
Not Cumulatively Considerable = NCC Significant and Unavoidable = SU

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	disturbance buffer size prior to commencement of construction. • No construction activity shall occur within the buffer area of a particular nest until a qualified biologist in consultation with California Department of Fish and Wildlife, confirms that the chicks have fledged or the nesting cycle has otherwise completed. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases, according to CDFW guidance (Calderaro pers. comm. 2014). The no-disturbance buffer will remain in place until the chicks have fledged or as otherwise determined by a qualified biologist. (DEIR, pp. 4.3-22.) Mitigation Measure 4.3-1(b): Avoid Direct Loss of Swainson's Hawk, White-Tailed Kite, Peregrine Falcon, and Nesting Birds Protected by the Migratory Bird Treaty Act and California Fish and Game Code. <u>White-tailed Kite, Peregrine Falcon, and Protected Bird Species</u> • If construction activity, tree removal, trimming, or pruning for any project phase on the project site is to begin during the nesting season for white-tailed kite, peregrine falcon, other raptors (except Swainson's hawk), or other protected bird species in this region (generally late February through early September), a qualified biologist shall conduct preconstruction surveys in areas of suitable nesting habitat for white-tailed kite, peregrine falcon, common raptors, and bird species protected by the Migratory Bird Treaty Act or California Fish and Game Code. Surveys shall be conducted no more than 30 days before any ground disturbance is expected to occur for all project phases and shall extend at least 300 feet from the edge of the disturbance activity for non-raptor bird species and at least 500 feet for all raptor species potentially nesting in the area. • If no active nests are found, no further mitigation is required. If active nests		<u>Explanation</u>: Although no threatened or endangered plant or animal species are currently present onsite, the project has the potential to affect nesting bird species as a result of removal of, or other impacts on trees that could provide nesting habitat. (DEIR, p. 4.3-19.) The small, urban nature of the project site and the lack of bird or raptor nests observed during the survey make it unlikely that the removal of trees that could be used for nesting would adversely impact the regional bird population. (*Ibid.*) Although the probability is low, there is still a potential for protected bird species to nest onsite. (DEIR, p. 4.3-20.) Mitigation Measures 4.3-1a through 4.3-1b would reduce impacts on Swainson's hawk, white-tailed kite, peregrine falcon, other raptors, and migratory birds to a less than significant level because they would ensure that these species are not disturbed during nesting and project construction would not

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	are found, the construction contractor shall avoid impacts on such nests by establishing a no-disturbance buffer around the nest. The appropriate buffer size for all nesting birds shall be determined by a qualified biologist but shall extend a minimum of 300 feet from the nest for non-raptor bird species and 500 feet for raptor species. The buffer size may be adjusted, as determined by a qualified biologist, depending on the species of nesting bird, nature of the project activity, the extent of existing disturbance in the area, visibility of the disturbance from the nest site, and other relevant circumstances. • No construction activity shall occur within the established buffer area of an active nest until a qualified biologist confirms that the chicks have fledged and are no longer dependent upon the nest or the nesting cycle has otherwise completed. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases, according to CDFW guidance (Calderaro pers. comm. 2014). The no-disturbance buffer will remain in place until the chicks have fledged or as otherwise determined by a qualified biologist. (DEIR, p. 4.3-23.)		result in nest abandonment and loss of eggs or young. (DEIR, p. 4.3-22.)
4.3-2: The proposed project could conflict with any local policies or ordinances protecting biological resources. (PS)	Mitigation Measure 4.3-2: Avoid and Minimize Impacts on Trees. The project applicant shall submit a Tree Permit application to the City Department of Public Works (Maintenance Services Division), as required by the City Code, for removal and pruning affecting a Heritage Tree or City Street Tree and such activity shall not be performed until a permit has been issued. When allowed, according to the conditions of the permit, construction activity that requires pruning or encroachment into the canopy dripline of a Heritage Tree or City Street Tree would be monitored by the project arborist, who will make recommendations for minimizing impacts to retained trees. In addition, the following tree replacement, protection, and monitoring actions shall be implemented: • Any Heritage Trees to be removed for construction purposes shall each be	Less than Significant	Finding: Implementation of Mitigation Measure 4.3-2, which has been required or incorporated into the project, will reduce this potential impact to a less than significant level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that changes or alterations have been required in, or incorporated

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	replaced with one 24-inch box size tree. The replacement trees shall be planted on site and incorporated into the project's landscape plan. • Any City Street Trees to be removed for construction purposes shall be replaced with either 24-inch box size trees or 15-gallon size tree (as required under City Code Section 12.56.090 based on the sizes of the City Street Trees to be removed). Replacement trees for City Street Trees shall be replanted within the City right-of-way in coordination with the City's Urban Forester. If replacement trees for City Street Trees cannot be accommodated in the City's right-of-way, they shall be planted on site and incorporated into the project landscape plan. If City Street Tree replacement trees cannot be incorporated into the project landscape plan, they shall be planted at another off-site location at the City's direction. • Replacement trees, including all 147 ground level trees identified in the Conceptual Landscape Plan prepared for the project, shall consist of shade tree species appropriate to the site and which consider the post-construction environment (e.g., shading from buildings). Selection of replacement tree species shall be conducted in consultation with the City's Director of Urban Forestry. • Tree planting shall comply with the City's landscaping requirements (City Code Sections 17.612.010 and 17.612.040). • Canopy or root pruning of any retained Heritage or City Street Trees to accommodate construction and/or fire lane access shall be conducted according to applicable ANSI A300 tree pruning standards and International Society of Arboriculture best management practices. • All retained trees on-site (Heritage or City Street Trees) shall be protected from construction-related impacts pursuant to Sacramento City Code Section 12.64.040 (Heritage Trees) and Section 12.56.060 (City Street Trees). Full details of tree protection measures are available in the Arborist Report (see Appendix M), but a summary is provided here. o Under the tree protection measures, an International Society of		into, the project which avoid or substantially lessen the potentially significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).) <u>Explanation</u>: The project site contains approximately 291 trees with an existing tree canopy coverage of approximately 247,402 square feet. (DEIR, p. 4.3-23.) Construction of the proposed project is expected to result in the removal of approximately four Heritage Trees, approximately four City Street Trees, and approximately 191 Non-Heritage Trees. (DEIR, p. 4.3-24.) A total of 92 existing trees are proposed to be retained onsite. (*Ibid.*) Mitigation Measure 4.3-2 would ensure that Heritage Trees and City Street Trees would be replaced consistent with Title 12, Chapters 12.56 and 12.64 of the City Code. (*Ibid.*) Mitigation Measure 4.3-2

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	Arboriculture-(ISA) Certified Arborist shall be assigned to monitor tree health and construction activity near all trees retained on-site (including trees that do not meet the Heritage Tree or City Street Tree definition). Protection measures prior to construction include: health inspection of large trees; a pre-construction meeting with all contractors and the arborist to discuss protocols; pre-construction training for all construction crews; tree removal, pruning and inspection during site preparation; and erection of a protective fencing and signage around all trees or groups of trees. Tree protection measures during construction shall include: preserved trees shall not have signs, ropes, cables or other items attached to them; all heavy equipment shall avoid the fenced protection zones; no storage or discard of any supply or material within the fenced protection zones; grade changes of more than two feet are not permitted within 30 feet of a tree's drip line; care shall be taken when moving equipment or supplies near trees (especially overhead); all trenching shall be outside the fenced protection zones unless a Tree Permit, when required by City Code, has been obtained; an irrigation schedule shall be implemented for any substantially pruned tree within 48 hours; canopy pruning can only be done under an approved Tree Permit, when required by City Code; and periodic washing of tree foliage may be necessary (but not more than once every two weeks). • On-site trees in the post-construction landscape (including Heritage Trees, City Street Trees, and Non-Heritage Trees proposed for retention plus newly-planted landscape trees) shall be monitored by an ISA Certified Arborist for a period of 5 years. Post-construction monitoring shall be conducted at least monthly for Year 1, quarterly for Year 2, and twice annually for Years 3-5. Post-construction monitoring shall begin at the completion of landscape installation. Monitoring periods may be staggered for the project site to account for construction phasing, but shall be no less than 5 years for each tree. Should any retained or newly-planted trees die within the 5-year monitoring period, the tree shall be removed and replaced at a 1:1 ratio with a 24-inch box size tree of the same or comparable species (unless it is determined that a different species is better suited to the location, as recommended by the monitoring arborist). Post-construction monitoring		also provides for tree protection measures to be implemented prior to and during construction, and tree monitoring during and after construction for Heritage Trees, City Street Trees, and Non-Heritage Trees. (DEIR, pp. 4.3-26 – 4.3-27.) With implementation of this mitigation measure, the impact is considered less than significant. (*Ibid.*)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	reports shall be prepared and submitted to the entity responsible for landscape management and to the City's Urban Forester. Monitoring reports shall address tree mortality and summarize tree replacement efforts (if any) and shall provide management recommendations for promoting on-site tree health. Upon completion of the 5-year monitoring period, a final post-construction monitoring report shall be prepared and submitted to the City's Urban Forester documenting all monitoring efforts and summarizing tree survival and replacement totals. • Protection and Maintenance during Construction. Once construction activities have begun the following measures shall be adhered to: ○ Avoidance: Signs, ropes, cables, or any other items shall not be attached to any preserved tree, per City Code Section 12.64.040. ○ Equipment Operation and Storage: Operating heavy machinery around the root zones of trees will increase soil compaction, which decreases soil aeration and subsequently reduces water penetration in the soil. All heavy equipment and vehicles shall stay out of the fenced tree protection zone, per City Code Section 12.64.040, unless where specifically approved in writing by the City Arborist and under the supervision of an ISA Certified Arborist. ○ Storage and Disposal: Do not store or discard any supply or material, including paint, lumber, concrete overflow, etc. within the fenced tree protection zone, per City Code Section 12.64.040. Remove all foreign debris within the fenced tree protection zone; it is important to leave the duff, mulch, chips, and leaves around the retained trees for water retention and nutrients. Avoid draining or leakage of equipment fluids near retained trees. Fluids such as: gasoline, diesel, oils, hydraulics, brake and transmission fluids, paint, paint thinners, and glycol (anti-freeze) should be disposed of properly. Keep equipment parked outside of the fenced tree protection zone of retained trees to avoid the possibility of leakage of equipment fluids into the soil. The effect of toxic equipment fluids on the retained trees could lead to decline and death.		

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	○ Grade Changes: Grade changes of more than 2 feet, including adding fill, are not permitted within 30 feet of a tree's drip line, per City Code Section 12.64.040, without special written authorization and under supervision by an ISA Certified Arborist. Lowering the grade within 30 feet of a tree's dripline will necessitate cutting main support and feeder roots, jeopardizing the health and structural integrity of the tree(s). Adding soil, even temporarily, on top of the existing grade will compact the soil further, and decrease both water and air availability to the trees' roots. ○ Moving Construction Materials: Care will be taken when moving equipment or supplies near the trees, especially overhead. Avoid damaging the tree(s) when transporting or moving construction materials and working around retained trees (even outside of the fenced tree protection zone). Above ground tree parts that could be damaged (e.g., low limbs, trunks) should be flagged with red ribbon. If contact with the tree crown is unavoidable, prune the conflicting branch(es) using ISA or ANSI A300 standards. ○ Trenching: Unless a Tree Permit has been issued for trenching activity within the fenced tree protection zone, all trenching shall be outside of the fenced tree protection zone, per City Code Section 12.64.040. Roots primarily extend in a horizontal direction forming a support base to the tree similar to the base of a wineglass. Where trenching is necessary in areas that contain tree roots, prune the roots using a Dosko root pruner or equivalent. All cuts should be clean and sharp, to minimize ripping, tearing, and fracturing of the root system. The trench should be made no deeper than necessary. ○ Irrigation: Trees that have been substantially root pruned (30% or more of their root zone) will require irrigation for the first twelve months. The first irrigation should be within 48 hours of root pruning. They should be deep watered every two to four weeks during the summer and once a month during the winter (adjust accordingly with rainfall). One irrigation cycle should thoroughly soak the root zones of the trees to a depth of 3 feet. The soil should dry out between watering; avoid keeping a consistently wet soil.		

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	Designate one person to be responsible for irrigating (deep watering) the trees. Check soil moisture with a soil probe before irrigating. Irrigation is best accomplished by installing a temporary above ground micro-spray system that will distribute water slowly (to avoid runoff) and evenly throughout the fenced tree protection zone but never soaking the area located within 6- feet of the tree trunk, especially during warmer months. For trees not subject to root pruning activity, the amount of irrigation provided shall not be changed from that which was provided prior to the commencement of construction activity, per City Code Section 12.64.040. o Canopy Pruning: Do not prune any of the trees, unless a Tree Permit has been issued for pruning activity, per City Code Section 12.64.040. This will help protect the tree canopies from damage. All pruning shall be completed under the direction of an ISA Certified Arborist and using ISA guidelines. Only conflicting limbs and dead wood shall be removed from tree canopies where a Tree Permit has been issued. o Washing: Periodic washing of the foliage is recommended during construction but no more than once every two weeks. Washing should include the upper and lower leaf surfaces and the tree bark. This should continue beyond the construction period at a less frequent rate with a high-powered hose only in the early morning hours. Washing will help control dirt/dust buildup that can lead to mite and insect infestations. o Inspection: An ISA Certified Arborist shall inspect the preserved Heritage and City Street Trees on at least a monthly basis for the duration of construction activity. A summary report documenting observations and management recommendations shall be submitted to the owner following each inspection. Photographs of representative trees are to be included in each report. If feasible, aerial inspection for trees #49, 50, 66, 67, and 76 should be conducted during construction if the construction period extends to the recommended inspection period, as identified by Tree		

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	Associates. (DEIR, pp. 4.3-27 to 4.3-28.)		
4.3-3: The proposed project could create a potential health hazard, or use, production, or disposal of materials that would pose a hazard to plant or animal populations in the area affected. (LS)	None required (DEIR, p. 4.3-29.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
Cumulative Impact 4.3-4: related to habitat and special-status species. (NCC)	Mitigation Measure 4.3-4: Implement Mitigation Measure 4.3-1a: (Avoid Direct Loss of Swainson's Hawk) and Mitigation Measure 4.3-1b: (Avoid Direct Loss of Swainson's Hawk, White-Tailed Kite, Peregrine Falcon, and Nesting Birds Protected by the Migratory Bird Treaty Act and California Fish and Game Code). (DEIR, p. 4.3-31.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) While not required to mitigate a potentially cumulatively considerable impact under Impact 4.3-4, Mitigation Measure 4.3-4 will further reduce the less than cumulatively considerable impacts associated with habitat and special-status species. Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.3-5: related to the impact of hazards on plant or animal populations. (No cumulative impact)	None required (DEIR, p. 4.3-32.)	No Cumulative Impact	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.3-6: tree canopy. (NCC)	Mitigation Measure 4.3-6: Implement Mitigation Measure 4.3-2 (Avoid and Minimize Impacts on Trees). (DEIR, p. 4.3-32.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			While not required to mitigate a potentially cumulatively considerable impact under Impact 4.3-6, Mitigation Measure 4.3-6 will further reduce the less than cumulatively considerable impacts associated with tree canopy loss. Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
CULTURAL RESOURCES			
4.4-1: The proposed project could result in a substantial adverse change in the significance of the Heilbron House. (LS)	None required (DEIR, p. 4.4-16.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, §§ 15126.4, subd. (a)(3), 15091.)
4.4-2: The proposed project could result in a substantial adverse change in the significance of Capitol Towers. (S)	Mitigation Measure 4.4-2: Documentation, Interpretation, Reuse, and the Retention/Rehabilitation of the Residential Tower. a) <u>Documentation / Recordation</u> Prior to any structural demolition, site clearing, and removal activities, the project	Significant and Unavoidable	<u>Finding</u>: The City Council finds that implementation of Mitigation Measure 4.4-2, which has been required or incorporated into the Project, will reduce this

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	applicant shall retain a professional who meets the Secretary of the of the Interior's Standards for Architectural History, and also with professional experience involving historic landscapes, to prepare written and photograph documentation of the Capitol Towers and garden apartments complex, features, and landscape areas identified as historic. The documentation for the property shall be prepared based on the National Park Services' (NPS) Historic American Building Survey (HABS) and Historic American Landscape Survey (HALS) Historical Report Guidelines. This type of documentation is based on a combination of HABS/HALS standards and HABS/HALS Photography Guidelines (November 2011). The level of documentation will be determined in coordination with the City's Preservation Director, based on the availability of original materials describing development of the project site. The written historical data for this documentation shall follow the appropriate HABS / HALS level standards and shall be derived from the following documents, as well as other documents as appropriate: "National Register of Historic Places Registration Form for Capitol Towers", prepared by Flora Chou (Page & Turnbull) in 2014 and "Historical Resource Inventory and Evaluation Report, Capitol Towers Apartments, 1500 7th Street, Sacramento, California 95814," prepared by JRP in 2014. The written data shall be accompanied by select existing drawings available in the City's files or provided to the City from another organization's historic resource files or databases. Existing drawing may include drawings of the buildings, sites, structures, objects, or landscapes, whether original construction or later alterations, that portray or depict the historic value of significance of the site. The existing drawings will be photographed with large-format negatives or photographically reproduced on Mylar. Efforts shall be made to locate original construction drawings or plans of the property during the period of significance. If located, these drawings shall be photographed, reproduced, and included in the dataset. HABS/HALS standard large format or another method providing equivalent or greater archival quality shall be used. If digital photography is used, the ink and paper combinations for printing photographs must be in compliance with NPS photo policy and have a permanency rating 150 years or greater. Photographs shall be labeled with text reading "Capitol Towers Apartments, 1500 7th Street,		impact. However, the City Council finds that the impact, even with the adoption and implementation of Mitigation Measure 4.4-2, will remain significant and unavoidable. The City Council finds that economic, social and other benefits of the proposed Project override the significant effects of the Project as more fully stated in the Statement of Overriding Considerations. (CEQA Guidelines, § 15091, subd. (a)(3).) <u>Explanation</u>: The proposed project site was inventoried and evaluated to assess whether the property should be considered a historical resource for the purposes of CEQA. (DEIR, p. 4.4-17.) For the purposes of the EIR, the project site is considered an historical resource. (DEIR, p. 4.4-21.) Demolition of all of the existing 206 garden apartment units, landscape and site features, and other physical elements of the property, as well as renovation of the Capitol

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	Sacramento" and photograph number on the back of the photograph. Photograph views for the dataset shall include images of the entire Capitol Towers property, including the garden apartments, high-rise tower building, landscape and site features. The dataset shall include: (a) contextual views capturing the spatial relations of buildings, structures, the landscape features, and of the site; (b) views of each side of each building and interior views, where possible; (c) oblique views of buildings; (d) detail views of character-defining features, including features on the interiors of some buildings; (e) detail views of each portion of the site and its landscape features, including views from within the site and from the exterior of the site, from the north, east, south, and west. The size of this property shall require up to 20 contextual views, 20 views of the garden apartments (including both the two- and three-story types), 5 views of the high-rise; 10 views of the landscape (hardscape and softscape), 5 views of the Overhoff sculptural wall, and 15 detail views of the site. All views shall be referenced on a photographic key. This photograph key shall be on a map of the property and shall show the photograph number with an arrow indicating the direction of the view. Historic photographs shall also be collected, reproduced, and included in the dataset. The project applicant shall provide funding to acquire the appropriate use and copyrights to reproduce historic images in the dataset for public dissemination. All written and photograph documentation of the Capitol Towers and garden apartments complex shall be approved by the City's Preservation Director prior to any site clearing, demolition and removal activities. Two copies of the HABS/HALS documentation of the Capitol Towers complex shall be disseminated on archival quality paper to appropriate repositories and interested parties, per below. If digital prints are produced, the ink and paper combinations for printing photographs must be in compliance with NPS photo policy and have a permanency rating of 150 years or greater. Additional copies shall be in PDF files/ format copies produced on archival DVDs or otherwise distributed electronically. The distribution of the documentation shall include the California Historical Resources Information System (CHRIS) North Central Information Center (NCIC) at California State University Sacramento; the California State Library in Sacramento; University of California, Berkeley, Bancroft Library; The Cultural Landscape Foundation; the Center for Sacramento History (CSH); the Sacramento County Historical Society; the Sacramento Public Library's Sacramento Room; and other local repositories determined by the City's		Towers high-rise, constitutes a substantial adverse change to the historical resource because the resource's physical characteristics that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources would be materially impaired. (DEIR, p. 4.4-22.) Implementation of Mitigation Measure 4.4-2 would reduce the project's impact to the historical resource, Capitol Towers (also referred to as Capitol Towers and garden apartments). (DEIR, p. 4.4-23.) The measures for which the project applicant would be responsible for completion are documentation of the property, dissemination of the documentation, inclusion of historical interpretive displays and information in the project, website publication, incorporation of Capitol Towers' sculptural wall into the project (Jascques

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	Preservation Director. b) Interpretation Under the direction of the City's Preservation Director and the City's History Manager, measures shall be implemented to interpret the property's historic significance for the public and for future residents that will inhabit the Sacramento Commons property. All costs associated with interpretation of the property shall be borne by the project applicant. Interpretive and/or educational exhibits shall include, but are not necessarily limited to the following items: *Permanent Interpretive Displays/Signage/Plaques* The project applicant shall install a minimum of four interpretive displays within the project that provides information to visitors and residents regarding the history of the Capitol Towers and garden apartments complex within the context of Sacramento urban renewal and redevelopment. These displays shall be integrated into the design of the public areas of the new housing and retail, and they shall be installed in highly visible public areas, such as the property's plazas or in public areas on the interiors of buildings. The displays shall include historical data taken from the HABS/HALS documentation or other cited archival sources and shall also include photographs. Displayed photographs shall include information about the subject, the date of the photograph, and photo credit / photo collection credit. The project applicant shall install at least one sign or plaque in each quadrant of the superblock to indicate that the Capitol Towers and garden apartment complex once stood on the property. Additional signage / plaques may be installed to provide interpretive information about any historical photographs installed on the property. Interpretive displays and the signage/plaques installed on the property shall be sufficiently durable to withstand typical Sacramento weather conditions for at least 10 years, like fiber-glass embedment panels, that meet National Park Service signage standards.[3] Displays and signage/plaques shall be lighted, installed at pedestrian-friendly locations, and be of adequate size to attract the interested pedestrian. Maintenance of displays and signage/plaques shall be		Overhoff wall), and retention of the Capitol Towers high-rise. (*Ibid.*) Based upon CEQA Guidelines Section 15064.5(4), these measures would reduce the impact by relaying information to interested members of the public regarding the historical, architectural and landscape architectural significance of Capitol Towers and the history of urban renewal and redevelopment in Sacramento, and provides for retention of Capitol Towers' sculptural wall and the Capitol Towers high-rise. (*Ibid.*) However, the demolition of the garden apartments and alteration of the designed landscape and site design of the Capitol Towers complex would materially impair the historical resources physical characteristics that convey its significance and justify the property's inclusion, or eligibility for inclusion, in the California Register of Historic Resources. (*Ibid.*) Accordingly, the impact

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	included in the management of the common area maintenance program on the property. *Exhibits and Written Documentation for Publication on a Website* The project applicant shall publish exhibits and written documentation on a website regarding the history of the urban renewal and redevelopment, with a focus on the Capitol Towers property. This information shall be derived from the HABS/HALS documentation, the "NRHP Registration Form for Capitol Towers", prepared by Flora Chou (Page & Turnbull) in 2014, and the "Historical Resource Inventory and Evaluation Report, Capitol Towers Apartments, 1500 7th Street, Sacramento, California 95814," prepared by JRP in 2014, and other sources as appropriate. The publication shall include text and photographs. The text shall be written for popular consumption, but shall also be properly cited following historical documentation standards. The City's Preservation Director and History Manager shall review and comment on the text prior to its publication to ensure that it is accurate and sufficiently detailed. Publication of these materials shall be either on an independent website maintained by the project applicant (or its successor property management company) or be donated for posting on a local history website, such as www.sacramentohistory.org (owned by CSH). The materials shall be available on the website for at least two years following each phase of demolition of the garden apartments at Capitol Towers. *Traveling Exhibit* The project applicant shall have a traveling exhibit prepared to be offered for display, for the most part at appropriate California and Sacramento venues including, but not limited to, museums, archives with exhibit space, public libraries, and public buildings, and potentially also to university or national agency exhibition spaces. The exhibit shall include panels or boards that provide information and photographs regarding Capitol Towers and garden apartments within the context of Sacramento's urban renewal and redevelopment history. The exhibit shall include three panels that can be self-standing, wall mounted, or displayed on easels.		would remain Significant and Unavoidable.

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	c) Salvage and Reuse The project applicant shall consult with the City's Preservation Director and the Director of the Sacramento Metropolitan Arts Commission regarding the salvage and reuse of one of the character-defining landscape features: the Overhoff sculptural wall. The wall shall be retained on the property and moved within the property, as shown in Figure 2.1 of the PUD Guidelines, "Conceptual Ground Level Landscape Plan." Although the wall is modular, when it is moved, the panels shall stay together in the same placement order and configuration as they exist today. The condition of the object will be assessed by a qualified art conservator prior to moving the sculpture and the moving work shall be undertaken by a qualified art conservator with extensive experience in the relocation of sculptures and moving works of art. d) Retention & Rehabilitation of Residential Tower Prior to commencement of any alterations or renovations to the existing Capitol Towers residential tower, not proposed for demolition as a part of the proposed project, the City Preservation Director shall review and confirm the renovations comply with the Secretary of the Interior's (SOI) Standards for the *Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* or the *SOI Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* unless this contributing resource is removed from the California Register of Historic Places. Additional guidance for this work may include the *Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings.* (DEIR, pp. 4.4-24 to 4.4-27.)		
4.4-3: The proposed project could result in a substantial adverse change in the significance of an archaeological resource. (PS)	Mitigation Measure 4.4-3: Protect of Mitigate Impacts on Prehistoric and Historic-Era Archaeological Resources and Human Remains. To minimize potential adverse effects on prehistoric and historic-era archaeological resources and human remains, the project applicant shall implement the following measures: • The project applicant shall retain a qualified archaeologist (i.e., defined as an archaeologist meeting the Secretary of the Interior's Standards for	Less than Significant	Finding: Implementation of Mitigation Measure 4.4-3, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that this mitigation measure be

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	professional archaeology) to carry out all actions related to archaeological resources and human remains. o Before the start of any ground-disturbing activities, the qualified archaeologist shall conduct a cultural resources sensitivity training session for all construction personnel working on the project. The training shall include an overview of potential cultural resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified archaeologist for further evaluation and action; and shall describe penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources. o For work involving installation of deep foundations or subsurface building systems that would occur more than 10 feet below the surface, a professional archaeologist shall monitor excavation and shall have the authority to stop work and, in consultation with the City's Preservation Director, direct appropriate actions, consistent with state laws and regulations, if remains or items of archaeological interest are discovered. o If items of historic or archaeological interest are discovered, the construction contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and immediately notify the qualified archaeologist for further evaluation and action. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, baked clay fragments, or faunal food remains (bone and shell); stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and/or battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include the remains of stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. After cessation of excavation, the contractor shall immediately contact the City of Sacramento Community Development Department. The contractor shall not resume work		adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) <u>Explanation</u>: A records search identified one recorded historic-era archaeological resource within one-quarter mile of the project site, but no recorded archaeological resources within or adjacent to the project site. (DEIR, p. 4.4-27.) Soils onsite have historically been disturbed; approximately the top 10 feet of soil at the project site consists of artificial fill material that was likely placed on the site in the 1860s, and has been subjected to substantial disturbance related to urban development subsequent to the placement of fill material. (DEIR, p. 4.4-27.) However, installation of

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	until authorization is received from the City after the following steps are taken: ▪ Any inadvertent discovery of cultural resources during construction shall be evaluated by a qualified archaeologist. ▪ If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the State CEQA Guidelines), mitigation shall be implemented in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the State CEQA Guidelines, with a preference for preservation in place. Consistent with State CEQA Guidelines Section 15126.4(b)(3), this may be accomplished by planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, the archaeologist shall develop a treatment plan in consultation with the City and appropriate Native American representatives (if the find is of Native American origin). The treatment plan shall include, but shall not be limited to, data recovery procedures based on location and type of archaeological resources discovered, procedures for disposition or curation of recovered materials, and a preparation and submittal of report of findings to the City's Preservation Director and the North Central Information Center of the California Historical Resources Information System. • If a human bone or bone of unknown origin is found during construction, pursuant to Section 5097.98 of the State Public Resources Code and Section 7050.5 of the State Health and Safety Code, all work shall stop in the vicinity of the find, and the county coroner and the City of Sacramento Community Development Department shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the		deep foundations and potentially subsurface building systems, such as an elevator basement, would likely take place between 15 to 60 feet below the surface on the project site. (DEIR, pp. 4.4-27 – 4.4-28.) Although unlikely, there is a potential that intact significant resources are present at the project site. (DEIR, p. 4.4-28.) Mitigation Measure 4.4-3 requires that construction workers be alerted to the possibility of encountering both historic-era and prehistoric archaeological resources and, in the event that resources are encountered, requires that measures be implemented to avoid or minimize the resource. (*Ibid.*) This mitigation, in conjunction with the consideration of the extensive history of soil disturbance at the project site would render impacts less than significant.

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-interment of the human remains and any associated artifacts. No additional work is to take place within 100 feet of the find until the identified appropriate actions have taken place. (DEIR, pp. 4.4-29 to 4.4-30.)		
4.4-4: The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. (PS)	Mitigation Measure 4.4-4: Protect or Mitigate Impacts on Paleontological Resources. To minimize potential adverse effects on previously unknown potentially unique, scientifically important paleontological resources, the project applicant shall implement the following measures: • Before the start of any earthmoving activities, the project applicant shall retain a qualified paleontologist to train all construction personnel involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction, and proper notification procedures should fossils be encountered. • If paleontological resources are discovered during earthmoving activities, the construction crew shall immediately cease work in the vicinity of the find and notify the City of Sacramento Community Development Department. The project applicant shall retain a qualified paleontologist to evaluate the resource and prepare a recovery plan in accordance with Society of Vertebrate Paleontology guidelines (1996). The recovery plan shall include, but shall not be limited to, (a) a field survey surrounding the site where the paleontological resources were discovered, (b) development of sampling and data recovery procedures based on location and type of paleontological resources discovered, (c) offer museum or other storage coordination for appropriate specimens recovered, and (d) prepare a report documenting the findings. Recommendations in the recovery plan shall be implemented before construction activities can resume at the site where the paleontological resources were discovered.	Less than Significant	Finding: Implementation of Mitigation Measures 4.4-4, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: A paleontological records search indicated that no fossil remains have been recovered from the project site. (DEIR, p. 4.4-30.) However, installation of

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	(DEIR, pp. 4.4-31 to 4.4-32.)		deep foundations and potentially subsurface building systems would likely take place within the Riverbank Formation located between 15 and 60 feet below the surface on the project site. (*Ibid.*) This formation is considered paleontologically sensitive. (*Ibid.*) Mitigation Measure 4.4-4 would ensure that impacts from damage to or destruction of unique paleontological resources would be reduced to a level that is less than significant by requiring a paleontological training session for all construction personnel and identifying that work shall cease if paleontological resources are discovered, that the resource is evaluated, and that a recover plan is prepared and implemented.
4.4-5: The proposed project could disturb human remains, including those interred outside of formal cemeteries. (PS)	Mitigation Measure 4.4-5: Implement Mitigation Measure 4.4-3 (Protect or Mitigate Impacts on Prehistoric and Historic-Era Archaeological Resources and Human Remains). (DEIR, p. 4.4-32.)	Less than Significant	Finding: Implementation of Mitigation Measure 4.4-5, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			this mitigation measure be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) <u>Explanation</u>: The top 10 feet of soil at the project site consists of artificial fill material that was likely placed at the site in the 1860s, and has been subjected to substantial disturbance related to more recent urban development. (DEIR, p. 4.4-32.) Although it is possible that human remains are present, it is unlikely. (*Ibid.*) Nonetheless, because there remains a possibility, the project incorporates Mitigation Measure 4.4-5, which implements 2030 General Plan Policy HCR 2.1.15, which would protect human burials by requiring compliance with laws, regulations, and

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			protocols that protect or mitigate impacts on human remains. (*Ibid.*) The impact is considered less than significant with mitigation.
Cumulative Impact 4.4-6: Related to historical resources. (CC)	Mitigation Measure 4.4-6: Implement Mitigation Measure 4.4-2 (Documentation, Interpretation, Reuse, and the Retention/Rehabilitation of the Residential Tower). (DEIR, p. 4.4-34.)	Significant and Unavoidable	Finding: The City Council finds that implementation of Mitigation Measure 4.4-6, which has been required or incorporated into the Project, will reduce this impact. However, the City Council finds that the impact, even with the adoption and implementation of Mitigation Measure 4.4-6, will remain significant and unavoidable. The City Council finds that economic, social and other benefits of the proposed Project override the significant effects of the Project as more fully stated in the Statement of Overriding Considerations. (CEQA Guidelines, § 15091, subd. (a)(3).) Explanation: Historical resources impacts were analyzed in the 2030 General Plan Master EIR. (DEIR, p. 4.4-33.) The analysis determined that

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			growth projected to occur within the city would occur through infill development and buildout of currently undeveloped areas. (*Ibid.*) As described above, the project would demolish all the existing 206-unit garden apartments on the project site to accommodate the proposed project, along with an associated parking structure, parking lots, the existing site plan and all the existing landscaped areas. (DEIR, p. 4.4-34.) This is considered a significant and unavoidable impact. (*Ibid.*) Consistent with the conclusion in the 2030 General Plan Master EIR, the City finds that all significant historical resources are unique and non-renewable members of a finite class of resources. (DEIR, p. 4.4-34.) The City concludes that all significant adverse effects erode a dwindling resource base. Thus, the project would have a cumulatively considerable contribution to this significant cumulative impact. (*Ibid.*)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
Cumulative Impact 4.4-7: Related to archaeological resources. (CC)	Mitigation Measure 4.4-7: Implement Mitigation Measure 4.4-3 (Protect or Mitigate Impacts on Prehistoric and Historic-Era Archaeological Resources and Human Remains). (DEIR, p. 4.4-35.)	Less than Cumulatively Considerable	Finding: Implementation of Mitigation Measure 4.4-7, which has been required or incorporated into the project, will reduce this cumulative impact to a less than cumulatively considerable level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			Explanation: The 2030 General Plan Master EIR addressed cumulative archaeological resources impacts. (DEIR, p. 4.4-34.) Notwithstanding the low likelihood that cultural resources will be encountered during construction, proper planning and appropriate mitigation is necessary to ensure the proposed project will not result in a cumulatively considerable contribution to the regional cumulative impact identified in the 2030 General Plan Master EIR. (DEIR, p. 4.4-35.) Measure 4.4-3 requires that construction workers be alerted to the possibility of encountering both historic-era and prehistoric archaeological resources and, in the event that resources are encountered, requires that measures be implemented to avoid or minimize impacts to the resource. (*Ibid.*) As demonstrated in Impact 4.4-2 above, incorporation of Mitigation Measure 4.4-3 would reduce project-level

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			impacts to a less-than significant level. (*Ibid.*) This mitigation would also ensure that the project would have a less than cumulatively considerable contribution to the significant cumulative impact. (*Ibid.*)
Cumulative Impact 4.4-8: The proposed project, in combination with other development in Sacramento region, could adversely affect human remains. (CC)	Mitigation Measure 4.4-8: Implement Mitigation Measure 4.4-3 (Protect or Mitigate Impacts on Prehistoric and Historic-Era Archaeological Resources and Human Remains). (DEIR, p. 4.4-36.)	Less than Cumulatively Considerable	Finding: Implementation of Mitigation Measure 4.4-8, which has been required or incorporated into the project, will reduce this cumulative impact to a less than cumulatively considerable level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans. Explanation: The 2030 General Plan Master EIR determined that General Plan Policies HCR 2.1.2 and HCR 2.1.15 would protect human burials by requiring compliance with laws, regulations, and protocols that protect or mitigate impacts on human remains. (DEIR, p. 4.4-36.) However, the 2030 General Plan Master EIR concluded that the impact would be significant and unavoidable because there are no feasible mitigation measures beyond the policies to ensure that no human remains are damaged or destroyed. (*Ibid.*) Although there is a low likelihood that human remains are present given the history of disturbance onsite, proper planning is necessary to ensure the project will not result in a cumulatively considerable

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			contribution to the regional cumulative impact identified in the 2030 General Plan Master EIR. (*Ibid.*) Mitigation Measure 4.4-3, would protect human burials by requiring compliance with laws, regulations, and protocols that protect or mitigate impacts on human remains. Incorporation of this mitigation, as demonstrated in Impact 4.4-2 above, would reduce the impact to a less than significant level. (*Ibid.*) This mitigation would also ensure that the project would have a less than cumulatively considerable contribution to this significant cumulative impact. (*Ibid.*)
Cumulative Impact 4.4-9: Related to paleontological resources. (LCC)	Mitigation Measure 4.4-9: Implement Mitigation Measure 4.4-4 (Protect or Mitigate Impacts on Paleontological Resources). (DEIR, p. 4.4-37.)	Less than Cumulatively Considerable	Finding: Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) While not required to mitigate a potentially cumulatively considerable impact under Impact 4.4-9,

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			Mitigation Measure 4.4-9 will further reduce the less than cumulatively considerable impacts associated with paleontological resources. Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans. <u>Explanation</u>: The 2030 General Plan Master EIR identifies this as a potentially significant impact, which is mitigated to a less-than-significant level through implementation of Policy 2.1.15. (DEIR, p. 4.4-37.) Mitigation Measure 4.4-9, reduces potential impacts from damage to or destruction of unique paleontological resources by requiring paleontological resources training for all construction personnel and identifying

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			that work shall cease if paleontological resources are discovered, that the resource is evaluated, and that a recover plan is prepared and implemented. (*Ibid.*) Incorporation of this mitigation would ensure the project would have a less than cumulatively considerable contribution to this significant cumulative impact. (*Ibid.*)
GEOLOGY, SOILS, AND PALEONTOLOGY			
4.5-1: The proposed project could expose people and property to seismic ground shaking and surface fault rupture. (LS)	None required (DEIR, p. 4.5-10.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.5-2: The proposed project could expose people and property to subsidence, compression, expansion, and liquefaction of unstable soils. (PS)	Mitigation Measure 4.5-2: Prepare a Final, Design-Level Geotechnical Report and Implement Recommendations Contained in the Report. Before building permits are issued and construction activities begin on any project development phase, the project applicant shall retain a licensed geotechnical engineer to prepare a final, design-level geotechnical report for the proposed facilities. The final geotechnical report shall be prepared in accordance with generally accepted geotechnical engineering practices and shall address all California Building Code requirements. The final geotechnical report shall be submitted for review and approval to the City of Sacramento Department of Utilities. The final geotechnical report shall address and make recommendations on: • seismic design parameters;	Less than Significant	Finding: Implementation of Mitigation Measure 4.5-2, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that changes or alterations have been required in, or incorporated into, the project which avoid or

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	• building specific design coefficients; • seismic ground shaking; • liquefaction; • dewatering; • expansive/unstable soils; • soil bearing capacity; • appropriate sources, depth, and types of fill; • structural foundations; • soil corrosion of concrete and steel; and • pavement and parking areas. Based on the information above, the geotechnical investigation shall set forth the required type and sizing of structural materials required for each newly constructed building and any necessary engineering practices to address site-specific soil conditions. In addition to the recommendations for the conditions listed above, the geotechnical investigation shall include site-specific subsurface testing of soil and groundwater conditions. Final designs shall be consistent with the version of the California Building Code that is applicable at the time building and grading permits are applied for as well as standard, accepted, and proven engineering practices used throughout the Sacramento area to address potential site-specific soil conditions. Such engineering practices may include, but are not limited to the following: • removal of any deleterious materials within the fill and potential recompaction of the soil;		substantially lessen the significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).) <u>Explanation</u>: The geotechnical report (ENGEO 2014) indicates that the artificial fill on the project site was placed sometime in the 1860s and may contain brick fragments, wood, and other deleterious debris from demolition activities and may vary in thickness and consistency. (DEIR, p. 4.5-10.) The artificial fill may be of insufficient bearing strength for the new buildings and could result in differential settlement under high building loads. (*Ibid.*) Furthermore, because of the shallow groundwater table at the project site, construction dewatering may be required. (*Ibid.*) Mitigation Measure 4.5-2 is designed to implement 2030 General Plan Policies EC 1.1.1 and EC 1.1.2 and reduce impacts to less than significant. (DEIR, p. 4.5-12.) This

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	• shoring of trenches during construction dewatering as required by the federal Occupational Safety and Health Administration, waterproofing of underground structures, and installation of subdrains; • construction of high-rise buildings on deep foundations; and • construction of low- to mid-rise buildings on mat foundations with ground improvements. All recommendations contained in the final geotechnical engineering report shall be implemented by the project applicant. Special recommendations contained in the geotechnical engineering report shall be noted on the grading plans and implemented, as appropriate, before construction begins. The project applicant shall be required to perform an engineering inspection to certify that earthwork has been completed in conformity with recommendations contained in the geotechnical report and requirements determined by the City. (DEIR, pp. 4.5-12 to 4.5-13.)		mitigation would require a licensed geotechnical consultant to prepare a design-level geotechnical report for City review and approval to address potential site-specific soil stability issues in consideration of building-specific design coefficients. (*Ibid.*) Furthermore, project design and construction will be required to comply with the California Building Code, which contains provisions specifically designed to regulate and reduce hazards from construction in unstable soils.
4.5-3: The proposed project could create soil erosion or loss of topsoil. (LS)	None required (DEIR, p. 4.5-14.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
Cumulative Impact 4.5-4: Related to exposure to seismic ground shaking and surface fault rupture and potential for subsidence, compression, expansion, and	None required (DEIR, p. 4.5-15.)	No Cumulative Impact	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
liquefaction of unstable soils. (No Cumulative Impact)			Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.5-5: Related to soil erosion or loss of topsoil. (No Cumulative Impact)	None required (DEIR, p. 4.5-16.)	No Cumulative Impact	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
GREENHOUSE GAS EMISSIONS AND ENERGY			
4.6-1: The project could conflict with the	None required (DEIR, p. 4.6-18.)	Not Cumulatively	Under CEQA, no mitigation measures are

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
City's Climate Action Plan. (NCC)		Considerable	required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
4.6-2: The project could involve wasteful, inefficient and unnecessary consumption of energy during construction or operation of the project. (LS)	None required (DEIR, p. 4.6-19.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			Plans.
HAZARDS AND HAZARDOUS MATERIALS			
4.7-1: The proposed project could expose people (e.g., residents, pedestrians, construction workers) to existing contaminated soil during construction activities. (PS)	Mitigation Measure 4.7-1(a): Identify and Remediate for Discovery of Unknown Hazardous Materials. Prior to commencing any construction activities, a Health and Safety Plan shall be prepared and provided to the Director of the City's Community Development Department by a qualified professional to identify specific measures to take to protect worker and public health and safety and specify measures to identify, manage, and remediate wastes. In the event that excavation or construction of the proposed project reveals evidence of soil or groundwater contamination, underground storage tanks (USTs), or other environmental concerns, site preparation or construction activities shall not recommence within the contaminated areas until remediation is completed. This is the procedure established in the Health and Safety Plan and a "no further action" letter would be obtained from the appropriate regulatory agency. The Health and Safety Plan shall include the following: • Pre-construction training of workers to identify potentially hazardous materials. • Identification of air monitoring procedures and parameters and/or physical observations (soil staining, odors, or buried material) to be used to identify potential contamination. • Procedures for temporary cessation of construction activity in the area of potential contamination and evaluation of the level of environmental concern if potential contamination is encountered. The evaluation shall include identification of the type and extent of contamination prepared by a qualified professional. • Procedures for limiting access to the contaminated area to properly trained personnel. • Procedures for notification and reporting, including internal management	Less than Significant	Finding: Implementation of Mitigation Measures 4.7-1(a) and 4.7-1(b), which have been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: Construction of building foundations has the potential to encounter contaminated soil. (DEIR, p. 4.7-17.) Project construction activities that are implemented without proper procedures and BMPs could violate water quality standards, or cause human health or ecological

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	and local agencies (fire department, SCEMD, etc.), as needed. • A worker health and safety plan for excavation of contaminated soil, including soils management, dust control, air monitoring, and other relevant measures. • Procedures for characterizing and managing excavated soils in accordance with CCR Title 14 and Title 22. • Procedures for certification of completion of remediation. (DEIR, pp. 4.7-18 to 4.7-19.) Mitigation Measure 4.7-1(b): Implement Mitigation Measure 4.8-1 (File a Notice of Intent with the Central Valley Regional Water Quality Control Board to Obtain Coverage Under Order R5-2013-074 or an Individual NPDES Permit or Waste Discharge Requirement and a Memorandum of Understanding with the City of Sacramento, and Prepare a Construction Dewatering Plan (Implements General Plan Policies ER 1.1.3, ER 1.1.4, and ER 1.1.7)). (DEIR, p. 4.7-19.)		impacts. (DEIR, p. 4.7-18.) Mitigation Measures 4.7-1a and 4.7-1b would implement 2030 General Plan Policy PHS 3.1.1 and would require implementing procedures to identify and mitigate potential contamination that could potentially be identified during project construction. (*Ibid.*) The mitigation measures would reduce potential impacts by requiring appropriate measures under the direction of qualified environmental health professionals to protect the health of workers and the public against contamination, Underground Storage Tanks, or other environmental concerns discovered during excavation or construction. (*Ibid.*) The impact would be considered less than significant with mitigation.
4.7-2: The proposed project could expose people (e.g., residents, pedestrians, construction workers) to asbestos-	None required (DEIR, p. 4.7-22.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
containing materials or other hazardous materials or situations during construction or operation of the proposed project. (LS)			
4.7-3: The proposed project could expose people (e.g., construction workers and residents) to soil vapor during construction or operation of the proposed project. (LS)	None required (DEIR, p. 4.7-22.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.7-4: The proposed project could emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. (LS)	None required (DEIR, p. 4.7-23.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.7-5: The proposed project could substantially increase the risk of exposure of site occupants to inadvertent or accidental releases of hazardous substances	None required (DEIR, pp. 4.7-24.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
transported on adjacent roadways or rail lines near the site. (LS)			
4.7-6: The proposed project could impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. (PS)	Mitigation Measure 4.7-6: Implement 4.11-5 (Prepare and Implement Construction Traffic Management Plan). (DEIR, p. 4.7-25.)	Less than Significant	Finding: Implementation of Mitigation Measure 4.7-6, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: During construction, it may be necessary to restrict or redirect pedestrian, bicycle, or vehicular movements around the site to accommodate demolition, material hauling, construction, staging, and modifications to existing infrastructure.

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			(DEIR, p. 4.7-25.) To prevent interference with emergency response, Mitigation Measure 4.7-6 would require a traffic control plan to provide information on access for emergency vehicles. (*Ibid.*) Preparation of the required traffic control plan and compliance with the plan would minimize construction impacts related to interference with emergency response to a level that is less than significant.
4.7-7: The proposed project could increase winds that would pose a hazard to pedestrians. (LS)	None required (DEIR, pp. 4.7-26.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
Cumulative Impact 4.7-8: Related to the emission, handling, or release of, or exposure to hazardous materials. (NCC)	None required (DEIR, pp. 4.7-27.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.7-9: Related to interference with emergency response or conflict with an emergency response plan or emergency evacuation plan. (NCC)	None required (DEIR, pp. 4.7-28.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
HYDROLOGY AND WATER QUALITY			
4.8-1: The project could have short-term, construction-related effects on water quality. (PS)	Mitigation Measure 4.8-1: File a Notice of Intent with the Central Valley Regional Water Quality Control Board to Obtain Coverage under Order R5-2013-074 or an Individual NPDES Permit or Waste Discharge Requirement and a Memorandum of Understanding with the City of Sacramento, and Prepare a Construction Dewatering Plan. Before the start of earth-moving activities, the project applicant shall file a notice	Less than Significant	Finding: Implementation of Mitigation Measure 4.8-1, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	of intent with the Central Valley RWQCB to obtain coverage under Order R5-2013-074 or an Individual NPDES Permit or waste discharge requirements, and enter into an MOU with the City for construction dewatering activities. Along with the notice of intent and the MOU, the project applicant shall prepare a site-specific construction dewatering plan, which demonstrates that discharges meet the Sacramento Regional County Sanitation District- (SRCSD) and RWQCB-approved levels and shall contain the following components: • information about the discharge location; • a map showing the location of the site, treatment system, discharge point(s), and receiving water; • an evaluation of reclamation options; • narrative and schematic descriptions of the existing or proposed treatment system, including blueprints signed by a registered engineer or geologist (if applicable); and • results of laboratory analysis for the types and amounts of pollutants listed in Attachment B to Order R5-2013-0074, additional water quality screening required by Attachment C to Order R5-2013-0074 (if applicable), and any applicable pollutants listed under Section 303(d) of the CWA for the receiving water if discharging or proposing to discharge to an impaired water body. • identify landfills to be used for disposal, if necessary, based on results of laboratory analysis. To be authorized by Order R5-2013-074, the project applicant must demonstrate that the discharge or proposed discharge meets the following criteria: • Pollutant concentrations in the discharge do not cause, have a reasonable potential to cause, or contribute to an excursion above any applicable federal water quality criterion established by USEPA pursuant to CWA section 303;		Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) <u>Explanation</u>: Project implementation would result in earthmoving activities throughout the 10.13-acre project site. (DEIR, p. 4.8-16.) If not managed property, soils could be exposed to erosive forces and could transport sediment into the drainage system (and ultimately into the Sacramento River). (*Ibid.*) Mitigation Measure 4.8-1 would protect water quality and beneficial uses during construction by entering an MOU with the City and preparing a site-specific construction dewatering plan. (DEIR, 4.8-18.) Coverage under the State Water Resources Control

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	• Pollutant concentrations in the discharge do not cause, have a reasonable potential to cause, or contribute to an excursion above any water quality objective adopted by the Central Valley Water Board or State Water Resources Control Board (State Water Board), including prohibitions of discharge for the receiving waters; and • The discharge does not cause acute or chronic toxicity in the receiving water. Additionally, discharges of more than 0.25 million gallons per day average dry-weather flow are prohibited unless the discharge is 4 months or less in duration. (DEIR, pp. 4.8-19 to 4.8-20.)		Board's Construction General Permit Order No. 2009-0009-DWQ and Order R5-2013-074 or an Individual NPDES Permit or waste discharge requirement would ensure that the proposed project would not violate any waste discharge requirements, exceed water quality objectives, or result in substantial erosion or siltation during construction. (*Ibid.*) Furthermore, if dewatering is required, the proposed project is required to comply with City's Engineering Services Policy No. 0001, which requires approval of a MOU for long-term (greater than one week) groundwater dewatering discharges. (DEIR, pp. 4.8-18 – 4.8-19.) The MOU must cover proposed dewatering details such as flow rate, system design, and contaminant monitoring plan. (DEIR, p. 4.8-19.) Therefore, the proposed project's impact related to short-term construction related water quality impacts would be less than significant.

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
4.8-2: The project could have long-term, operational effects on water quality. (PS)	Mitigation Measure 4.8-2: Prepare and Submit Final Drainage Plans and an Operational Pollutant Source Control Program. Before the start of earthmoving activities, the project applicant shall submit a final drainage plan and pollutant source control program to the City demonstrating to the satisfaction of the Community Development Department that the project is in compliance with the SSQP's NPDES permit, the SQIP (SSQP 2009), and the latest edition of the Stormwater Quality Design Manual (SSQP 2014), including the requirement to cause no net increase in runoff as compared to existing conditions. Components of the final drainage plan shall include: • calculations for the final design scenario, obtained using appropriate engineering methods, that evaluates potential changes to runoff, including increased surface runoff; • runoff calculations for the 10-year and 100-year (0.01 AEP) storm events (and other, smaller storm events as required) based on the final design scenario and confirmation of required trunk drainage pipeline sizes based on alignments and finalized detention-facility locations; • City flood control design requirements and measures designed to comply with them, including a demonstration to the satisfaction of the City that 100-year (0.01 AEP) flood flows would be appropriately channeled and contained, such that the risk to people or damage to structures within or down gradient of the project site would not occur; • a list of stormwater management BMPs to be implemented at the project site that ensure no net increase in runoff. BMPs may include but are not limited to the use of LID techniques to limit increases in stormwater runoff at the point of origination. Some examples of such techniques are the use of surface swales; replacement of conventional impervious surfaces with pervious surfaces (e.g., porous pavement); disconnection of impervious surfaces; and planting of trees to intercept stormwater. These BMPs shall be designed and constructed in accordance with the latest edition of the Stormwater Quality Design Manual (SSQP 2014)); and	Less than Significant	Finding: Implementation of Mitigation Measure 4.8-2, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: The amount of impervious surface area is expected to increase by 4%, from 77% to 81% based on the current Conceptual Site Plan. (DEIR, p. 4.8-20.) Mitigation Measure 4.8-2 would allow the project to protect water quality and beneficial uses during operation through the preparation of drainage plans and having an operational pollutant source control program in

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	• a description of the proposed maintenance program for the on-site drainage system. The project applicant shall also prepare and implement a pollutant source control program for the project's operational phase to control water quality pollutants on the project site. This program shall include components such as recycling, street sweeping, storm drain cleaning, household hazardous waste collection, waste minimization, prevention of spills, and effective management of public trash collection areas. (DEIR, p. 4.8-21.)		place. (*Ibid.*) Compliance with regulatory permitting and planning requirements will be required as conditions of project approval and be included in the project's Mitigation Monitoring and Reporting Program to ensure compliance is monitored. (DEIR, p. 4.8-21.) The proposed project's impact related to long-term operational related water quality impacts is less than significant.
4.8-3: The project would deplete groundwater supplies or interfere substantially with groundwater recharge. (LS)	None required (DEIR, p. 4.8-22.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.8-4: The project could contribute to the potential increased risk of flooding or pollutant sources from stormwater runoff. (PS)	Mitigation Measure 4.8-4: Implement Mitigation Measure 4.8-2 (Prepare and Submit Final Drainage Plans and an Operational Pollutant Source Control Program). (DEIR, p. 4.8-25.)	Less than Significant	Finding: Implementation of Mitigation Measure 4.8-2, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that this mitigation measure be adopted. The City Council, therefore, finds that changes or alterations have been required in, or incorporated into, the

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: The proposed project consists of redevelopment of an existing developed site with an existing network of on-site conveyance pipelines to carry the project's stormwater drainage to the City's existing separate storm drain system connections in N, P, and 7th Streets. (DEIR, p. 4.8-22.) The proposed project could increase the total volume and peak discharge rate of stormwater runoff. (DEIR, p. 4.8-25.) As a result, the project could result in greater potential for on- or off-site flooding and increased erosion or siltation if drainage facilities are not properly designed and maintained to appropriately convey and detain project-related runoff such that stormwater is treated sufficiently to maintain

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			stormwater quality and quantity. (*Ibid.*) Incorporation of mitigation measure 4.8-4 would protect the quality of water bodies and natural drainage systems off-site through on-site design, source controls, stormwater treatment, runoff reduction measures, BMPs, and LID features that are consistent with the City's NPDES permit, the Sacramento Region Stormwater Quality Design Manual, and the Stormwater Quality Design Manual for the Sacramento Region. (*Ibid.*) Therefore, the proposed project's impact related to increased risk of flooding or pollutant sources from stormwater runoff is less than significant with mitigation.
4.8-5: The project could expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam. (LS)	None required (DEIR, pp. 4.8-27.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
Cumulative Impact 4.8-6: Related to runoff that could violate water quality standards or waste discharge requirements for receiving waters. (LCC)	Mitigation Measure 4.8-6: Implement Mitigation Measure 4.8-1 (File a Notice of Intent with the Central Valley Regional Water Quality Control Board to Obtain Coverage under Order R5-2013-074 or an Individual NPDES Permit or Waste Discharge Requirement and a Memorandum of Understanding with the City of Sacramento, and Prepare a Construction Dewatering Plan) and Mitigation Measure 4.8-2 (Prepare and Submit Final Drainage Plans and an Operational Pollutant Source Control Program). (DEIR, pp. 4.8-29.)	Less than Cumulatively Considerable	Finding: Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) While not required to mitigate a potentially cumulatively considerable impact under Impact 4.8-6, Mitigation Measure 4.8-6 will further reduce the less than cumulatively considerable impacts associated with runoff. Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans. Explanation: The Master EIR acknowledged that buildout of the 2030 General Plan, in addition to other development in the Sacramento River watershed, would increase

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			the amount of impervious surfaces and increase runoff from urbanized land uses, resulting in a significant cumulative impact. (DEIR, p. 4.8-28.) Mitigation Measure 4.8-6 would protect water quality and beneficial uses during operation through preparation of drainage plans and having an operational pollutant source control program in place. (*Ibid.*) Compliance with regulatory permitting and planning requirements would be required as conditions of project approval and included in the project's Mitigation Monitoring and reporting Program to ensure compliance is monitored. (DEIR, pp. 4.8-28 – 4.8-29.) The project would have a less than cumulatively considerable contribution to any cumulative impact. (DEIR, p. 4.8-29.)
Cumulative Impact 4.8-7: Related to flooding (LCC)	Mitigation Measure 4.8-7: Implement Mitigation Measure 4.8-2 (Prepare and Submit Final Drainage Plans and an Operational Pollutant Source Control Program). (DEIR, pp. 4.8-30.)	Less than Cumulatively Considerable	Finding: Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			15064, subd. (h), 15126.4, subd. (a)(3), 15130.) While not required to mitigate a potentially cumulatively considerable impact under Impact 4.8-2, Mitigation Measure 4.8-2 will further reduce the less than cumulatively considerable impacts associated with flooding. Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans. Explanation: The General Plan Master EIR determined that the City's existing storm drain system has adequate conveyance for growth planned through 2030, including the proposed project. (DEIR, p. 4.8-29.) New development in the City will increase the amount of impervious surfaces and would,

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			therefore, increase the amount of surface water runoff. (*Ibid.*) Mitigation Measure 4.8-7 would require the project to submit drainage plans in compliance with flood regulations that ensure consistency with City policies, including a policy requiring no net increase in runoff. (DEIR, p. 4.8-30.) With mitigation, the project's contribution to any significant cumulative impact is less than cumulatively considerable.
Cumulative Impact 4.8-8: Related to groundwater recharge. (NCC)	None required (DEIR, p. 4.8-30.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			Plans.
NOISE AND VIBRATION			
4.9-1: The proposed project could result in a substantial permanent increase in ambient exterior noise levels in the project vicinity that exceed standards in the City's General Plan. (LS)	None required (DEIR, p. 4.9-24.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.9-2: The proposed project could result in residential interior noise levels of 45 dBA L_{dn} or greater caused by noise level increases due to project operation. (LS)	None required (DEIR, pp. 4.9-25.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.9-3: The proposed project could result in construction noise levels that exceed the standards in the City of Sacramento Noise Ordinance or result in construction noise levels that exceed 75 dBA L_{eq} at the interior of a residential building during the daytime hours (7 a.m. to 10 p.m.). (PS)	Mitigation Measure 4.9-3(a): Minimize Construction Noise throughout Entire Construction Phase. The project applicant and contractor/s shall implement the following measures throughout all construction phases. • Machines or equipment and related noise associated with erection (including excavation) and demolition of any building or structure shall not start up prior to 7:00 a.m., Monday through Saturday, and prior to 9 a.m. on Sunday, and shall not continue past 6:00 p.m. on any day of the week; • Delivery of materials and equipment shall not occur prior to 7:00 a.m. nor past 6:00 p.m., Monday through Saturday, and prior to 9:30 a.m. nor past 6 p.m. on Sunday;	Less than Significant	Finding: Implementation of Mitigation Measures 4.9-3(a) and 4.9-3(b), which have been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that changes or alterations have been required in, or incorporated into, the

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	• Stationary construction equipment, such as compressors, shall be placed away from nearby residential areas and shall provide acoustical shielding. • Idling times of equipment shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes. • The project applicant or its designee shall designate a disturbance coordinator and conspicuously post this person's number around the project site, in adjacent public spaces, and in construction notifications. The disturbance coordinator, in coordination with the City, shall be responsible for responding to any complaints about construction activities. The disturbance coordinator shall receive all public complaints about construction disturbances and, in coordination with the City, is responsible for determining the cause of the complaint and implementation of feasible measures to alleviate the problem. • The project applicant or its designee shall provide written notice to all known occupied noise-sensitive uses (i.e., residential, educational, religious, lodging) within 400 feet of the edge of the project site boundary at least 2 weeks prior to the start of each construction phase of the construction schedule, as well as the name and contact information of the project disturbance coordinator. (DEIR, pp. 4.9-28 to 4.9-29.) Mitigation Measure 4.9-3(b): Prepare and Implement a Noise and Vibration Control Plan for Pile Installation. Prior to the issuance of any building permit for any phase of project development that proposes the use of piles for foundations, the project applicant shall develop a Noise and Vibration Control Plan, in coordination with an acoustical consultant, geotechnical engineer, and construction contractor, and submit the Plan to the City's Chief Building Official for review and approval. The Plan shall include measures demonstrated to ensure construction noise exposure for the interior of nearby residential dwellings is less than 75 dB L_{eq} and that vibration exposure for all buildings and vibration-sensitive receptors in the vicinity of the project site is		project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).) <u>Explanation</u>: Construction noise would be noticeable and could disturb people in the vicinity of the project site, making it difficult to concentrate, interrupting conversations, and disturbing sleep. (DEIR, p. 4.8-27.) With senior residential uses (Pioneer House) in the vicinity of the project site, it may be relatively more likely that people may be sleeping during the day, when construction activities would be anticipated to occur. (*Ibid.*) Installation of piles could exceed noise thresholds. (*Ibid.*) Mitigation Measures 4.9-3a and 4.9-3b would substantially reduce construction noise exposure and could avoid temporary significant effects. (DEIR, p. 4.9-28.) This would minimize disruption of activity at noise-sensitive receptors,

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	less than 0.5 PPV and 80 VdB and less than 0.2 PPV for historic buildings. These performance standards shall take into account the reduction in vibration exposure that would occur through coupling loss provided by each affected building structure. Measures and controls shall be identified based on project-specific final design plans, and may include, but are not limited to, some or all of the following: • Buffer distances, the type of equipment, and use of attenuation devices shall be designed to minimize construction noise and vibration for adjacent existing buildings and noise- and vibration-sensitive uses. • Use of "quiet" pile driving technology (such as auger displacement installation). (DEIR, p. 4.9-29.)		consistent with the significance thresholds. (*Ibid.*) The impact is considered less than significant.
4.9-4: The proposed project could permit existing and/or planned residential and commercial areas to be exposed to vibration peak-particle velocities greater than 0.5 inch per second or vibration levels greater than 80 VdB due to project construction. (PS)	Mitigation Measure 4.9-4: Implement Mitigation Measure 4.9-3a (Minimize Construction Noise throughout Entire Construction Phase) and Mitigation Measure 4.9-3b (Prepare and Implement a Noise and Vibration Control Plan for Pile Installation). (DEIR, p. 4.9-31.)	Less than Significant	Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).) Explanation: Construction activities, such as the driving of piles, have the potential to result in varying degrees of temporary and short-term ground vibration, depending on the specific construction equipment used and operations involved. (DEIR, p. 4.9-30.) Implementation of Mitigation Measure 4.9-4 would be required to reduce vibration levels to 80 VdB or less to avoid impacts and a variety of

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			techniques could be used to achieve the requirement as set forth in the measure. (DEIR, p. 4.9-31.) This would minimize disruption of activity at vibration-sensitive receptors, consistent with the City's significance thresholds, to a level that is less than significant. (*Ibid.*)
4.9-5: The proposed project could permit adjacent residential and commercial areas to be exposed to vibration peak-particle velocities greater than 0.5 inch per second or vibration levels greater than 80 VdB due to operations. (LS)	None required (DEIR, p. 4.9-32.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.9-6: The proposed project could permit historic buildings and archaeological sites to be exposed to vibration-peak-particle velocities greater than 0.2 inch per second due to project construction or operations. (PS)	Mitigation Measure 4.9-6: Implement Mitigation Measure 4.9-3(b): Prepare and Implement a Noise and Vibration Control Plan for Pile Installation. (DEIR, p. 4.9-33.)	Less than Significant	Finding: Implementation of Mitigation Measure 4.9-6, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that changes or alterations

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: The 2030 General Plan Master EIR addressed construction vibration and ultimately concluded that impacts for certain receptors were considered significant and unavoidable because the City could not ensure that all impacts could be avoided, particularly in locations where sensitive uses are very close to sources of construction vibration. (DEIR, p. 4.9-32.) Implementation of Mitigation Measure 4.9-6 would reduce construction vibration exposure consistent with the performance standards outlined in the thresholds of significance used in the EIR. (*Ibid.*) For locations adjacent to vibration-sensitive uses, different pile installation techniques may be used. (*Ibid.*) Pre-

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			drilled piles would substantially reduce vibration exposure and would avoid temporary significant impacts. (*Ibid.*) This would ensure compliance with the City's significance thresholds, which are designed to avoid adverse effects to existing historic structures. (*Ibid.*) Impacts would be considered less than significant with mitigation.
Cumulative Impact 4.9-7: Related to a permanent increase in ambient exterior noise levels. (NCC)	None required (DEIR, pp. 4.9-35.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.9-8: Related to a	None required (DEIR, pp. 4.9-36.)	Not Cumulatively	Under CEQA, no mitigation measures are

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
residential interior noise levels during project operation. (NCC)		Considerable	required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.9-9: Related to construction noise. (NCC)	None required (DEIR, pp. 4.9-38.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.9-10: Related to construction vibration. (NCC)	None required (DEIR, pp. 4.9-39.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.9-11: Related to operational vibration. (NCC)	None required (DEIR, pp. 4.9-40.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
PUBLIC SERVICES AND RECREATION			
4.10-1: The proposed project could increase demand for fire protection services requiring the need to construct new facilities or expand existing facilities. (PS)	Mitigation Measure 4.10-1: Ensure Adequate Emergency Access. The improvement plans for the proposed project shall incorporate emergency access measures consistent with the 2013 California Fire Code, as modified by the Sacramento City Code, and the Fire Chief. The improvement plans shall implement emergency access measures outlined below or those determined by the Sacramento Fire Department to be equally effective in ensuring adequate on-site access to accommodate emergency vehicles. The project applicant shall provide the improvement plans to the Fire Chief for review and approval prior to implementation: • All turning radii for fire access should be designed as 35' inside and 55' outside. • Roads used for Fire Department access should have an unobstructed width of not less than 20' and unobstructed vertical clearance of 13'6" or more. • "No Parking Fire Lane" markings should be applied on the emergency access roads. However, due to the pedestrian nature of the open spaces between the proposed project's buildings, that striping and signage would be limited. • Clearly define on-site pedestrian routes. • Landscaping and shrubbery should be placed and maintained in a way that it	Less than Significant	Finding: Implementation of Mitigation Measure 4.10-1, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: The proposed project would increase the resident population by between approximately 1,700 to 1,900 new

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	would not grow to obstruct pathways. (DEIR, p. 4.10-22.)		residents, as well as potential hotel guests and add new structures to the project site that may increase local demand for fire protection services. (DEIR, p. 4.10-20.) During project construction, the proposed project would require the use of equipment and machinery and the storage, use, and handling of combustible and flammable materials such as diesel fuel, lubricants, and gas; this could result in a potential increase in calls for fire services beyond what is currently experienced at the project site. (*Ibid.*) However, the project would not necessitate the construction of a new facility or expansion of an existing facility as the Sacramento Fire Department measures adequate level of service by response time and not the number or ratio of firefighters per persons. (*Ibid.*) Mitigation Measure 4.10-1 would ensure the project provides adequate vehicle access, road width and turning radii for large trucks and other fire

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			equipment and does not block or hinder access to any adjacent buildings. (*Ibid.*) With mitigation, this impact is considered less than significant.
4.10-2: The proposed project could increase demand for police protection services requiring the need to construct new facilities or expand existing facilities. (PS)	Mitigation Measure 4.10-2: Implement Construction Security Measures. • The project applicant shall surround areas of active construction and where equipment is stored with a secure chain link fence and shall hire a security service to monitor the site after hours to deter vandalism and theft. (DEIR, p. 4.10-23.)	Less than Significant	Finding: Implementation of Mitigation Measure 4.10-2, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: Implementation of the proposed project would result in increased demand for police protection facilities and services. (DEIR, p. 4.10-22.) During project construction there

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			could be a temporary increase in demand for police protection services due to construction equipment stored on site that could be attractive for theft and vandalism. (*Ibid.*) Compliance with Mitigation Measure 4.10-2 would ensure the site is protected from theft and vandalism during project construction and would reduce the need for additional police services. (DEIR, p. 4.10-23.) This would render impacts less than significant with mitigation.
4.10-3: The proposed project could increase demand for school services, requiring the need to construct new facilities or expand existing facilities. (LS)	None required (DEIR, p. 4.10-24.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.10-4: The proposed project could increase demand for parks and recreation services, requiring the need to construct new facilities or expand existing facilities, or causing or accelerating physical deterioration of	None required (DEIR, p. 4.10-27.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
existing facilities. (LS)			
Cumulative Impact 4.10-5: Related to fire protection services and facilities. (NCC)	None required (DEIR, p. 4.10-28.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.10-6: Related to police services and facilities. (NCC)	None required (DEIR, p. 4.10-28.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.10-7: Related to school services and facilities. (NCC)	None required (DEIR, p. 4.10-28.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.10-8: Related to parks and recreation services and facilities. (NCC)	None required (DEIR, p. 4.10-29.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
TRANSPORTATION/TRAFFIC			
4.11-1: Under Existing Conditions, project buildout could cause potentially significant impacts to study intersections. (LS)	None required (DEIR, p. 4.11-56.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.11-2: Under Existing Conditions, project buildout could cause potentially significant impacts to transit service and facilities. (LS)	None required (DEIR, p. 4.11-57.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.11-3: Under Existing Conditions, project buildout could cause potentially significant impacts to bicycle access and facilities. (LS)	None required (DEIR, pp. 4.11-58.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.11-4: Under Existing Conditions, project buildout could	None required (DEIR, pp. 4.11-59.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
cause potentially significant impacts to pedestrian access and facilities. (LS)			are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.11-5: Under Existing Conditions, project buildout could cause potentially significant impacts due to construction-related activities. (PS)	Mitigation Measure 4.11-5: Prepare and Implement Construction Traffic Management Plan. Before commencing demolition or construction, the project applicant shall prepare a Traffic Management Plan consistent with the requirements of sections 12.20.020 and 12.20.030 of the Sacramento Municipal Code that will be subject to review and approval by the City Department of Public Works, in consultation with Caltrans, affected transit providers, and local emergency service providers including the City of Sacramento Fire and Police departments. The plan shall ensure maintenance of acceptable operating conditions on local roadways and transit routes. In consideration of the number and type of trucks proposed to be used during construction, the proposed location of staging areas, and potential need for street closures as identified in the Traffic Management Plan, at a minimum, the plan shall: • Require the installation of temporary traffic control devices as specified in the California Department of Transportation Manual of Traffic Controls for Construction and Maintenance Work Zones. • Require construction truck trips to occur outside of peak morning and evening commute hours. • Limit the number of lane closures associated with project construction during peak hours. • Establish construction truck routes that limit truck traffic on local roadways as defined and identified on Figure M4A in the City's 2035 General Plan. • Establish pedestrian, bicycle, and vehicular (including transit and emergency vehicle) detour routes where necessary to avoid conflicts with construction zone operations and traffic.	Less than Significant	Finding: Implementation of Mitigation Measure 4.11-5, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: During project construction, it may be necessary to restrict or redirect vehicular movements around the site to accommodate demolition, material hauling, construction, staging, and modifications to existing infrastructure. (DEIR, p. 4.11-59.) Such

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
	• Provide safe driveway access during construction for pedestrian, bicycle, and vehicles (including transit and emergency vehicle) through the use of steel plates, signage, and similar measures. • Require temporary directional signage along all construction zone detour routes for motorists, pedestrians, and bicyclists. • Identify construction coordinator and post contact information for construction coordinator in visible locations on the project site. Construction coordinator shall receive complaints and coordinate on resolution of issues with the City. • Describe, in coordination with Sacramento Regional Transit, the approach to minimizing conflicts between light rail and construction traffic on 7th Street. • Require construction fencing around the work area perimeter. A copy of the Traffic Management Plan as approved by City Department of Public Works shall be submitted to local emergency response agencies and these agencies shall be notified at least 30 days before the commencement of construction that would partially or fully obstruct roadways. In addition, construction activities are not to interfere with transit service and pedestrian access to transit stops and light rail. (DEIR, pp. 4.11-59 to 4.11-60.)		restrictions could include lane closures, lane narrowing, and detours, which would be temporary. (*Ibid.*) Mitigation Measure 4.11-5 would require the preparation and implementation of a construction traffic management plan as required by Section 12.20.020 of the City Code. (*Ibid.*) The City requires that the traffic control plan illustrate the location of the proposed work area; provide a diagram showing the location of areas where the public right-of-way would be closed or obstructed and the placement of traffic control devices necessary to perform the work; show the proposed phases of traffic control; and identify the time periods when traffic control would be in effect and the time periods when work would prohibit access to private property from a public right-of-way. (*Ibid.*) The plan may be modified by the City at any time in order to eliminate or avoid traffic conditions that are hazardous to the safety of

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			the public. (*Ibid.*) Compliance with this mitigation would minimize construction impacts related to interference with emergency response, rendering this impact less than significant.
4.11-6: Under Existing Conditions, project buildout could result in inadequate emergency access. (PS)	Mitigation Measure 4.11-6: Implement Mitigation Measure 4.10-1 (Ensure Adequate Emergency Access). (DEIR, pp. 4.11-61.)	Less than Significant	Finding: Implementation of Mitigation Measure 4.11-6, which has been required or incorporated into the project, will reduce this impact to a less than significant level. The City Council hereby directs that these mitigation measures be adopted. The City Council, therefore, finds that 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. (CEQA Guidelines, § 15091, subd. (a)(1).) Explanation: Emergency vehicles would be able to access the project site from all perimeter roads (5th, N, 7th, and P Streets). (DEIR, p. 4.11-60.) The project proposes

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			to retain existing access points at the extension of O Street and 6th Street and add new access points to the site from N Street between 6th and 7th, from 7th Street between N Street and O Street. (*Ibid.*) In addition, Mitigation Measure 4.11-6 would ensure that the project provides adequate vehicle access, road width and turning radii for large trucks and other fire equipment and does not block or hinder access to any apartment buildings. (DEIR, 4.11-61.) The impact would be considered less than significant with mitigation.
4.11-7: Under Cumulative 2035 scenarios, the proposed project could cause potentially significant impacts to study intersections. (LCC)	None required (DEIR, pp. 4.11-64.)	Less than Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
4.11-8: Under Cumulative 2035 scenarios, project buildout could cause potentially significant impacts to transit service and facilities. (NCC)	None required (DEIR, pp. 4.11-65.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
4.11-9: Under Cumulative 2035 scenarios, project buildout could cause potentially significant impacts to bicycle access and facilities. (NCC)	None required (DEIR, pp. 4.11-66.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
4.11-10: Under Cumulative 2035 scenarios, project buildout could cause potentially significant impacts to pedestrian access and facilities. (NCC)	None required (DEIR, pp. 4.11-67.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.11-11: Related to emergency access. (NCC)	None required (DEIR, pp. 4.11-68.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable.

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			(CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.11-12: Related to construction. (LCC)	Mitigation Measure 4.11-12: Implement Mitigation Measure 4.11-5 (Prepare and Implement Construction Traffic Management Plan). (DEIR, pp. 4.11-69.)	Less than Cumulatively Considerable	Finding: Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) While not required to mitigate a potentially cumulatively considerable impact under Impact 4.11-12, Mitigation Measure 4.11-12 will further reduce the less than cumulatively considerable impacts associated with construction traffic. Furthermore, the City Council finds that this cumulative issue has been

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
UTILITIES AND SERVICE SYSTEMS			
4.12-1: The proposed project could increase demand for potable water in excess of existing supplies. (LS)	None required (DEIR, p. 4.12-23.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.12-2: The proposed project could result in inadequate capacity in the City's water supply facilities to meet the water supply demand, so as to require the construction of new water supply facilities. (LS)	None required (DEIR, pp. 4.12-25.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.12-3: The proposed project could result in the determination that adequate water or wastewater capacity is not available to serve the project's demand in addition to	None required (DEIR, pp. 4.12-27.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
existing commitments. (LS)			
4.12-4: The proposed project could require or result in either the construction of new wastewater treatment facilities or stormwater drainage facilities or the expansion of existing facilities, the construction of which could cause significant environmental impacts. (LS)	None required (DEIR, pp. 4.12-30.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
4.12-5: The proposed project could require or result in either the construction of new solid waste facilities or the expansion of existing facilities, the construction of which could cause significant environmental effects. (LS)	None required (DEIR, pp. 4.12-32.)	Less than Significant	Under CEQA, no mitigation measures are required for impacts that are less than significant. (CEQA Guidelines, § 15126.4, subd. (a)(3).)
Cumulative Impact 4.12-6: Related to water supply, treatment, and conveyance. (NCC)	None required (DEIR, pp. 4.12-34.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.)

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.12-7: Related to wastewater conveyance and treatment. (NCC)	None required (DEIR, pp. 4.12-36.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.12-8: Related to stormwater drainage	None required (DEIR, p. 4.12-36.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
infrastructure. (NCC)			impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the 2030 and 2035 General Plans.
Cumulative Impact 4.12-9: Related to solid waste demand. (NCC)	None required (DEIR, pp. 4.12-37.)	Not Cumulatively Considerable	Under CEQA, no mitigation measures are required for cumulative impacts that are less than cumulatively considerable. (CEQA Guidelines, §§ 15064, subd. (h), 15126.4, subd. (a)(3), 15130.) Furthermore, the City Council finds that this cumulative issue has been adequately addressed and mitigated, to the extent necessary and feasible, by policies included in the City's 2030 and 2035 General Plans as set forth in the City's 2030 and 2035 Master EIRs for the

Environmental Impact (Significance Before Mitigation)	Mitigation Measures	Level of Significance After Mitigation	Findings of Fact
			2030 and 2035 General Plans.

Back to Report Table of Contents

MITIGATION MONITORING AND REPORTING PROGRAM

1 INTRODUCTION

Where a CEQA document has identified significant environmental effects, Public Resources Code Section 21081.6 requires adoption of a "reporting or monitoring program for the changes to the project which it has adopted or made a condition of a project approval to mitigate or avoid significant effects on the environment."

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared to provide for the monitoring of mitigation measures required for the Sacramento Commons Project (the project), as set forth in the Final Environmental Impact Report (FEIR).

The City of Sacramento (City) is the Lead Agency that must adopt the MMRP for development and operation of the project. This report will be kept on file with the City of Sacramento Community Development Department, 300 Richards Boulevard 3rd Floor, Sacramento, CA 95811.

The CEQA Statutes and Guidelines provide direction for clarifying and managing the complex relationships between a Lead Agency and other agencies with implementing and monitoring mitigation measures. In accordance with CEQA Guidelines Section 15097(d), "each agency has the discretion to choose its own approach to monitoring or reporting; and each agency has its own special expertise." This discretion will be exercised by implementing agencies at the time they undertake any of portion of the project, as identified in the EIR.

2 PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

The intent of the MMRP is to ensure the effective implementation and enforcement of adopted mitigation measures (see Table MMRP-1). Additionally, for the purposes of public disclosure and to assist in monitoring compliance, the MMRP identifies actions necessary to comply with relevant regulatory requirements discussed in the EIR (see Table MMRP-2). The MMRP is intended to be used by City staff and others responsible for project implementation.

A lead agency may rely on compliance with applicable laws and regulations in determining that a proposed project will result in a less than significant impact. (See *San Francisco Tomorrow v. City and County of San Francisco* (2014) 229 Cal.App.4th 49, 525 [holding the city properly relied on compliance with building codes and related regulations in determining the proposed project would not result in potential safety hazards].) As a standard condition of approval, the City requires applicants comply with federal and state laws and regulations as well as standard City requirements that are applicable to a proposed project. Pursuant to CEQA Guidelines section 15091, subdivision (d), the mitigation monitoring and reporting program should identify both mitigation measures as well as "condition[s] of approval to avoid or substantially lessen significant environmental effects." For this reason, in addition to identifying mitigation measures contained in the FEIR (see Table MMRP-1), this MMRP also identifies key regulatory requirements that, as discussed in the FEIR, make up part of the basis for concluding one or more impacts identified in the FEIR are less than significant (see Table MMRP-2). As

DRAFT

set forth below, the City will monitor compliance with these applicable laws and regulations in the same manner as for the mitigation measures set forth in the FEIR. The timing of implementation, the party/ies responsible for monitoring and enforcement, and a column to confirm implementation of the mitigation measures/standards/regulatory requirements is also included in Tables MMRP-1 and MMRP2, below. In Table MMRP-1, mitigation measures are numbered in the same way they are numbered in the EIR. In Table MMRP-1, existing regulations/standards are numbered according to the order in which they are referenced in each EIR section (oftentimes existing regulations apply to various impacts). For example, Existing Regulation 4.5-1 is the one that occurs first in the Geology and Soils EIR section (Section 4.5).

The timing is the point(s) at which the mitigation measure/standard/regulatory requirement must be monitored for compliance. In many cases, the first step in compliance will be to initiate compliance with the subject mitigation measure/standard/regulatory requirement. .

3 ROLES AND RESPONSIBILITIES

The project applicant is responsible for fully understanding and effectively implementing the mitigation measures/standards/regulatory requirements contained within the MMRP, as directed by the City. The City is responsible for overall administration/enforcement of the MMRP.

4 CHANGES TO MMRP

Any substantive change in the MMRP shall be reported in writing. Modifications to the requirements of the MMRP may be made by the City subject to one of the following findings, documented by evidence included in the public record:

- The requirement included in the FEIR and the MMRP is no longer required because the significant environmental impact identified in the FEIR has been found not to exist, or to occur at a level which makes the impact less than significant as a result of changes in the project, changes in environment conditions, or other factors.

OR,

- The modified or substitute mitigation measure provides a level of environmental protection equal to, or greater than that afforded by the mitigation measure included in the FEIR and the MMRP; and,
- The modified or substitute mitigation measure or measures do not have significant adverse effects on the environment in addition to, or greater than those which were considered by the responsible hearing bodies in their decisions on the FEIR and the proposed project; and,
- The modified or substitute mitigation measures are feasible, and the City or, where applicable, other public agencies, through measures included in the MMRP or applicable regulations, can ensure implementation.

Findings and related documentation supporting the findings involving modifications to mitigation measures, including a determination whether further environmental review is required (see CEQA

Guidelines, §§ 15162-15164), shall be maintained in the project file with this MMRP and shall be made available to the public upon request.[1]

DRAFT

[1] The City's Initial Study included reference to mitigation measures that were included in either the City's 2035 General Plan Master EIR or the Sacramento Area Council of Governments' Metropolitan Transportation Plan/Sustainability Communities Strategy (MTP/SCS). Please see Appendix O, which evaluates each relevant mitigation measure from each of these previous environmental documents and explains how the mitigation measure has been incorporated into mitigation imposed on the proposed project or why the mitigation measure is not relevant or required for the proposed project. In many cases, mitigation measures included in the General Plan Master EIR or MTP/SCS Program EIR have been revised in a way that is relevant to the proposed project and project site. For example, the Initial Study for the proposed project identifies Mitigation Measure AIR-4: Implementing Agencies Should Require Project Applicants to Implement Applicable, or Equivalent, Standard Construction Mitigation Measures. For the proposed project, the City has included applicable construction mitigation as a part of Mitigation Measure 4.2-1: Implement SMAQMD Basic Construction Emission Control Practices, and there is no utility in including the rest of Mitigation Measure AIR-4.

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Mitigation Measure AES-3 (from the MTP/SCS EIR): Design Lighting to Minimize Light Trespass And Glare The project shall implement lighting standards that ensure that minimum safety and security needs are addressed [according to Sacramento City Code Section 15.80.020] and minimize light trespass and glare. These standards include the following: • minimize incidental spillover of light onto adjacent private properties and undeveloped open space; • direct luminaries away from habitat and open space areas adjacent to the project site; • install luminaries that provide good color rendering and natural light qualities; and • minimize the potential for back scatter into the nighttime sky and for incidental spillover of light onto adjacent private properties and undeveloped open space.	Approved lighting plan in compliance with City Code and documenting that light trespass and glare are minimized	Prior to approval of each improvement plan that includes a lighting component	City of Sacramento Community Development Department	
Mitigation Measure 4.2-1: Implement SMAQMD Basic Construction Emission Control Practices Prior to commencement of each phase of construction, the project applicant shall provide evidence that maximum daily emissions remain below applicable SMAQMD significance thresholds. City approval of any grading or improvement plans shall require the following Basic Construction Emission Control Practices: • Water all exposed surfaces two times daily. Exposed surfaces include, but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads. • Cover or maintain at least 2 feet of free	Submittal of documentation demonstrating that emissions associated with the grading plan for each development phase remains below applicable SMAQMD thresholds of significance Inclusion of applicable Basic Construction Emission Control Practices in General Notes on each grading and improvement plan	Prior to approval of the first grading plan for each development phase Prior to approval of grading and improvement plans	City of Sacramento Community Development Department	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
board space on haul trucks transporting soil, sand, or other loose material on the site.				
Cover any haul trucks that will be traveling along freeways or major roadways. • Use wet power vacuum street sweepers to remove any visible trackout mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited. • Limit vehicle speed on unpaved roads to 15 mph. • Complete pavement of all driveways and sidewalks to be paved as soon as practicable. In addition, lay building pads as soon as practicable after grading unless seeding or soil binders are used. • Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [required by California Code of Regulations, Title 13, Sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site. • Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment shall be checked by a certified mechanic and determined to be running in proper condition before it is operated.		As soon as practicable for each construction phase		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Mitigation Measure 4.3-1a: Avoid Direct Loss of Swainson's Hawk Swainson's hawk • If construction, tree removal, trimming, or pruning for any project phase on the project site is to begin during the nesting season for Swainson's hawk (March 1–August 31), a preconstruction survey for Swainson's hawk shall be conducted. Surveys for Swainson's hawk nests shall be conducted no more than 30 days before the beginning of construction for all project phases. Surveys for Swainson's hawk nests shall be conducted in all suitable nesting habitat within line of sight of construction activities within a 0.25-mile radius of the project site.	Submittal of pre-construction Swainson's hawk survey, if specified activities are to occur during the nesting season for each development phase	Prior to, but no more than 30 days before, the beginning of construction for each development phase	City of Sacramento Community Development Department	
• If active Swainson's hawk nests are found within the nest survey area, the construction contractor shall avoid impacts on such nests by establishing a no-disturbance buffer around the nest. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest. Based on guidance for determining a project's potential for impacting Swainson's hawks (Swainson's hawk Technical Advisory Committee 2000), projects in urban areas have a low risk of adversely affecting nests greater than 600 feet from project activities. Therefore, 600 feet is the minimum adequate buffer size for protecting nesting Swainson's hawks from disturbances associated with the proposed project. However, the qualified biologist shall consult with the California Department of Fish and Wildlife to confirm the adequacy of the no-disturbance buffer size prior to	Verification of establishment of a no-disturbance buffer as defined by the project biologist and subsequent submittal of monitoring results	Prior to commencement of construction with subsequent monitoring	City of Sacramento Community Development Department, California Department of Fish and Wildlife	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
commencement of construction.				
• No construction activity shall occur within the buffer area of a particular nest until a qualified biologist in consultation with California Department of Fish and Wildlife, confirms that the chicks have fledged or the nesting cycle has otherwise completed. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases, according to CDFW guidance (Calderaro pers. comm. 2014). The no-disturbance buffer will remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.	Submittal of confirmation from project biologist and CDFW that nesting cycle is completed Submittal of monitoring results Submittal of verification that no-disturbance buffer has been increased, if required	Prior to commencement of construction activities During construction (if monitoring required) Ongoing during construction (or until chicks have fledged or the nesting cycle is completed)		
Mitigation Measure 4.3-1b: Avoid Direct Loss of Swainson's Hawk, White-Tailed Kite, Peregrine Falcon, and Nesting Birds Protected by the Migratory Bird Treaty Act and California Fish and Game Code White-tailed Kite and Protected Bird Species • If construction activity, tree removal, trimming, or pruning for any project phase on the project site is to begin during the nesting season for white-tailed kite, peregrine falcon, other raptors (except Swainson's hawk), or other protected bird species in this region (generally late February through early September), a qualified biologist shall conduct preconstruction surveys in areas of suitable nesting habitat for white-tailed kite, peregrine falcon, common raptors, and bird	Submittal of pre-construction survey, if specified activities are to occur during the nesting season for each development phase	Prior to, but no more than 30 days before, the beginning of construction for each development phase	City of Sacramento Community Development Department	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
species protected by the Migratory Bird Treaty Act or California Fish and Game Code. Surveys shall be conducted no more than 30 days before any ground disturbance is expected to occur for all project phases and shall extend at least 300 feet from the edge of the disturbance activity for non-raptor bird species and at least 500 feet for all raptor species potentially nesting in the area.				
• If no active nests are found, no further mitigation is required. If active nests are found, the construction contractor shall avoid impacts on such nests by establishing a no-disturbance buffer around the nest. The appropriate buffer size for all nesting birds shall be determined by a qualified biologist but shall extend a minimum of 300 feet from the nest for non-raptor bird species and 500 feet for raptor species. The buffer size may be adjusted, as determined by a qualified biologist, depending on the species of nesting bird, nature of the project activity, the extent of existing disturbance in the area, visibility of the disturbance from the nest site, and other relevant circumstances.	Verification of establishment of a no-disturbance buffer as defined by the project biologist and subsequent submittal of monitoring results	Prior to commencement of construction with subsequent monitoring	City of Sacramento Community Development Department, California Department of Fish and Wildlife	
• No construction activity shall occur within the established buffer area of an active nest until a qualified biologist confirms that the chicks have fledged and are no longer dependent upon the nest or the nesting cycle has otherwise completed. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or	Submittal of confirmation from project biologist and CDFW that nesting cycle is completed Submittal of monitoring results	Prior to commencement of construction activities During construction (if monitoring required)		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases, according to CDFW guidance (Calderaro pers. comm. 2014). The no-disturbance buffer will remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.	Submittal of verification that no-disturbance buffer has been increased, if required	Ongoing during construction (or until chicks have fledged or the nesting cycle is completed)		
Mitigation Measure 4.3-2: Avoid and Minimize Impacts on Trees The project applicant shall submit a tree permit application to the City Department of Transportation (Urban Forestry Services Division), as required for removal, pruning, or soil disturbance within the canopy dripline of a Heritage Tree or City Street Tree and such activity shall not be performed until a permit has been issued. In addition, the following tree replacement, protection, and monitoring actions shall be implemented:	Issuance of permit for pruning or removal of Heritage Tree or City Street Tree (Note: Construction activity that requires encroachment into the canopy dripline of a Heritage Tree or City Street Tree would be monitored by the project Certified Arborist, who will make recommendations for minimizing impacts to retained trees)	Prior to removal, canopy pruning, or root disturbance within the canopy dripline of a Heritage Tree or City Street Tree	City of Sacramento Department of Transportation (Urban Forestry Services Division)	
• Any Heritage Trees to be removed for construction purposes shall each be replaced with one 24-inch box size tree. The replacement trees shall be planted on site and incorporated into the project's landscape plan. • Any City Street Trees to be removed for construction purposes shall be replaced with either 24-inch box size trees or 15-gallon size tree (as required under City Code Section 12.56.090 based on the sizes of the City Street Trees to be removed). Replacement trees for City Street Trees shall be replanted within the City right-of-way in coordination with the City's Urban Forester. If replacement trees for City Street	Approved landscape plan with inclusion of planting plan and general notes that reflect replacement and protection actions	Prior to approval of each landscape plan, implementation of which requires a Tree Removal Permit(s)		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Trees cannot be accommodated in the City's right-of-way, they shall be planted on site and incorporated into the project landscape plan. If City Street Tree replacement trees cannot be incorporated into the project landscape plan, they shall be planted at another off-site location at the City's direction.				
• Replacement trees, including all 147 ground level trees identified in the Conceptual Landscape Plan prepared for the project, shall consist of shade tree species appropriate to the site and which consider the post-construction environment (e.g., shading from buildings). Selection of replacement tree species shall be conducted in consultation with the City's Director of Urban Forestry. • Tree planting shall comply with the City's landscaping requirements (City Code Sections 17.612.010 and 17.612.040). • Canopy or root pruning of any retained Heritage or City Street Trees to accommodate construction and/or fire lane access shall be conducted according to applicable ANSI A300 tree pruning standards and International Society of Arboriculture best management practices. • All retained trees on-site (Heritage or City Street Trees) shall be protected from construction-related impacts pursuant to Sacramento City Code Section 12.64.040 (Heritage Trees) and Section 12.56.060 (City Street Trees). Full details of tree protection measures are available in the Arborist Report (see Appendix M), but a summary is provided here.	Submittal of information verifying implementation of protection measures, as defined by the project's Certified Arborist	Prior to commencement of applicable construction activities		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
○ Under the tree protection measures, an International Society of Arboriculture-(ISA) Certified Arborist shall be assigned to monitor tree health and construction activity near all trees retained on-site (including trees that do not meet the Heritage Tree or City Street Tree definition). Protection measures prior to construction include: health inspection of large trees; a pre-construction meeting				
with all contractors and the arborist to discuss protocols; pre-construction training for all construction crews; tree removal, pruning and inspection during site preparation; and erection of a protective fencing and signage around all trees or groups of trees. Tree protection measures during construction shall include: preserved trees shall not have signs, ropes, cables or other items attached to them; all heavy equipment shall avoid the fenced protection zones; no storage or discard of any supply or material within the fenced protection zones; grade changes of more than two feet are not permitted within 30 feet of a tree's drip line; care shall be taken when moving equipment or supplies near trees (especially overhead); all trenching shall be outside the fenced protection zones unless a Tree Permit has been obtained; an irrigation schedule shall be implemented for any substantially pruned tree within 48 hours; canopy pruning can only be done under an approved Tree Permit; and periodic washing of tree foliage may be necessary (but not more than once every two weeks).				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
• On-site trees in the post-construction landscape (including Heritage Trees, City Street Trees, and Non-Heritage Trees proposed for retention plus newly-planted landscape trees) shall be monitored by an ISA Certified Arborist for a period of 5 years. Post-construction monitoring shall be conducted at least monthly for Year 1, quarterly for Year 2, and twice annually for Years 3-5. Post-construction monitoring shall begin at the completion of landscape installation. Monitoring periods may be staggered for the project site to account for construction phasing, but shall be no less than 5 years for each tree. Should any retained or newly-planted trees die within the 5-year monitoring period, the tree shall be removed and replaced at a 1:1 ratio with a 24-inch box size tree of the same or comparable species (unless it is determined that a different species is better suited to the location, as recommended by the monitoring arborist). Post-construction monitoring reports shall be prepared and submitted to the entity responsible for landscape management and to the City's Urban Forester. Monitoring reports shall address tree mortality and summarize tree replacement efforts (if any) and shall provide management recommendations for promoting on-site tree health. Upon completion of the 5-year monitoring period, a final post-construction monitoring report shall be prepared and submitted to the City's Urban Forester documenting all monitoring efforts and summarizing tree survival and replacement totals.	Submittal of monthly, quarterly and semi-annually post-construction monitoring reports Verification of installation of replacement trees	Prior to approval of site plans for each development phase for on-site trees and prior to approval of street improvement plans for City Street Trees Within 90 days within determination that tree has died		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
• Protection and Maintenance during Construction. Once construction activities have begun the following measures shall be adhered to: ○ Avoidance: Signs, ropes, cables, or any other items shall not be attached to any preserved tree, per City Code Section 12.64.040. ○ Equipment Operation and Storage: Operating heavy machinery around the root zones of trees will increase soil compaction, which decreases soil aeration and subsequently reduces water penetration in the soil. All heavy equipment and vehicles shall stay out of the fenced tree protection zone, per City Code Section 12.64.040, unless where specifically approved in writing by the City Arborist and under the supervision of an ISA Certified Arborist. ○ Storage and Disposal: Do not store or discard any supply or material, including paint, lumber, concrete overflow, etc. within the fenced tree protection zone, per City Code Section 12.64.040. Remove all foreign debris within the fenced tree protection zone; it is important to leave the duff, mulch, chips, and leaves around the retained trees for water retention and nutrients. Avoid draining or leakage of equipment fluids near retained trees. Fluids such as: gasoline, diesel, oils, hydraulics, brake and transmission fluids, paint, paint thinners, and glycol (anti-freeze) should be disposed of properly. Keep equipment parked outside of the fenced tree protection zone of retained trees to avoid the possibility of leakage of	Verification of inclusion of requirement in general notes on grading and improvement plans	During construction activities that could impact any preserved tree, per City Code Section 12.64.040		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
equipment fluids into the soil. The effect of toxic equipment fluids on the retained trees could lead to decline and death. ○ Grade Changes: Grade changes of more than 2 feet, including adding fill, are not permitted within 30 feet of a tree's drip line, per City Code Section 12.64.040, without special written authorization and under supervision by an ISA Certified Arborist. Lowering the grade within 30 feet of a tree's dripline will necessitate cutting main support and feeder roots, jeopardizing the health and structural integrity of the tree(s). Adding soil, even temporarily, on top of the existing grade will compact the soil further, and decrease both water and air availability to the trees' roots. ○ Moving Construction Materials: Care will be taken when moving equipment or supplies near the trees, especially overhead. Avoid damaging the tree(s) when transporting or moving construction materials and working around retained trees (even outside of the fenced tree protection zone). Above ground tree parts that could be damaged (e.g., low limbs, trunks) should be flagged with red ribbon. If contact with the tree crown is unavoidable, prune the conflicting branch(es) using ISA or ANSI A300 standards. ○ Trenching: Unless a Tree Permit has been issued for trenching activity within the fenced tree protection zone, all trenching shall be outside of the fenced tree protection zone, per City Code Section 12.64.040. Roots primarily extend in a horizontal direction forming a				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
support base to the tree similar to the base of a wineglass. Where trenching is necessary in areas that contain tree roots, prune the roots using a Dosko root pruner or equivalent. All cuts should be clean and sharp, to minimize ripping, tearing, and fracturing of the root system. The trench should be made no deeper than necessary. ○ Irrigation: Trees that have been substantially root pruned (30% or more of their root zone) will require irrigation for the first twelve months. The first irrigation should be within 48 hours of root pruning. They should be deep watered every two to four weeks during the summer and once a month during the winter (adjust accordingly with rainfall). One irrigation cycle should thoroughly soak the root zones of the trees to a depth of 3 feet. The soil should dry out between watering; avoid keeping a consistently wet soil. Designate one person to be responsible for irrigating (deep watering) the trees. Check soil moisture with a soil probe before irrigating. Irrigation is best accomplished by installing a temporary above ground micro-spray system that will distribute water slowly (to avoid runoff) and evenly throughout the fenced tree protection zone but never soaking the area located within 6- feet of the tree trunk, especially during warmer months. For trees not subject to root pruning activity, the amount of irrigation provided shall not be changed from that which was provided prior to the commencement of construction activity, per City Code				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Section 12.64.040. ○ Canopy Pruning: Do not prune any of the trees, unless a Tree Permit has been issued for pruning activity, per City Code Section 12.64.040. This will help protect the tree canopies from damage. All pruning shall be completed under the direction of an ISA Certified Arborist and using ISA guidelines. Only conflicting limbs and dead wood shall be removed from tree canopies where a Tree Permit has been issued.				
○ Washing: Periodic washing of the foliage is recommended during construction but no more than once every two weeks. Washing should include the upper and lower leaf surfaces and the tree bark. This should continue beyond the construction period at a less frequent rate with a high-powered hose only in the early morning hours. Washing will help control dirt/dust buildup that can lead to mite and insect infestations. ○ Inspection: An ISA Certified Arborist shall inspect the preserved Heritage and City Street Trees on at least a monthly basis for the duration of construction activity. A summary report documenting observations and management recommendations shall be submitted to the owner following each inspection. Photographs of representative trees are to be included in each report. If feasible, aerial inspection for trees #49, 50, 66, 67, and 76 should be conducted during construction if the construction period extends to the recommended inspection period, as identified by Tree Associates.	Submittal of reports documenting observations and management recommendations	At least monthly, as determined by project arborist		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Mitigation Measure 4.4-2: Documentation, Interpretation, Reuse, and Preservation a) Documentation / Recordation Prior to any structural demolition, site clearing and removal activities, the project applicant shall retain a professional who meets the Secretary of the of the Interior's Standards for Architectural History to prepare written and photograph documentation of the Capitol Towers and garden apartments complex as well as landscape areas defined as historic. The documentation for the property shall be prepared based on the National Park Services' (NPS) Historic American Building Survey (HABS)/Historic American Engineering Record (HAER) Historical Report Guidelines. This type of documentation is based on a combination of HABS/HALS standards and HABS/HALS Photography Guidelines (November 2011). The level of documentation will be determined in coordination with the City's Preservation Director, based on the availability of original materials describing development of the project site. The written historical data for this documentation shall follow the appropriate HABS/HALS Level standards and shall be derived from the following documents: "National Register of Historic Places Registration Form for Capitol Towers", prepared by Flora Chou (Page & Turnbull) in 2014 and "Historical Resource Inventory and Evaluation Report, Capitol Towers Apartments, 1500 7th Street, Sacramento, California 95814," prepared by JRP in 2014. The written data shall be accompanied by a	Approved written and photograph documentation of the Capitol Towers and garden apartments complex, as well as landscape areas defined as historic	Prior to any structural demolition, site clearing or removal activities	City of Sacramento Preservation Director	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
sketch plan of the property. Efforts shall also be made to locate original construction drawings or plans of the property during the period of significance. If located, these drawings shall be photographed, reproduced, and included in the dataset. Either HABS standard large format or digital photography shall be used. If digital photography is used, the ink and paper combinations for printing photographs must be in compliance with NPS photo policy and have a permanency rating 150 years or greater. Photographs shall be labeled with text reading "Capitol Towers Apartments, 1500 7th Street, Sacramento" and photograph number on the back of the photograph in pencil (2B or softer lead). Digital photographs shall be taken as uncompressed .TIFF file format. The size of each image shall be six megapixels (2000 x 3000 pixels) or larger. The file name for each electronic image shall correspond with the index of photographs and photograph label. Photograph views for the dataset shall include images of the entire Capitol Towers property, including the garden apartments and high-rise tower buildings, as well as landscape and site features. The dataset shall include: (a) contextual views capturing the spatial relations of buildings, structures, and the landscape features, and of the site; (b) views of each side of each building and interior views, where possible; (c) oblique views of buildings; (d) detail views of character-defining features, including features on the interiors of some buildings; (e) detail views of each portion of the site and its landscape features. The size of this property shall require up to 15 contextual				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
views, 20 views of the garden apartments and high-rise; 10 views of the landscape (hardscape or softscape), and 15 detail views of the site. All views shall be referenced on a photographic key. This photograph key shall be on a map of the property and shall show the photograph number with an arrow indicating the direction of the view. Historic photographs shall also be collected, reproduced, and included in the dataset. The project applicant shall provide funding to acquire the appropriate use and copyrights to reproduce historic images in the dataset for public dissemination. All written and photograph documentation of the Capitol Towers and garden apartments complex shall be approved by the City's Preservation Director prior to any site clearing, demolition and removal activities.				
Two copies of the HABS documentation of the Capitol Towers complex shall be disseminated on archival quality paper to appropriate repositories and interested parties. Additional copies shall be in PDF files/format copies produced on archival DVDs or otherwise distributed electronically. The distribution of the documentation shall include the California Historical Resources Information System (CHRIS) North Central Information Center (NCIC) at California State University Sacramento; the California State Library in Sacramento; the Center for Sacramento History (CSH); the Sacramento County Historical Society; the Sacramento Public Library's Sacramento Room; and other local repositories determined by the City's Preservation Director.	Verification of dissemination of HABS documentation	Within 60 days of completion of written and photographic documentation		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
b) Interpretation				
Under the direction of the City's Preservation Director, and the City's History Manager, measures shall be implemented to interpret the property's historic significance for the public and for future residents that will inhabit the Sacramento Commons property. All costs associated with interpretation of the property shall be borne by the project applicant. Interpretive and/or educational exhibits shall include, but are not necessarily limited to the following items:	Verification of installation of interpretive displays and signage/ plaques after completion of construction.	Within 12 months of completed construction		
Permanent Interpretive Displays/Signage/Plaques				
The project applicant shall install a minimum of four interpretive displays within the project that provides information to visitors and residents regarding the history of the Capitol Towers and garden apartments complex within the context of Sacramento urban renewal and redevelopment. These displays shall be integrated into the design of the public areas of the new housing and retail, and they shall be installed in highly visible public areas, such as the property's plazas or in public areas on the interiors of buildings. The displays shall include historical data taken from the HABS documentation or other cited archival sources and shall also include photographs. Displayed photographs shall include information about the subject, the date of the photograph, and photo credit/photo collection credit.	Verification of installation of required materials	Within 12 months of completed final demolition of last of garden apartments		
The project applicant shall install at least one sign or plaque in each quadrant of the superblock to indicate that the Capitol Towers and garden apartment complex once				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
stood on the property. Additional signage/ plaques may be installed to provide interpretive information about any historical photographs installed on the property. Interpretive displays and the signage/ plaques installed on the property shall be sufficiently durable to withstand typical Sacramento weather conditions for at least 10 years, like fiber-glass embedment panels, that meet National Park Service signage standards. Displays and signage/plaques shall be lighted, installed at pedestrian-friendly locations, and be of adequate size to attract the interested pedestrian. Maintenance of displays and signage/ plaques shall be included in the management of the common area maintenance program on the property.				
Exhibits and Written Documentation for Publication on a Website The project applicant shall publish exhibits and written documentation on a website regarding the history of the urban renewal and redevelopment, with a focus on the Capitol Towers property. This information shall be derived from the HABS documentation, the "NRHP Registration Form for Capitol Towers", prepared by Flora Chou (Page & Turnbull) in 2014, and the "Historical Resource Inventory and Evaluation Report, Capitol Towers Apartments, 1500 7th Street, Sacramento, California 95814," prepared by JRP in 2014, and other sources as appropriate. The publication shall include text and photographs. The text shall be written for popular consumption, but shall also be properly cited following historical	Verification of posting of required materials on authorized website; maintenance of information on website for two years	Within 12 months of completed final demolition of last of garden apartments		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
documentation standards. The City's Preservation Director shall review and comment on the text prior to its publication to ensure that it is accurate and sufficiently detailed. Publication of these materials shall be either on an independent website maintained by the project applicant (or its successor property management company) or be donated for posting on a local history website, such as www.sacramentohistory.org (owned by CSH). The materials shall be available on the website for at least two years following demolition of the garden apartments at Capitol Towers.				
Traveling Exhibit The project applicant shall have a traveling exhibit prepared to be offered for display at appropriate Sacramento city venues including, but not limited to, local museums, local archives with exhibit space, public libraries, and public buildings. The small exhibit shall include panels or boards that provide information and photographs regarding Capitol Towers and garden apartments within the context of Sacramento's urban renewal and redevelopment history. The exhibit shall include three or more 2' x 2' foot boards that can be either wall mounted or displayed on easels.	Verification of preparation of traveling exhibit and subsequent offering for display at appropriate City venues	Within 12 months of completed final demolition of last of garden apartments		
c) <u>Salvage and Reuse</u> The project applicant shall consult with the City's Preservation Director and the Director of the Sacramento Metropolitan Arts Commission regarding the salvage and	Approved relocation plan for the Overhoff sculptural wall	Prior to construction activities that would affect the Overhoff Wall		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
reuse of one of the character-defining landscape features: the Overhoff sculptural wall. The wall shall be retained on the property, safe from construction work, and moved within the property, as shown in Figure 2.1 of the PUD Guidelines, "Conceptual Ground Level Landscape Plan." Although the wall is modular, when it is moved, the panels shall stay together in the same placement order and configuration as they exist today. The condition of the object will be assessed by a qualified expert prior to moving the sculpture and the moving work shall be undertaken by a qualified expert with extensive experience in the relocation of sculptures and moving works of art.				
d) Rehabilitation or Restoration of Historic Buildings				
If the Capitol Towers high rise is listed in or is eligible for listing in the NRHP, CRHR, or the Sacramento Register, prior to commencement of any renovations to the building, the City Preservation Director shall review and confirm the renovations comply with the Secretary of the Interior's (SOI) Standards for the *Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* or the *SOI Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*. Additional guidance for this work may include the *Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings.*	Approved rehabilitation/ restoration plans for the Capitol Towers high rise	Prior to issuance of a building permit for renovation activities		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Mitigation Measure 4.4-3: Protect or Mitigate Impacts on Prehistoric and Historic-Era Archaeological Resources and Human Remains To minimize potential adverse effects on prehistoric and historic-era archaeological resources and human remains, the project applicant shall implement the following measures: • The project applicant shall retain a qualified archaeologist (i.e., defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology) to carry out all actions related to archaeological resources and human remains.				
○ Before the start of any ground-disturbing activities, the qualified archaeologist shall conduct a cultural resources sensitivity training session for all construction personnel working on the project. The training shall include an overview of potential cultural resources that could be encountered during ground-disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified archaeologist for further evaluation and action; and shall describe penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources.	Verification of project archaeologist attendance at pre-construction meeting to conduct required training session	Prior to commencement of site preparation or other ground-disturbing activities	City of Sacramento Community Development Department	
○ For work involving installation of deep foundations or subsurface building systems that would occur more than 10 feet below the surface, a professional archaeologist shall monitor excavation and shall have the authority to stop work and, in consultation with the City's				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Preservation Director, direct appropriate actions, consistent with state laws and regulations, if remains or items of archaeological interest are discovered.				
○ If items of historic or archaeological interest are discovered, the construction contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and immediately notify the qualified archaeologist for further evaluation and action. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, baked clay fragments, or faunal food remains (bone and shell); stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and/or battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include the remains of stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. After cessation of excavation, the contractor shall immediately contact the City of Sacramento Community Development Department. The contractor shall not resume work until authorization is received from the City after the following steps are taken:	Verification of inclusion of protocol as part of grading plan general notes	Prior to issuance of grading permit		
▪ Any inadvertent discovery of cultural resources during construction shall be evaluated by a qualified	Approved mitigation plan for inadvertent discovery of cultural resources	Prior to commencement of any activity that could impact the discovered resource		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
archaeologist.				
▪ If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the State CEQA Guidelines), mitigation shall be implemented in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the State CEQA Guidelines, with a preference for preservation in place. Consistent with State CEQA Guidelines Section 15126.4(b)(3), this may be accomplished by planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, the archaeologist shall develop a treatment plan in consultation with the City and appropriate Native American representatives (if the find is of Native American origin). The treatment plan shall include, but shall not be limited to, data recovery procedures based on location and type of archaeological resources discovered, procedures for disposition or curation of recovered materials, and a preparation and submittal of report of findings to the City's Preservation Director and the North Central Information Center of the California Historical Resources Information System.	Completion and approval of treatment plan	Prior to approval of grading plan		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
• If a human bone or bone of unknown origin is found during construction, pursuant to Section 5097.98 of the Public Resources Code and Section 7050.5 of the Health and Safety Code, all work shall stop in the vicinity of the find, and the county coroner and the City of Sacramento Community Development Department shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for reinterment of the human remains and any associated artifacts. No additional work is to take place within 100 feet of the find until the identified appropriate actions have taken place.	Verification of inclusion of requirement in general notes on grading plan	Prior to approval of grading plan		
Mitigation Measure 4.4-4: Protect or Mitigate Impacts on Paleontological Resources To minimize potential adverse effects on previously unknown potentially unique, scientifically important paleontological resources, the project applicant shall implement the following measures: • Before the start of any earthmoving activities, the project applicant shall retain a qualified paleontologist to train all construction personnel involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction, and proper notification procedures should fossils be encountered.	Verification of project paleontologist attendance at pre-construction meeting to conduct required training session	Prior to commencement of and during any earthmoving activities	City of Sacramento Community Development Department	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
• If paleontological resources are discovered during earthmoving activities, the construction crew shall immediately cease work in the vicinity of the find and notify the City of Sacramento Community Development Department. The project applicant shall retain a qualified paleontologist to evaluate the resource and prepare a recovery plan in accordance with Society of Vertebrate Paleontology guidelines (1996). The recovery plan shall include, but shall not be limited to, (a) a field survey surrounding the site where the paleontological resources were discovered, (b) development of sampling and data recovery procedures based on location and type of paleontological resources discovered, (c) offer museum or other storage coordination for appropriate specimens recovered, and (d) prepare a report documenting the findings. Recommendations in the recovery plan shall be implemented before construction activities can resume at the site where the paleontological resources were discovered.	Verification of inclusion of protocol as part of grading plan general notes Approved recovery plan, with subsequent survey and sampling Submittal of report documenting findings	Prior to approval of grading plan Prior to resumption of construction activities Within 90 days of findings		
Mitigation Measure 4.5-2: Prepare a Final, Design-Level Geotechnical Report and Implement Recommendations Contained in the Report Before building permits are issued and construction activities begin on any project development phase, the project applicant shall retain a licensed geotechnical engineer to prepare a final, design-level geotechnical report for the proposed facilities. The final geotechnical report shall be prepared in accordance with generally accepted geotechnical engineering practices and shall address all California Building	Approved final design-level geotechnical report, with building plans prepared in accordance with report recommendations	Prior to issuance of building permit	City of Sacramento Department of Utilities	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Code requirements. The final geotechnical report shall be submitted for review and approval to the City of Sacramento Department of Utilities. The final geotechnical report shall address and make recommendations on: • seismic design parameters; • building specific design coefficients; • seismic ground shaking; • liquefaction; • dewatering; • expansive/unstable soils; • soil bearing capacity; • appropriate sources, depth, and types of fill; • structural foundations; • soil corrosion of concrete and steel; and • pavement and parking areas.				
Based on the information above, the geotechnical investigation shall set forth the required type and sizing of structural materials required for each newly constructed building and any necessary engineering practices to address site-specific soil conditions. In addition to the recommendations for the conditions listed above, the geotechnical investigation shall include site-specific subsurface testing of soil and groundwater conditions. Final designs shall be consistent with the version of the California Building Code that is applicable at the time building and grading permits are applied for as well as standard, accepted, and proven engineering practices used throughout the Sacramento area to address potential site-specific soil conditions. Such engineering practices may include, but are not limited to the following:	Verification of inclusion of requirements in general notes on grading plan	Prior to issuance of grading permit		

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
• removal of any deleterious materials within the fill and potential recompaction of the soil; • shoring of trenches during construction dewatering as required by the federal Occupational Safety and Health Administration, waterproofing of underground structures, and installation of subdrains; • construction of high-rise buildings on deep foundations; and • construction of low- to mid-rise buildings on mat foundations with ground improvements.				
All recommendations contained in the final geotechnical engineering report shall be implemented by the project applicant. Special recommendations contained in the geotechnical engineering report shall be noted on the grading plans and implemented, as appropriate, before construction begins. The project applicant shall be required to perform an engineering inspection to certify that earthwork has been completed in conformity with recommendations contained in the geotechnical report and requirements determined by the City.	Submittal of pad certification letter from geotechnical consultant and Submittal of pad elevation letter from geotechnical consultant and submittal of elevation certification letter from civil engineer	Subsequent to completion of grading activities		
Mitigation Measure 4.7-1a: Identify and Remediate for Discovery of Unknown Hazardous Materials Prior to commencing any construction activities, a Health and Safety Plan shall be prepared and provided to the Director of the City's Community Development Department by a qualified professional to identify specific measures to take to protect worker and public health and safety and specify measures to identify, manage, and remediate wastes. In the event that excavation or construction of the proposed project reveals evidence of soil or groundwater contamination,	Approved health and safety plan Protocol documented in general notes on grading plan	Prior to issuance of grading permit and/or commencement of construction activities	City of Sacramento Community Development Department	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
underground storage tanks (USTs), or other environmental concerns, site preparation or construction activities shall not recommence within the contaminated areas until remediation is completed. This is the procedure established in the Health and Safety Plan and a "no further action" letter would be obtained from the appropriate regulatory agency. The Health and Safety Plan shall include the following: • Pre-construction training of workers to identify potentially hazardous materials. • Identification of air monitoring procedures and parameters and/or physical observations (soil staining, odors, or buried material) to be used to identify potential contamination. • Procedures for temporary cessation of construction activity in the area of potential contamination and evaluation of the level of environmental concern if potential contamination is encountered. The evaluation shall include identification of the type and extent of contamination prepared by a qualified professional. • Procedures for limiting access to the contaminated area to properly trained personnel. • Procedures for notification and reporting, including internal management and local agencies (fire department, SCEMD, etc.), as needed. • A worker health and safety plan for excavation of contaminated soil, including soils management, dust control, air monitoring, and other relevant measures. • Procedures for characterizing and managing excavated soils in accordance with CCR				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Title 14 and Title 22. • Procedures for certification of completion of remediation.				
Mitigation Measure 4.8-1: File a Notice of Intent with the Central Valley Regional Water Quality Control Board to Obtain Coverage under Order R5-2013-074 or an Individual NPDES Permit or Waste Discharge Requirement and a Memorandum of Understanding with the City of Sacramento, and Prepare a Construction Dewatering Plan Before the start of earth-moving activities, the project applicant shall file a notice of intent with the Central Valley RWQCB to obtain coverage under Order R5-2013-074 or an Individual NPDES Permit for waste discharge requirements, and enter into an MOU with the City for construction dewatering activities. Along with the notice of intent and the MOU, the project applicant shall prepare a site-specific construction dewatering plan, which demonstrates that discharges meet the Sacramento Regional County Sanitation District-(SRCSD) and RWQCB-approved levels described above and shall contain the following components:	Submittal of filed notice of intent or submittal of individual NPDES permit, as required Approved MOU for construction dewatering Approved construction dewatering plan in compliance with SRCSD and RWQCB requirements	Prior to issuance of grading permit	Central Valley RWQCB for the dewatering plan and discharge permit; City of Sacramento Department of Utilities	
• information about the discharge location; • a map showing the location of the site, treatment system, discharge point(s), and receiving water; • an evaluation of reclamation options; • narrative and schematic descriptions of the existing or proposed treatment system, including blueprints signed by a registered engineer or geologist (if applicable); and • results of laboratory analysis for the types				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
and amounts of pollutants listed in Attachment B to Order R5-2013-0074, additional water quality screening required by Attachment C to Order R5-2013-0074 (if applicable), and any applicable pollutants listed under Section 303(d) of the CWA for the receiving water if discharging or proposing to discharge to an impaired water body. • identify landfills to be used for disposal, if necessary, based on results of laboratory analysis. To be authorized by Order R5-2013-074, the project applicant must demonstrate that the discharge or proposed discharge meets the following criteria: • Pollutant concentrations in the discharge do not cause, have a reasonable potential to cause, or contribute to an excursion above any applicable federal water quality criterion established by USEPA pursuant to CWA section 303; • Pollutant concentrations in the discharge do not cause, have a reasonable potential to cause, or contribute to an excursion above any water quality objective adopted by the Central Valley Water Board or State Water Resources Control Board (State Water Board), including prohibitions of discharge for the receiving waters; and • The discharge does not cause acute or chronic toxicity in the receiving water. Additionally, discharges of more than 0.25 million gallons per day average dry-weather flow are prohibited unless the discharge is 4 months or less in duration.				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Mitigation Measure 4.8-2: Prepare and Submit Final Drainage Plans and an Operational Pollutant Source Control Program Before the start of earthmoving activities, the project applicant shall submit a final drainage plan and pollutant source control program to the City demonstrating to the satisfaction of the Community Development Department that the project is in compliance with the SSQP's NPDES permit, the SQIP (SSQP 2009), and the *Hydromodification Management Plan* (SSQP 2013), including the requirement to cause no net increase in runoff as compared to existing conditions. Components of the final drainage plan shall include: • calculations for the final design scenario, obtained using appropriate engineering methods, that evaluates potential changes to runoff, including increased surface runoff; • runoff calculations for the 10-year and 100-year (0.01 AEP) storm events (and other, smaller storm events as required) based on the final design scenario and confirmation of required trunk drainage pipeline sizes based on alignments and finalized detention-facility locations; • City flood control design requirements and measures designed to comply with them, including a demonstration to the satisfaction of the City that 100-year (0.01 AEP) flood flows would be appropriately channeled and contained, such that the risk to people or damage to structures within or down gradient of the project site would not occur; • a list of stormwater management BMPs to be implemented at the project site that ensure no net increase in runoff. BMPs may include but are not limited to the use of LID	Approved final drainage plan containing specified components	Before the start of earth-moving activities	City of Sacramento Department of Utilities	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
techniques to limit increases in stormwater runoff at the point of origination. Some examples of such techniques are the use of surface swales; replacement of conventional impervious surfaces with pervious surfaces (e.g., porous pavement); disconnection of impervious surfaces; and planting of trees to intercept stormwater. These BMPs shall be designed and constructed in accordance with the *Hydromodification Management Plan* (SSQP 2011); and • a description of the proposed maintenance program for the on-site drainage system. The project applicant shall also prepare and implement a pollutant source control program for the project's operational phase to control water quality pollutants on the project site. This program shall include components such as recycling, street sweeping, storm drain cleaning, household hazardous waste collection, waste minimization, prevention of spills, and effective management of public trash collection areas.	Approved pollutant source control program	Prepare prior to approval of occupancy permit for first phase of development	City of Sacramento Department of Utilities	
Mitigation Measure 4.9-3a: Minimize Construction Noise throughout Entire Construction Phase The project applicant and contractor/s shall implement the following measures throughout all construction phases. • Machines or equipment and related noise associated with erection (including excavation) and demolition of any building or structure shall not start up prior to 7 a.m., Monday through Saturday, and prior to 9 a.m. on Sunday, and shall not continue past 6:00 p.m. on any day of the week; • Delivery of materials and equipment shall not occur prior to 7 a.m. nor past 6 p.m.,	Documented in general notes on grading and building plans	Prior to issuance of grading and building permits	City of Sacramento Community Development Department	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Monday through Saturday, and prior to 9:30 a.m. nor past 6 p.m. on Sunday; • Stationary construction equipment, such as compressors, shall be placed away from nearby residential areas and shall provide acoustical shielding. • Idling times of equipment shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes. • The project applicant or its designee shall designate a disturbance coordinator and conspicuously post this person's number around the project site, in adjacent public spaces, and in construction notifications. The disturbance coordinator, in coordination with the City, shall be responsible for responding to any complaints about construction activities. The disturbance coordinator shall receive all public complaints about construction disturbances and, in coordination with the City, is responsible for determining the cause of the complaint and implementation of feasible measures to alleviate the problem. • The project applicant or its designee shall provide written notice to all known occupied noise-sensitive uses (i.e., residential, educational, religious, lodging) within 400 feet of the edge of the project site boundary at least 2 weeks prior to the start of each construction phase of the construction schedule, as well as the name and contact information of the project disturbance coordinator.				

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Mitigation Measure 4.9-3b: Prepare and Implement a Noise and Vibration Control Plan for Pile Installation Prior to the issuance of any building permit for any phase of project development that proposes the use of piles for foundations, the project applicant shall develop a Noise and Vibration Control Plan, in coordination with an acoustical consultant, geotechnical engineer, and construction contractor, and submit the Plan to the City's Chief Building Official for review and approval. The Plan shall include measures demonstrated to ensure construction noise exposure for the interior of nearby residential dwellings is less than 75 dB L_{eq} and that vibration exposure for all buildings and vibration-sensitive receptors in the vicinity of the project site is less than 0.5 PPV and 80 VdB and less than 0.2 PPV for historic buildings. These performance standards shall take into account the reduction in vibration exposure that would occur through coupling loss provided by each affected building structure. Measures and controls shall be identified based on project-specific final design plans, and may include, but are not limited to, some or all of the following: • Buffer distances, the type of equipment, and use of attenuation devices shall be designed to minimize construction noise and vibration for adjacent existing buildings and noise- and vibration-sensitive uses. • Use of "quiet" pile driving technology (such as auger displacement installation)	Approved noise and vibration control plan	Prior to the issuance of building permit (if the use of piles for foundations is included)	City of Sacramento Chief Building Official	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Mitigation Measure 4.10-1: Ensure Adequate Emergency Access The improvements plans for the proposed project shall incorporate emergency access measures consistent with the 2013 California Fire Code as modified by the Sacramento City Code and the Fire Chief. The improvement plans shall implement emergency access measures outlined below or those determined by the Sacramento Fire Department to be equally effective in ensuring adequate on-site access to accommodate emergency vehicles. The project applicant shall provide the improvement plans to the Fire Chief for review and approval prior to implementation: • All turning radii for fire access should be designed as 35' inside and 55' outside. • Roads used for Fire Department access should have an unobstructed width of not less than 20' and unobstructed vertical clearance of 13'6" or more. • "No Parking Fire Lane" markings should be applied on the emergency access roads. However, due to the pedestrian nature of the open spaces between the proposed project's buildings, that striping and signage would be limited. • Clearly define on-site pedestrian routes. • Landscaping and shrubbery should be placed and maintained in a way that it would not grow to obstruct pathways.	Approved emergency access plan	Prior to approval of site civil plans	City of Sacramento Fire Chief	
Mitigation Measure 4.10-2: Implement Construction Security Measures The project applicant shall surround areas of active construction and where equipment is stored with a secure chain link fence and shall hire a security service to monitor the site after	Approved construction logistics plan; verification of employment of security service	Prior to issuance of first grading permit	City of Sacramento Department of Public Works	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
hours to deter vandalism and theft.				
Mitigation Measure 4.11-5: Prepare and Implement Construction Traffic Management Plan Before commencing demolition or construction, the project applicant shall prepare a Traffic Management Plan consistent with the requirements of sections 12.20.020 and 12.20.030 of the Sacramento Municipal Code that will be subject to review and approval by the City Department of Public Works, in consultation with Caltrans, affected transit providers, and local emergency service providers including the City of Sacramento Fire and Police departments. The plan shall ensure maintenance of acceptable operating conditions on local roadways and transit routes. In consideration of the number and type of trucks proposed to be used during construction, the proposed location of staging areas, and potential need for street closures as identified in the Traffic Management Plan, at a minimum, the plan shall: • Require the installation of temporary traffic control devices as specified in the California Department of Transportation Manual of Traffic Controls for Construction and Maintenance Work Zones. • Require construction truck trips to occur outside of peak morning and evening commute hours. • Limit the number of lane closures associated with project construction during peak hours. • Establish construction truck routes that limit truck traffic on local roadways as defined and identified on Figure M4A in the City's 2035 General Plan. • Establish pedestrian, bicycle, and vehicular	Approved traffic management plan	Prior to commencing demolition or construction	City of Sacramento Department of Public Works	

DRAFT

Table MMRP-1. Mitigation Measures

Mitigation Measure	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
(including transit and emergency vehicle) detour routes where necessary to avoid conflicts with construction zone operations and traffic. • Provide safe driveway access during construction for pedestrian, bicycle, and vehicles (including transit and emergency vehicle) through the use of steel plates, signage, and similar measures. • Require temporary directional signage along all construction zone detour routes for motorists, pedestrians, and bicyclists. • Identify construction coordinator and post contact information for construction coordinator in visible locations on the project site. Construction coordinator shall receive complaints and coordinate on resolution of issues with the City. • Describe, in coordination Sacramento Regional Transit, the approach to minimizing conflicts between light rail and construction traffic on 7th Street. • Require construction fencing around the work area perimeter.	Provide contact information for disturbance coordinator in written notices sent pursuant to City Code Section 15.44.110.			
A copy of the Traffic Management Plan as approved by City Department of Public Works shall be submitted to local emergency response agencies and these agencies shall be notified at least 30 days before the commencement of construction that would partially or fully obstruct roadways. In addition, construction activities are not to interfere with transit service and pedestrian access to transit stops and light rail.	Verification of provision of traffic management plan to local emergency response agencies, with required notification	At least 30 days prior to the commencement of construction that would partially or fully obstruct roadways		

DRAFT

Table MMRP-2. Existing Regulations

Existing Regulation	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Existing Regulation 4.5-1 The project shall comply with the California Building Code (CBC) and local building codes, grading regulations, and other regulations designed to reduce potential seismic risk. Chapter 16 of the CBC specifies exactly how each seismic design category is to be determined on a site-specific basis. Chapter 18 of the CBC regulates the excavation of foundations and retaining walls.	Documented as part of grading and building plans	Prior to issuance of grading and building permit	City of Sacramento Community Building Department	
Existing Regulation 4.5-2 The project proponent shall submit a grading plan, erosion and sediment control plan, and post-construction erosion and sediment control plan for review and approval by the City, according to the requirements of Chapter 15.88 of the Sacramento City Code. In order to obtain coverage under the SWRCB's Construction General Permit (NPDES No. CAS000002 Order No. 2009-0009-DWQ), the project proponent shall prepare and submit for approval a project-specific SWPPP at the time the notice of intent to discharge is filed. The project would also require erosion and sediment control and engineering plans and specifications for pollution prevention, which are designed to identify effective sediment control measures for both construction and operational phases of the project, based on site-specific characteristics.	Approved grading plan; approved erosion and sediment control plan; approved storm water pollution prevention plan	Prior to issuance of grading permit and approval of site civil improvement plans	City of Sacramento Community Building Department	
Existing Regulation 4.6-1 The applicant shall demonstrate compliance with applicable measures included in the City's Climate Action Plan, as described in Section 4.6 of the EIR. The project applicant shall comply with the alternative Climate Action Plan requirement to exceed the minimum energy efficiency standards under California	Documented as part of building and electrical plans	Prior to issuance of building permit	City of Sacramento Community Development Department	

DRAFT

Table MMRP-2. Existing Regulations

Existing Regulation	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
Administrative Code Title 24 by 10% for residential land uses and 5% for commercial land uses. Measures to increase the energy efficiency of the project buildings could include, but are not limited to, increased wall insulation, smart meters, above-standard ventilation systems or energy efficiency lighting fixtures.				
Existing Regulation 4.7-1 The project proponent shall, as appropriate, comply with Sacramento Metropolitan Air Quality Management District (SMAQMD) Rule 902 for asbestos abatement. Unless otherwise exempt from the survey and notification requirements, prior to any work commencing or any disturbance of regulated asbestos containing material (RACM), an owner or operator shall conduct a survey and the Air Pollution Control Officer shall be notified. The project proponent shall comply with asbestos removal, wetting of material during construction, and other applicable health-based standards, guidance for renovations and demolition, special requirements for demolition, waste disposal requirements, testing and recordkeeping procedures, hazard posting requirements, and other measures to avoid adverse health effects.	Provide asbestos survey and, if necessary, approved remediation plan for asbestos abatement, with subsequent submittal of report documenting remediation	Prior to commencing demolition or construction	City of Sacramento Community Development Department and SMAQMD	
Existing Regulation 4.7-2 The project proponent shall comply with applicable regulations enforced by the California Division of Occupational Safety and Health related to the storage, use, and transport of hazardous materials (e.g., asphalt, fuel, lubricants, paint, grease, solvents, paint, welding gases, etc.). Based on the amount and type of hazardous materials to be used, the project proponent shall implement applicable requirements for safety training, availability of	Approved health and safety plan Documented as part of general notes on grading and building	Prior to issuance of first grading permit Prior to issuance of grading and building permits	City of Sacramento Community Development Department, Cal-OSHA and, as appropriate, Sacramento County's Environmental Management Department (the designated Certified	

DRAFT

Table MMRP-2. Existing Regulations

Existing Regulation	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
safety equipment, hazardous materials exposure warnings, labeling hazardous materials, describing the types of hazards or chemicals, and documenting employee-training programs.	plans		Unified Program Agency for the region)	
Existing Regulation 4.10-1 The project will be required to incorporate California Fire Code requirements into the design of the proposed project to address access-road length, road dimensions, turning radii, and finished surfaces for firefighting equipment; fire hydrant placement and sufficiency of fire hydrants; and fire flow availability. In addition, the Sacramento City Code outlines fire prevention requirements to be incorporated into new high-rise development (Title 15, Chapter 15.100) that specify access arrangements, fire suppression equipment, smoke detection and removal systems, fire pumps, fire alarm and communications systems, standby power systems, and plan submittals for approvals.	Documentation of compliance with applicable sections of the California Fire Code and City Code shown on site civil plans	Prior to approval of improvement plans	Sacramento Fire Department	
Existing Regulation 4.10-2 The project proponent shall pay applicable state-mandated school impact fees.	Verification of payment of school impact fee	Prior to issuance of building permit	City of Sacramento Building Department	
Existing Regulation 4.10-3 The project proponent shall comply with applicable provisions of the Sacramento City Code related to parkland provision. The Sacramento City Code provides standards and formulas for the dedication of parkland and in-lieu fees (Title 16, Chapter 16.64 and Title 18, Chapter 18.44).	Documentation of required parkland on project site plans and/or receipt for payment of in lieu fees	Prior to issuance of building permit	City of Sacramento Department of Parks and Recreation	
Existing Regulation 4.11-1 The proposed project will be conditioned to design the project frontage and all access	Compliance documented on site civil plans	Prior to approval of improvement plans	City of Sacramento Department of Public Works	

DRAFT

Table MMRP-2. Existing Regulations

Existing Regulation	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
points within the proposed site in accordance to the City's driveway standards. The City's design standards for driveways require appropriate sight distances, widths, geometries, and other elements be provided to ensure safety to pedestrians and bicyclists is provided.				
Existing Regulation 4.11-2 The proposed project will be conditioned to design the project frontage and all access points within the proposed site in accordance to the City's "Pedestrian Friendly Street Standards" found in Section 15.2.1 of the City's Street Design Standards.	Provide evidence of compliance with City Pedestrian Friendly Street Standards, Section 15.2.1 of the City's Street Design Standards	Prior to approval of improvement plans	City of Sacramento Department of Public Works	
Existing Regulation 4.12-1 The project applicant is required to comply with the City's Water Efficient Landscape Ordinance and the 2013 CALGreen Code, which requires a 20% reduction of indoor demand for potable water and a 50% reduction of landscape water usage, which would further reduce water demand. Compliance with City ordinances set forth in the City Code will be required as a condition of project approval.	Documentation of compliance with CALGreen and City water conservation standards shown on improvement, landscape and building plans, as appropriate	Prior to approval of improvement, landscape and building plans	City of Sacramento Community Development Department	
Existing Regulation 4.12-2 The project proponent shall install water supply facilities consistent with the Sacramento Standards and Specifications for Public Construction and Chapter 13.04 of the City Code. The project proponent shall submit a water conveyance infrastructure improvement plan that depicts the locations and appropriate sizes of all required conveyance infrastructure, in conjunction with other site-specific improvement plans. Proposed on-site water facilities would be required to be designed and sized to provide adequate service to the project site for the amount and type of proposed	Documentation of compliance as part of water improvement plans	Prior to approval of water improvement plans	City of Sacramento Department of Utilities	

DRAFT

Table MMRP-2. Existing Regulations

Existing Regulation	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
development, based on the City's Standards and Specifications for Public Construction (June 2007), and the Standards and Specifications for Public Construction Addendum No. 2 (April 2012), or the most current versions of this plan. Based on existing City standards, the water conveyance infrastructure would be required to be designed to satisfy the more critical of the two following conditions, as determined by the City's Department of Utilities: (1) at maximum-day peak-hour demand, the operating or "residual" pressure at all water service connections shall be at least 30 pounds per square inch; or (2) at average maximum-day demand plus fire flow, the operating or "residual" pressure in the area of the fire shall not be less than 20 pounds per square inch. The project is required to demonstrate there are adequate fire flow demands for the project, based on a water supply test that measures pounds per square inch of pressure at the final point of connection. In addition, the project is required to pay applicable water connection fees based on tap and meter size, as determined by the Department of Utilities, before building permits are issued.	Verification of payment of water connection fees	Prior to issuance of building permit		
Existing Regulation 4.12-3 The project proponent shall install wastewater conveyance facilities consistent with City of Sacramento standards. The project proponent shall submit a wastewater infrastructure improvement plan that depicts the locations and appropriate sizes of all required conveyance infrastructure in conjunction with other site-specific improvement plans. Proposed on-site water and wastewater facilities are required to be designed and sized to provide adequate service to the project site for the amount and			City of Sacramento Department of Utilities	

DRAFT

Table MMRP-2. Existing Regulations

Existing Regulation	Standard for Compliance	Timing	Monitoring and Enforcement	Date Completed
type of proposed development, based on City design standards. A final wastewater infrastructure improvement plan is also required to be approved by the Department of Utilities before approval of the final subdivision map. In addition, the project applicant would be required to, as applicable, mitigate CSS impacts pursuant to the Combined Sewer System Development Fee Program, as verified by the Department of Utilities, before building permits are issued.	Approved final wastewater infrastructure improvement plan Payment of CSS Impact Fee or verification of alternate mitigation in compliance with Code (Chapter 13.08.145)	Prior to approval of final subdivision map Prior to issuance of building permit		
Existing Regulation 4.12-4 The 2013 CALGreen Code (Title 24, Part 11 of the California Code of Regulations) requires all construction contractors to reduce construction waste and demolition debris by 50%. Code requirements include preparing a construction waste management plan that identifies the materials to be diverted from disposal by efficient usage, recycling, reuse on the project, or salvage for future use or sale; determining whether materials will be sorted on-site or mixed; and identifying diversion facilities where the materials collected will be taken. The Code also specifies that the amount of materials diverted should be calculated by weight or volume, but not by both. In addition, the 2013 CALGreen Code requires that 100% of trees, stumps, rocks, and associated vegetation and soils resulting primarily from land clearing be reused or recycled.	Approved construction waste management plan	Prior to issuance of grading permit	City of Sacramento Department of General Services Recycling and Solid Waste Division	

DRAFT

DRAFT

Back to Report Table of Contents

Development Agreement – DRAFT City Council

ORDINANCE NO.

Adopted by the Sacramento City Council

July 14, 2015

APPROVING CITY AGREEMENT NO. 15-___, A DEVELOPMENT AGREEMENT (SACRAMENTO COMMONS)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Incorporation of Agreement.

This ordinance incorporates the establishment of the development agreement between the City and KW Captowers, LLC ("Landowner"), a copy of which is attached to this ordinance as Exhibit A.

Section 2. Hearing before the Planning and Design Commission.

On May 28, 2015, in accordance with Government Code section 65867 and Sacramento City Code chapter 18.16, the Planning and Design Commission conducted a public hearing on an application to establish a development agreement. During the hearing, the Planning and Design Commission received and considered evidence and testimony. After the hearing concluded, the Planning and Design Commission forwarded to the City Council a recommendation to approve the proposed agreement.

Section 3. Hearing before the City Council; Findings.

On July 14, 2015, in accordance with Government Code Section 65867 and Sacramento City Code chapter 18.16, the City Council conducted a noticed public hearing on the application to establish a development agreement. During the hearing, the City Council received and considered evidence and testimony concerning the proposed amendment. Based on the information in the application and the evidence and testimony received at the hearing, the City Council finds as follows:

a) The development agreement is consistent with the City's general plan and the goals, policieis, standards, and objectives of any applicable specific or community plan.

b) The proposed development agreement will facilitate Landowner's development of the property subject to the development agreement, which should be encouraged in order to meet economic, social, environmental, or planning goals of the specific or community plan.

c) Without the amendment, Landowner would be unlikely to proceed with development of the property subject to the development agreement in the manner proposed.

d) Landowner will incur substantial costs to provide public improvements, facilities, or services from which the general public will benefit.

e) Landowner will participate in all programs established or required under the general plan or any applicable specific or community plan and all of its approving resolutions (including any mitigation-monitoring plan) which will benefit the public.

f) Landowner has made commitments to a high standard of quality and has agreed to all applicable land-use and development regulations.

Section 4. Approval and Authorization.

The City Council hereby approves the establishment of the development agreement. The City Council hereby authorizes the Director of Community Development to sign on the City's behalf, on or after the effective date of this ordinance, the development agreement for Sacramento Commons.

Table of Contents
Exhibit A – Development Agreement for Sacramento Commons

Recording Requested by and Benefiting
the City of Sacramento, a Government Entity –
No Fee Required per Government Code § 6103
RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:
City Clerk
City of Sacramento
915 I Street (Historic City Hall)
Sacramento, CA 95814

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

DEVELOPMENT AGREEMENT

FOR

SACRAMENTO COMMONS

Between

CITY OF SACRAMENTO

and

KWCAPTOWERS, LLC

Approved by
Ordinance No. ____-___

[Date]

DEVELOPMENT AGREEMENT FOR SACRAMENTO COMMONS

Table of Contents

Section Heading Page No.

RECITALS 1
A. Definitions 1
B. Authority 1
C. Property Subject to Agreement 1
D. Procedural Requirements 2
E. Environmental Compliance 2
F. General Plan Compliance 2
G. Project Entitlements 2
H. Procedural Ordinance 2
I. Agreement Voluntary 2
J. Consideration 3
K. Consistency Findings 3
AGREEMENT

1.0 DEFINITIONS AND EXHIBITS 3
1.1 Adopting Ordinance 3
1.2 Allocation Procedures 3
1.3 Annual Review 3
1.4 Assessment 4
1.5 Assessment District Policy Manual 4
1.6 Assignee 4
1.7 Assignment 4
1.8 Assignment and Assumption Agreement 4
1.9 Building Permit 4
1.10 CEQA 4
1.11 City 4
1.12 City Agency 4
1.13 City Code 4
1.14 City Council 4
1.15 Community Plan 4
1.16 Days 5
1.17 Dedication 5
1.18 Deed of Trust 5
1.19 Design Guidelines 5
1.20 Development (or Develop) 5
1.21 Development Fee 5
1.22 Development Plan 5
1.23 [This section intentionally omitted] 5
1.24 Discretionary Action 5
1.25 Effective Date 5
1.26 Extension Period 6
1.27 Final Environmental Impact Report 6

1.28 General Plan 6
1.29 Inclusionary Housing Ordinance 6
1.30 Initial Term 6
1.31 Irrevocable Offer of Dedication 6
1.32 Land Use and Development Regulations 6
1.33 Lender 6
1.34 Ministerial Action 6
1.35 Mitigation Measures 6
1.36 Mitigation Monitoring Program 7
1.37 Mortgage 7
1.38 Parties 7
1.39 Person 7
1.40 Phase 7
1.41 Planning and Development Code 7
1.42 Procedural Ordinance 7
1.43 Project 7
1.44 Project Entitlements 7
1.45 Property 7
1.46 Protest Waiver 7
1.47 Public Agency(ies) 8
1.48 Public Facilities 8
1.49 Public Financing Mechanism 8
1.50 Public Services 8
1.51 Reconfiguration 8
1.52 Reservation 8
1.53 Sign Code 9
1.54 Special Conditions 9
1.55 Subdivision Ordinance 9
1.56 Subsequent Approvals 9
1.57 Subsequent Rule 9
1.58 Tentative Map 9
1.59 Term 9
1.60 Vested Right 9
1.61 Zoning 9

2.0 GENERAL TERMS AND CONDITIONS 9
2.1 Term 9
2.2 Development Timing 11
2.3 Amendments, Suspension or Termination of Agreement 11
2.4 Interests of LANDOWNER 12
2.5 Binding Covenants 13
2.6 Assignment. 13
2.7 Plan or Project Entitlement Amendments Involving Assignees 14

3.0 VESTED DEVELOPMENT RIGHTS 15
3.1 Entitlement to Develop Project 15
3.2 Subsequent Approvals. 15

3.3 Subsequent Rules. 16

4.0 EXCLUSIONS FROM VESTED RIGHTS 17
4.1 Environmental Compliance 17
4.2 Retained Right to Discretionary Design Review 18
4.3 Changes Mandated by Other Agencies 18
4.4 Building Codes 19
4.5 No Effect on Right to Tax, Assess, or Levy Fees or Charges 20
4.6 Development Fees 20
4.7 Health and Safety and Supervening Laws 20
4.8 Changes in Location or Size of Public Facilities 20
4.9 Suspension of Development 20

5.0 CITY'S OBLIGATIONS AND COMMITMENTS 21
5.1 CITY's Good Faith in Processing 21
5.2 Allocation Procedures for Uses, Units, and Building Sizes 21
5.3 Extension of Entitlements 21
5.4 Reconfiguration of Parcels 21
5.5 Public Facilities Financing Proceedings 22
5.6 Annual Review 22

6.0 LANDOWNER'S OBLIGATIONS AND COMMITMENTS 23
6.1 Project Entitlements 23
6.2 LANDOWNER's Waivers 23
6.3 Public Facilities Construction by LANDOWNER 23
6.4 Park and Open Space Development 24
6.5 Levies Imposed by Public Agencies 24
6.6 Local, State and Federal Laws 24
6.7 Transfer of Land 24
6.8 Allocation Dispute Resolution 25
6.9 Annual Report 25
6.10 Indemnification 25
6.11 Reimbursement for Agreement Costs 25
6.12 Inclusionary Housing Requirements 26
6.13 Transportation Management Association 26

7.0 LITIGATION, DEFAULT, AND TERMINATION 26
7.1 Litigation by Others 26
7.2 Force Majeure and Enforced Delay 29
7.3 Waiver 29
7.4 Legal Actions by Parties 29
7.5 Attorney Fees 30
7.6 Default 30
7.7 Remedies After Expiration of Cure Period 32
7.8 Termination for Convenience 32
7.9 Recorded Notice of Termination or Cancellation 33
7.10 Effect of Cancellation/Termination on LANDOWNER's Obligations 34

8.0 Lender provisions [NOTE: THIS SECTION SHOULD BE REVIEWED BY LENDER] 34
8.1 Lender Rights and Obligations 34
8.2 Notice of LANDOWNER's Default 35
8.3 Lender's Right to Cure 35
8.4 Other CITY Notices 35
8.5 Estoppel Certificates 35
8.6 Interpretations and Amendments 36

9.0 Miscellaneous PROVISIONS 36
9.1 No Joint Venture, Partnership, or Other Relationship 36
9.2 Notices 36
9.3 Integrated Documents/Entire Agreement 37
9.4 Severability 37
9.5 Precedence 37
9.6 Recording 37
9.7 Referendum 37
9.8 Construction 38
9.9 Time 38
9.10 Waiver 38
9.11 No Third Parties Benefited 38
9.12 Effect of Agreement Upon Title to Property 38
9.13 Survivorship 38
9.14 Covenant of Good Faith and Cooperation 38
9.15 Prior Agreements 38
9.16 Power of Eminent Domain 39
9.17 Counterparts 39
9.18 Authority 39
9.19 Final Form of Exhibits 40
EXECUTION PAGE FOR LENDER S-1
EXHIBIT A: DESCRIPTION OF LANDOWNER'S PROPERTY Exhibit A
EXHIBIT B: PROJECT DEVELOPMENT PLAN Exhibit B
EXHIBIT C: PROJECT ENTITLEMENTS Exhibit C
EXHIBIT D: PROJECT ENVIRONMENTAL CERTIFICATIONS Exhibit D
EXHIBIT E: PROTEST WAIVER PROVISIONS Exhibit E
EXHIBIT F: SUMMARY LISTING AND MAP OF LAND Exhibit F
EXHIBIT F-1: DEDICATIONS AND RESERVATIONS AND PUBLIC Exhibit G
EXHIBIT F-2: FACILITIES TO BE CONSTRUCTED BY LANDOWNER Exhibit H
EXHIBIT G: IRREVOCABLE OFFER OF DEDICATION FORM Exhibit I
EXHIBIT H: RESERVATION AGREEMENT FORM Exhibit J
EXHIBIT I: ASSIGNMENT AND ASSUMPTION AGREEMENT FORM Exhibit K
EXHIBIT J: SPECIAL CONDITIONS Exhibit L

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SACRAMENTO
AND
KW CAPTOWERS, LLC
FOR THE
SACRAMENTO COMMONS PROJECT

This DEVELOPMENT AGREEMENT (hereinafter "Agreement") is made and entered into as of this _____ day of _____, 2015, by and between the CITY OF SACRAMENTO, a municipal corporation (hereinafter the "CITY"), and KW Captowers, LLC, a California limited liability company (hereinafter, the "LANDOWNER"). The CITY and LANDOWNER hereinafter may be referred to collectively as the "Parties" or in the singular as "Party," as the context requires.

RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intention of the Parties. These Recitals are intended to paraphrase and summarize this Agreement; however, the Agreement is expressed below with particularity and the Parties intend that their specific rights and obligations be determined by those provisions and not by the Recitals. In the event of an ambiguity, these Recitals may be used as an aid in interpretation of the intentions of the Parties.

A. **Definitions.** These Recitals use certain capitalized terms that are defined in Section 1.0 of this Agreement. The Parties intend to refer to those definitions when a capitalized term is used but is not defined in these Recitals.

B. **Authority.** To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risks of development, in 1979 the Legislature of the State of California adopted Article 2.5 of Chapter 4 of Division 1 of the Government Code, commencing at section 65864 (the "Statute"), which authorizes the CITY to enter into this binding Agreement with LANDOWNER in order to establish certain rights and obligations of the Parties relative to Development of the Property for the Project. The authority for the CITY's approval of this Agreement is contained in the Statute, the City Charter, the Procedural Ordinance, other applicable City ordinances, resolutions and procedures. CITY and LANDOWNER desire to enter into this Agreement pursuant to the provisions of the Statute in order to provide for the orderly Development of the Project on the Property.

C. **Property Subject to Agreement.** LANDOWNER owns certain legal or equitable interests in the Property which is located within the City. LANDOWNER seeks to develop the Property for the Project consistent with the General Plan.

D. **Project Entitlements.** On _____ and _____, respectively, the City Planning and Design Commission and the City Council held duly noticed public hearings on the approval of the Project Entitlements and this Agreement.

E. **Environmental Compliance.** The Final Environmental Impact Report prepared for the Project was certified as adequate and complete and specific findings, Mitigation Measures, and a Mitigation Monitoring Program were approved by the City Council to allow for the Development of the Project.

F. **General Plan Compliance.** LANDOWNER desires to facilitate implementation of the General Plan, and LANDOWNER therefore agrees to develop the Property for the Project in a manner consistent with the policies, terms and conditions of the General Plan, provided that LANDOWNER is assured that, unless otherwise provided in this Agreement, no subsequent changes in the General Plan after the Effective Date which would affect LANDOWNER's Vested Rights shall apply to the Property or the Project during the term of this Agreement, except as expressly provided herein, particularly in regards to Subsequent Approvals and application of a Subsequent Rule.

G. **Project Entitlements.** Development of the Property for the Project in accordance with the terms and conditions of this Agreement will provide for the orderly growth and Development of the Property in accordance with the requirements, policies, goals, standards, and objectives of the General Plan, Community Plan, Planning and Development Code, Subdivision Ordinance, and other applicable provisions of the City Code. This Agreement limits the CITY's rights to revoke, terminate, change or amend the Project Entitlements, or to require the LANDOWNER to comply with any ordinances or resolutions enacted after the Effective Date that conflict with or impede Development of the Property for the Project, except as expressly provided herein, particularly in regards to Subsequent Approvals and application of a Subsequent Rule

H. **Procedural Ordinance.** The City Council adopted the Procedural Ordinance by which CITY will consider, adopt, amend and subsequently review development agreements by and between CITY and a given landowner. The Procedural Ordinance, and as it may be amended in the future after the Effective Date in accordance with the Statute, shall apply to the approval, review, amendment and enforcement of this Agreement. CITY and LANDOWNER have taken all actions mandated by, and have fulfilled all requirements set forth in, the Procedural Ordinance for the adoption of this Agreement by the City Council.

I. **Agreement Voluntary.** This Agreement is voluntarily entered into by LANDOWNER in order to secure a Vested Right to develop the Property for the Project and to limit the CITY's right to subject the Property and Development of the Project to ordinances, policies, rules and regulations that may be enacted in the future which conflict, supplant, or are contrary to the express terms and conditions set out herein. This Agreement is voluntarily entered into by CITY in the exercise of its legislative discretion in order to assure the implementation of the General Plan and Community Plan, and in consideration of the agreements and undertakings of LANDOWNER as specified in the Project Entitlements. The Parties are entering into this Agreement voluntarily in consideration of the rights conferred and the obligations incurred as specified herein.

J. **Consideration.** Development of the Property in accordance with the terms of this Agreement requires major investment by LANDOWNER in Public Facilities, as well as Dedications and Reservations of land for public benefit and purposes, and a substantial

commitment of the resources of LANDOWNER to achieve the public purposes and benefits of the Project for the CITY. By entering into this Agreement, CITY will receive such benefits, the assurances of implementation of the General Plan and Community Plan as applied to the Property, and the Development of the Property, which is currently vacant and/or underutilized, that will generate new tax revenues for the CITY. By entering into this Agreement, LANDOWNER will obtain a Vested Right to proceed with Development of the Property for the Project in accordance with the Agreement's terms and conditions, and CITY's approval of the Project Entitlements may increase the value of LANDOWNER's Property.

K. **Consistency Findings.** The City Council finds that this Agreement is consistent with the General Plan, the Community Plan, and the Land Use and Development Regulations. This Agreement is in the best interest of CITY because it promotes the health, safety and general welfare of its existing and future residents. The potential environmental impacts of the Project were adequately considered in the environmental documentation prepared by CITY, and adoption of this Agreement complies in all respects with the CEQA. This Agreement provides assurances that the Project will not proceed without the timely provision of Public Facilities and Public Services required to serve the Project. This Agreement is just, reasonable, and fair and equitable under the circumstances facing the CITY, and it provides sufficient benefits to the community to justify entering into this Agreement.

AGREEMENT

NOW, THEREFORE, based on the Recitals, the mutual promises and covenants of the Parties contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.0 *DEFINITIONS AND EXHIBITS*

For purposes of this Agreement and all Exhibits, the capitalized terms shall have the meanings set forth below or in the Recitals, unless the context otherwise requires or if the capitalized term is defined in a particular section. Words not defined in this Agreement shall be given their common and ordinary meaning. The word "shall" is always mandatory.

The documents that are attached to this Agreement and labeled as exhibits (Exhibits) and that are referred to in this Agreement are incorporated into this Agreement by such reference. The documents which are referenced in this Agreement or in the Exhibits which may not be physically attached to this Agreement are also incorporated into this Agreement by such reference.

1.1 *Adopting Ordinance*. The ordinance pursuant to which the City Council approves this Agreement.

1.2 *Allocation Procedures*. Those procedures set forth in Section 5.2 of this Agreement, pursuant to which the various land uses and densities of the Project are distributed to and among the various parcels, or portions of them, comprising the Property.

1.3 *Annual Review*. The process and procedures whereby CITY reviews, pursuant to Government Code section 65865.1, the nature and extent of compliance by LANDOWNER (and

any Assignees) with the terms and conditions of this Agreement, which process and procedures are as specified in the Procedural Ordinance and in Section 5.6 of this Agreement.

1.4 *Assessment*. A special assessment (or special tax in the case of a Community Facilities District) levied on real property within all or part of the Project area for the purpose of financing Public Facilities and Public Services in accordance with the California Streets and Highways Code, the California Government Code, and/or the Sacramento City Code.

1.5 *Assessment District Policy Manual*. The document entitled "City of Sacramento Policy and Procedures for Use of Special Assessment and Mello-Roos Community Facilities District Financing for Infrastructure and Public Facilities," as adopted by the City Council on June 29, 1993 (Resolution 93-381), as said document may be amended from time to time.

1.6 *Assignee*. A third Person executing an Assignment and Assumption Agreement.

1.7 *Assignment*. The sale, assignment or other transfer by LANDOWNER of all or part of its right, title and interest in the Property and in this Agreement to an Assignee, in accordance with the terms and conditions of this Agreement and the Assignment and Assumption Agreement required hereby.

1.8 *Assignment and Assumption Agreement*. An agreement, in the form set out in Exhibit I or such other form as shall be proposed by LANDOWNER or Assignee and approved by the City Attorney, by which LANDOWNER makes an Assignment to an Assignee.

1.9 *Building Permit*. A permit issued pursuant to Title 15 of the City Code that allows for construction of improvements on the Property as specified in such permit.

1.10 *CEQA*. The California Environmental Quality Act (CEQA), as set forth at California Public Resources Code, Division 13, commencing at section 21000 (CEQA Act), and the CEQA Guidelines as set forth in Title 14 of the California Code of Regulations commencing at section 15000 (CEQA Guidelines), and as the CEQA Act and CEQA Guidelines are amended from time to time.

1.11 *City*. The City of Sacramento, which includes each City Agency.

1.12 *City Agency*. The Housing Authority of the City of Sacramento and the Sacramento Housing and Redevelopment Agency when the City Council acts as the governing board of those agencies.

1.13 *City Code*. The Sacramento Municipal Code as adopted by the City Council, and the provisions of the Sacramento City Charter as it may apply to the provisions of the Sacramento Municipal Code and this Agreement.

1.14 *City Council*. The City Council of the City of Sacramento.

1.15 *Community Plan*. The Central City Community Plan as contained in the General Plan as it exists on the Effective Date.

1.16 *Days*. As used in this Agreement, "days" shall mean calendar days.

1.17 *Dedication*. The transfer of real property, or a defined interest therein, under an Irrevocable Offer of Dedication to CITY or another Public Agency free of all encumbrances, mortgages, liens, leases, easements and other matters affecting the title except as may otherwise be expressly agreed to by CITY or another Public Agency, in accordance with the terms and provisions of this Agreement and the Project Entitlements. Exhibit F summarizes the contemplated approximate location and amount of land which LANDOWNER will be required to transfer to CITY or another Public Agency, together with a listing of the types of Public Facilities to be developed on said lands.

1.18 *Deed of Trust*. A real property security device whereby the LANDOWNER as debtor (trustor) conveys title to real property consisting of all or a portion of the Property to a trustee as security for a debt owed to a creditor (beneficiary).

1.19 *Design Guidelines*. The architectural and site design standards that are applicable to Development of the Property for the Project as approved by the City Council as the Sacramento Commons Planned Unit Development Guidelines and as referenced in the Project Entitlements, which Design Guidelines are set forth in Exhibit C.

1.20 *Development (or Develop)*. The use(s) to which the Property will be put, the buildings and improvements to be constructed on the Property, and the construction activities incident thereto, together with the process of obtaining all required land use entitlements in accordance with the Land Use and Development Regulations, Building Permits, and all other Project Entitlements.

1.21 *Development Fee*. All fees now or in the future to be imposed on and/or collected by the CITY from LANDOWNER or Assignees as a condition of Development of the Property, for the funding of construction or rehabilitation of Public Facilities, including those lawfully imposed by another Public Agency having jurisdiction and which CITY is required or authorized to collect pursuant to federal or State law, local ordinance, or agreement.

1.22 *Development Plan*. The LANDOWNER's plan for Development of the Property for the Project as set forth or referenced in Exhibit B.

1.23 *[This section intentionally omitted]*

1.24 *Discretionary Action*. An approval or disapproval that requires exercise of judgment, deliberation, or a decision, and that contemplates and authorizes the imposition of revisions or conditions by CITY, including any board, commission or department and any officer or employee CITY, in the process of approving or disapproving a particular activity.

1.25 *Effective Date*. The date on which the Adopting Ordinance became, effective, which date was the thirtieth day following approval of the Adopting Ordinance, and which Effective Date is stipulated to be _____, 2015.

1.26 *Extension Period*. A specified period of time, in five (5)-year increments, by which LANDOWNER may extend the Term of this Agreement consistent with the requirements set forth in Section 2.1.1.

1.27 *Final Environmental Impact Report*. The report prepared for the Project in accordance with CEQA that was certified by the Planning Commission by its record of decision and/or by the City Council by its resolution, as described in Exhibit D.

1.28 *General Plan*. The General Plan of the City of Sacramento, as it exists on the Effective Date.

1.29 *Inclusionary Housing Ordinance*. Title 17, Chapter 17.190 of the City Code, entitled the "Mixed Income Housing Ordinance."

1.30 *Initial Term*. The initial term of this Agreement, which shall be twenty (20) years following the Effective Date.

1.31 *Irrevocable Offer of Dedication*. In accordance with the provision of Government Code section 66475 et seq., an unconditional and irrevocable offer by LANDOWNER to transfer real property, or an interest therein, to CITY or Public Agency pursuant to the provisions of the Project Entitlements. Exhibit G provides the form of the Dedication agreement if the Irrevocable Offer of Dedication is not set out on the tentative and final subdivision map or if the Parties desire to specify the terms of the Dedication and the acceptance of the property or interest therein.

1.32 *Land Use and Development Regulations*. The Planning and Development Code, Subdivision Ordinance, and the other provisions of the City Code (including the Sign Code) applicable to Development of the Property, together with the General Plan and any other City ordinances, resolutions, master plans, rules, regulations and official policies of the City, which govern or regulate land use and/or development of the Property.

1.33 *Lender*. A Person (or a successor in interest to such person) who has advanced funds to, or who is otherwise owed money by, LANDOWNER as a debtor, where the obligation is embodied in a promissory note or other evidence of indebtedness, and where such note or other evidence of indebtedness is secured by a Mortgage or Deed of Trust on all or a portion of the Property.

1.34 *Ministerial Action*. An approval or disapproval that merely requires a determination whether there has been compliance with applicable statues, ordinances, resolutions, regulations, or conditions of approval including, without limitation, the Development Plan, Project Entitlements, Special Conditions, and Mitigation Measures.

1.35 *Mitigation Measures*. The measures adopted by the Planning Commission and/or by the City Council as part of the certification of the Final Environmental Impact Report as of the Effective Date which apply to Development of the Property for the Project and as may be referenced in the Project Entitlements and as described in Exhibit D.

1.36 *Mitigation Monitoring Program*. The plan for implementation of the Mitigation Measures as of the Effective Date and as may be referenced in the Project Entitlements and as described in Exhibit D.

1.37 *Mortgage*. A contract by which the LANDOWNER as mortgagor (debtor) hypothecates or pledges real property consisting of all or a portion of the Property, or otherwise grants a security interest therein to a Lender (mortgagee), to secure performance under a promissory note or other evidence of indebtedness, and where the holder of the mortgage is granted a power of sale.

1.38 *Parties*. The City of Sacramento and LANDOWNER (including Assignees of LANDOWNER).

1.39 *Person*. A person, firm, association, organization, partnership, business trust, corporation or company.

1.40 *Phase*. One of __ anticipated phases of development set forth in the Development Plan.

1.41 *Planning and Development Code*. The Planning and Development Code of the City of Sacramento, which is set out in Title 17 of the City Code, and as may be amended in the future from time to time.

1.42 *Procedural Ordinance*. Chapter 18.16 of the City Code, which sets forth procedures for application, review, approval, implementation, amendment, recordation, compliance review, and related matters with respect to development agreements for lands outside of the North Natomas Community Plan area (which is governed by Ordinance No. 95-012).

1.43 *Project*. The permitted uses, location, density or intensity of use, height or size of buildings and including, without limitation, the provisions for Dedication and Reservation of land for public purposes, as set forth in the Project Entitlements.

1.44 *Project Entitlements*. The plans, ordinances, resolutions, maps, plan review, special permits, design review, preservation review, inclusionary housing plan, and permits and approvals, including certification of the Final Environmental Impact Report, Mitigation Measures, and Mitigation Monitoring Program, that have been approved by CITY for the Project based on the Development Plan as of the Effective Date, which are set out in Exhibits C and D, as well as all Subsequent Approvals. The Project Entitlements also include minor changes to the Development Plan approved pursuant to Section 2.3.4 and substantive changes to the Development Plan for which an amendment to this Agreement has been approved pursuant to Section 2.3.3.

1.45 *Property*. The real property owned or controlled by LANDOWNER as described in Exhibit A.

1.46 *Protest Waiver*. The agreement set forth in Exhibit E and executed by LANDOWNER pursuant to this Agreement or in connection with the condition of any Project Entitlements.

1.47 *Public Agency(ies)*. A city (other than CITY), county, special district, public utility, school district, regional agency formed pursuant to federal or state law, joint powers agency, municipal corporation, or a non-profit corporation formed by a public entity to provide services to or charitable benefits for the public, for which the City Council does not act as the governing board.

1.48 *Public Facilities*. All public infrastructure, facilities, improvements and amenities needed to serve the Project as identified in the General Plan or the Project Entitlements; or as otherwise may be constructed or owned by, or conveyed to, CITY or Public Agency, and may include, without limitation: (i) streets, alleys, bridges, pedestrian and bicycle paths, parking lots and freeway improvements; (ii) heavy and light rail and trolley lines, stations, and passenger facilities; (iii) bus rapid transit lanes and bus transfer facilities, turnouts and stops; (iv) surface and storm drainage improvements; (v) sanitary sewer improvements; (vi) water storage and transmission facilities; (vii) flood control improvements; (viii) solid waste facilities; (ix) electrical and gas utilities; (x) street lighting; (xi) police and fire stations; (xii) parks, plazas, open space, greenbelts, trails, and landscaping; (xiii) habitat conservation areas; (xiv) drainage retention and flood control basins; (xv) schools and educational facilities; (xvi) community centers, performing arts centers, and museums; and (xvii) publicly owned artwork. The Public Facilities to be constructed by LANDOWNER pursuant to the Project Entitlements and Mitigation Measures are summarized for the convenience of the Parties in Exhibit F.

1.49 *Public Financing Mechanism*. An assessment district, a community facilities district, a fee district, area of benefit district, or any similar financing mechanism imposed on real property or as a condition of development approval, excluding Development Fees.

1.50 *Public Services*. All services provided by CITY and Public Agency to serve the residents and the businesses to be located on the Property, as may be identified in the General Plan, or Project Entitlements; and may include, without limitation, the maintenance, operation or the provision of, as the context implies: [(i) streets, alleys, bridges, pedestrian and bicycle paths, parking lots and freeway improvements; (ii) heavy and light rail and trolley transit services; (iii) bus transit services; (iv) surface and storm drainage improvements and pollution control services; (v) sanitary sewer improvements and pollution control services; (vi) water storage and transmission facilities and water services; (vii) flood control improvements; (viii) solid waste services; (ix) electrical and gas utilities; (x) street lighting; (xi) police and fire services; (xii) parks, plazas, open space, greenbelts, trails, and landscaping; (xiii) habitat conservation areas; (xiv) drainage retention and flood control basins; (xv) educational services; (xvi) community centers, performing arts centers, and museums; and (xvii) publicly owned artwork].

1.51 *Reconfiguration*. The adjustment of lot lines, re-subdivision, re-parcelization, reversion to acreage, creation or elimination of air rights, or other alteration of property lines through parcel or subdivision mapping, lot line adjustment, or lot merger, which may affect the description of the Property as set out in Exhibit A.

1.52 *Reservation*. In accordance with the provision of Government Code section 66479 et seq., the transfer of real property, or a defined interest therein, to CITY or Public Agency, free of all encumbrances, mortgages, liens, leases, easements and other matters affecting the title except

as may otherwise be expressly agreed to by CITY or Public Agency at a purchase price set out in the Reservation Agreement, the form of which is provided as Exhibit H.

1.53 *Sign Code*. Chapter 15.148 of the City Code (signs) and Chapter 12.36 of the City Code (awnings and canopies), and as said chapters may be amended from time to time.

1.54 *Special Conditions*. Those conditions, terms and requirements specified in Exhibit J.

1.55 *Subdivision Ordinance*. The Subdivision Ordinance of the City of Sacramento which is set out in Title 16 of the City Code, and as said ordinance may be amended from time to time.

1.56 *Subsequent Approvals*. Any Ministerial or Discretionary approval or other action by CITY to implement the Development Plan after the Effective Date that is necessary or desirable to implement LANDOWNER's Vested Rights under this Agreement, including Discretionary and Ministerial Actions, that is not set out as a Project Entitlement as described in Exhibits C and D.

1.57 *Subsequent Rule*. All City ordinances, resolutions, rules, regulations and official policies that are adopted after the Effective Date.

1.58 *Tentative Map*. The tentative subdivision map that subdivides LANDOWNER's Property into legal parcels pursuant to the Subdivision Map Act (commencing at section 66410 of the Government Code) as approved by the City Council as part of the Project Entitlements, as more particularly described in Exhibit C.

1.59 *Term*. The length of this Agreement in terms of time as specified in Section 2.1, or as that time may be extended pursuant to this Agreement.

1.60 *Vested Right*. A property right conferred by this Agreement, pursuant to Government Code section 65865.4, to develop the Property for the Project in accordance with the Development Plan and consistent with the General Plan and Project Entitlements that may not be cancelled, or revoked by CITY after the Effective Date, except as expressly provided in this Agreement.

1.61 *Zoning*. The division of the City into districts, and the application of zoning regulations thereto, which include (without limitation) regulation of the type of land use, density, height or bulk of buildings (structural design), setbacks, and parking as set out in the Planning and Development Code.

2.0 *GENERAL TERMS AND CONDITIONS*

2.1 *Term*. Except as otherwise provided below, the Term of this Agreement shall mean and include the Initial Term plus two (2) Extension Period, except to the extent the Term is canceled or terminated sooner due to default as provided in Sections 7.6 and 7.7, or convenience or other reason as provided in Section 7.8, or extended in accordance with the provisions of Section 2.1.4, 2.1.5, 2.1.6 or 9.7 below.

2.1.1 **Extension Period Options**. LANDOWNER shall have the right to renew this Agreement on its same terms and conditions, subject to any amendments, if any, as follows:

(a) ***As of the Exercise Date, LANDOWNER shall not be in material default of this Agreement. The term "Exercise Date" shall mean the date that LANDOWNER gives written notice of its intention to extend the term of this Agreement, in accordance with the provisions of section 9.2.***

(b) ***To exercise the option to extend the term of this Agreement, LANDOWNER shall give CITY written notice of LANDOWNER's intention to exercise its option and the notice must be given no more than 90 days prior to the expiration of the initial term or any extension term, nor later than 30 days prior to the expiration of the initial term or any extension term.***

(c) ***LANDOWNER shall be limited to two (2) extension periods consisting of five (5) years each.***

2.1.2 [This section intentionally omitted].

2.1.3 **Tolling of Term**. The Initial Term or any Extension Period, as appropriate, shall automatically be tolled for a period of tme equal to the duration of any moratorium (under Section 2.1.4 below), litigation (under Section 2.1.5 or 2.1.6 below) or referendum period (under Section 9.7 below), except that in no event shall the Initial Term together with any Extension Periods exceed a total of 40 years following the Effective Date, unless this Agreement is amended in accordance with Section 2.3.

2.1.4 **Effect of Moratoriums on Term of Agreement**. If a Subsequent Rule is enacted prior to the expiration of the Term of this Agreement that limits the rate of Development over time or governs the sequence of Development of the Project, and that Subsequent Rule applies to the Property as provided in Section 4.9, the Term of this Agreement shall be extended by the amount of time that the Subsequent Rule is in effect on the Property.

2.1.5 **Effect of Litigation on Term of Agreement**. If litigation is filed under Section 4.3.3, the Term shall be extended by the amount of time between the date the litigation was filed and the date of the final judgment if the law, regulation or action that was the subject of the litigation had the effect of preventing or suspending Development of the Property for the Project and the final judgment allowed this Agreement to remain in full force and effect.

2.1.6 Effect of Litigation Over Cancellation or Modification for Default. Pursuant to Section 7.7.2, if LANDOWNER institutes legal proceedings to obtain judicial relief from CITY modifying or canceling this Agreement for LANDOWNER's default, the expiration of the Term of this Agreement shall be tolled during the period of the legal proceedings if there be a judicial determination invalidating or reversing the CITY's cancellation or modification of this Agreement.

2.2 *Development Timing*.

2.2.1 Project Schedule. This Agreement contains no requirement that LANDOWNER must initiate or complete Development of the Project or any phase thereof, or Development of the Property or any portion thereof, within the Term of this Agreement or within any period of time set by CITY. It is the intention of this provision that LANDOWNER be able to Develop the Property for the Project in accordance with LANDOWNER's own schedule; provided, however, that Development of the Property is substantially consistent with the Development Plan, as evaluated in the Final Environmental Impact Report and subject to the conditions set out in the Project Entitlements. Any act which is required to be completed within a specific time period under the terms and conditions of the Project Entitlements shall be timely completed as provided therein, and any phasing provisions that are set out in a Subsequent Approval shall be applicable to the Project.

2.2.2 Application of Subsequent Rule Affecting Rate of Development. Except for moratoriums as addressed in Section 4.9, no Subsequent Rule which limits the rate of development over time shall be applicable to the Property or the Project. However, nothing herein shall be construed to relieve LANDOWNER from any time conditions, phasing provisions, or schedule compliance as set out herein, or to excuse the timely completion of any act which is required to be completed within a specified time period, as set out in the Project Entitlements or any other provision of this Agreement, any applicable provision in the City Code or the Land Use and Development Regulations, or any applicable Subsequent Rule.

2.3 *Amendments, Suspension or Termination of Agreement*.

2.3.1 Amendments. This Agreement may be amended from time to time by the mutual written consent of the Parties in accordance with the express terms of this Agreement, the provisions of Government Code section 65868, and the Procedural Ordinance. No waiver, alteration, or modification of this Agreement shall be valid unless it is made in writing and signed by the Parties.

2.3.2 Requests for Development Plan and Project Changes. The Parties acknowledge that nothing contained herein is intended to limit LANDOWNER's right to apply to CITY for changes in the Development Plan and Project Entitlements, and amendments to the Land Use and Development Regulations, to allow for additional or different Development, or for a reduction in the level of Development, from that set out in and contemplated by this Agreement, subject to compliance with CEQA, Subsequent Rules, applicable state and City laws and regulations, and the applicable provisions of

this Agreement. Nothing herein shall be construed as limiting the exercise of the discretion by CITY in reviewing and approving or denying any such application.

2.3.3 **Substantive Changes Related to the Project and Project Entitlements**. Substantive changes to this Agreement or Project Entitlements by LANDOWNER will necessitate an amendment to this Agreement to incorporate the revised Development Plan and the applicable changes to the terms and conditions of the Project Entitlements and related documents and agreements. A "substantive change" to this Agreement or Project Entitlements is one that changes the Term of this Agreement or for which an application is made to modify any of the following: the permitted uses; density or intensity of use; height or size of buildings; provisions for reservation and dedication of land; conditions, terms, restrictions and requirements relating to subsequent discretionary actions; monetary contributions by a landowner; or any other material term or condition of this Agreement. If either Party notifies the other Party that an amendment is needed due to the proposed substantive changes to this Agreement or the Project Entitlements, the Parties shall meet and negotiate in good faith the terms of an amendment to this Agreement. The scope of the good faith negotiation is limited to such amendment(s) necessary to effectuate the substantive changes to the Development Plan contemplated in this Section 2.3.3, and shall not reopen other provisions of this Agreement not affected by the proposed amendment(s). The CITY may suspend or withhold a Subsequent Approval if reasonably required by the circumstances then existing at the time of the proposed change in the Project Entitlements until the Parties can come to an agreement on the terms of such an amendment or mutually agree to the termination of this Agreement.

2.3.4 **Minor Changes**. This Agreement need not be amended to allow for changes to this Agreement or Project Entitlements that are not substantive, as described in section 2.3.3 and the Procedural Ordinance, but rather are minor in character. The Parties acknowledge that refinement and further implementation of the Development Plan may demonstrate that certain minor changes may be appropriate with respect to Project details and performance of the Parties under this Agreement, and the Parties desire to retain a certain degree of flexibility with respect to such details and performances. If and when the Parties find and mutually agree that clarifications, minor changes, or minor adjustments are necessary or appropriate, they shall effectuate such clarifications, changes or adjustments through an operating written memorandum approved by the Parties, with the City Manager acting on behalf of CITY. After execution, the operating memorandum shall be attached to this Agreement. Further minor changes as necessary from time to time may be agreed upon by the Parties by subsequent written approval of the Parties. Unless required by the Statute or the Procedural Ordinance, no operating memorandum shall require prior notice or public hearing, nor shall it constitute an amendment to or termination for convenience in whole or in part of this Agreement. Minor changes subject to this subsection 2.3.4 shall include planning director plan review amendments and special permit minor modifications.

2.4 *Interests of LANDOWNER*. LANDOWNER represents that LANDOWNER owns a legal or equitable interest in the Property and that all other Persons holding legal or equitable

interests in the Property, including the Lender, if any, have executed and are bound by this Agreement.

2.5 *Binding Covenants*. The burdens of this Agreement shall be covenants that run with the land and shall be binding upon the owners of the Property including, without limitation, LANDOWNER, affiliates of LANDOWNER, Lenders, if any, and Assignees. The benefits of this Agreement shall inure to the Parties and to their Assignees subject to compliance with Section 2.6.

2.6 *Assignment.*

2.6.1 **Right to Assign**. LANDOWNER shall have the right to freely sell, alienate, transfer, assign, lease, license and otherwise convey all or any portion of the Property and improvements thereon without the consent of CITY; provided that no partial transfer shall be permitted to cause a violation of the Subdivision Map Act (Government Code § 66410 et seq.). LANDOWNER shall notify CITY of any sale, transfer or assignment of all of LANDOWNER's interests in all or any portion of the Property by providing written notice thereof to CITY in the manner provided in Section 9.2 not later than thirty (30) days before the effective date of such sale, transfer, or assignment. LANDOWNER's failure to provide such notice to CITY shall not invalidate such sale, transfer, or assignment; however, any successor in interest in ownership of all or a portion of the Property shall not benefit from the Vested Rights conferred herein without executing and delivering to CITY an Assignment and Assumption Agreement.

2.6.2 **Release**. LANDOWNER shall remain obligated to perform all terms and conditions of this Agreement unless a fully executed Assignment and Assumption Agreement is delivered to the City whereby an Assignee agrees to assume all of the obligations of LANDOWNER under this Agreement and to comply with all of the terms and conditions of this Agreement with respect to the Property, or such portion thereof sold, transferred or assigned, for Development of the Project. Upon such execution and delivery of the Assignment and Assumption Agreement, LANDOWNER shall be deemed released from all duties, liabilities and obligations under this Development Agreement with respect to the interest(s) sold, assigned or transferred only if LANDOWNER is not in default under this Agreement as of the effective date of the Assignment.

2.6.3 **Assignees**. The Assignee shall be obligated and bound by the terms and conditions of this Agreement if it executes the Assignment and Assumption Agreement, and shall be the beneficiary hereof and a party hereto, only with respect to the Property, or such portion thereof, sold, assigned, or transferred to Assignee by LANDOWNER. The Assignee shall observe and fully perform all of the duties and obligations of LANDOWNER under this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred. CITY shall release Assignee from all duties, liabilities and obligations under this Development Agreement of LANDOWNER with respect to the interest(s) that are not sold, assigned or transferred to Assignee. Any such assumption agreement shall be deemed to be to the satisfaction of the City Attorney if executed substantially in form of the Assignment and Assumption

Agreement attached hereto as Exhibit I and incorporated herein by this reference, or such other form as shall be proposed by LANDOWNER and approved by the City Attorney prior to the effective date of the assignment.

2.7 *Plan or Project Entitlement Amendments Involving Assignees*.

2.7.1 **By Assignee**. If an Assignee files an application with CITY that proposes to amend the Project Entitlements or the Land Use and Development Regulations and such amendment could affect the Vested Rights of LANDOWNER or of another Assignee(s), CITY shall provide reasonable notice to LANDOWNER before acting on such application. CITY shall not be required to obtain the prior approval of LANDOWNER or of the other Assignee(s) to approve such application notwithstanding the terms of this Agreement or an Assumption and Assignment Agreement.

2.7.2 **By LANDOWNER**. If LANDOWNER files an application with CITY that proposes to amend the Development Plan, Project Entitlements, or the Land Use and Development Regulations and such amendment could affect the Vested Rights of an Assignee(s), CITY shall not be required to provide notice or obtain the prior approval of the Assignee(s), notwithstanding the terms of this Agreement or an Assumption and Assignment Agreement. CITY shall only be required to provide notice to adjacent landowners of the application pursuant to then applicable provisions of the Planning and Development Code and City Code.

2.7.3 **Approval Rights**. LANDOWNER shall be solely responsible for obtaining any prior approval rights over applications to amend the Development Plan, Project Entitlements, or the Land Use and Development Regulations by an Assignee(s), and for obtaining any waivers of LANDOWNER's applications by an Assignee(s), at the time LANDOWNER sells, transfers or assigns a portion of the Property to a third party which may become an Assignee to this Agreement. The provisions in this Section 2.7 shall apply to LANDOWNER's successors in interest, to each initial Assignee(s) and its successors in interest, and to all property owners and affiliates of all or a portion of the Property during the Term of this Agreement.

2.7.4 **CITY Processing**. In processing an application as described in this Section 2.7, CITY shall retain its discretion to approve or deny a Discretionary Action or a Ministerial Action after the Effective Date, subject to Section 3.2, and consistent with the terms of this Agreement.

2.7.5 **Indemnity**. LANDOWNER and/or any Assignee(s) that files an application as described in this Section 2.7 shall defend and indemnify CITY in any third-party action claiming that CITY has violated LANDOWNER's and/or an Assignee(s)'s Vested Right under this Agreement in approving such application, in accordance with the provisions of Section 7.1; provided, however, that the indemnity provided in this Section 2.7.5 shall not extend to claims that are caused by the gross negligence or willful misconduct of CITY.

3.0 *VESTED DEVELOPMENT RIGHTS*

3.1 *Entitlement to Develop Project*. Subject to the express terms, conditions, reservations, and exclusions as set out in this Agreement, CITY hereby grants to LANDOWNER a Vested Right to develop the Property for the Project in accordance with the terms and conditions set out in the Project Entitlements and in accordance with the Land Use and Development Regulations.

3.1.1 **Compliance with Project Entitlements**. The Parties acknowledge that the Subsequent Approvals will be consistent with and apply the terms and conditions of the Project Entitlements. In addition, the location, size and type of land uses in the Development Plan may be conditioned or restricted as permitted under the Land Use and Development Regulations and as otherwise provided herein. Nothing contained in this Agreement is intended or may be construed as an assurance or representation by CITY to LANDOWNER that the Development Plan can be fully implemented within the Term of this Agreement or that LANDOWNER will be able to fully exercise its Vested Rights.

3.1.2 **Development Inconsistent with Development Plan**. If LANDOWNER submits an application to CITY for Development that differs from the Project Entitlements, but that does not require an amendment to this Agreement as provided in Section 2.3.4, then LANDOWNER's Vested Rights under this Agreement will be adjusted to include the modifications upon approval of the application by CITY. Such adjustment in the Vested Rights shall be considered and implemented as a minor change under Section 2.3.4 of this Agreement. If an application proposes or requires a substantive change to the Project Entitlements or Land Use and Development Regulations under Section 2.3.3, then the right to develop the Property in accordance with the terms and conditions of that application, if approved, will not be vested under this Agreement unless and until this Agreement is amended to incorporate the approval pursuant to Section 2.3.3.

3.2 *Subsequent Approvals.*

3.2.1 **Scope**. Development of the Property for the Project is subject to all required Discretionary Actions and Ministerial Actions that have not otherwise been approved by CITY prior to the Effective Date. Subsequent Approval would include, without limitation, approval of tentative and final parcel and subdivision maps, additional tentative subdivision maps to further subdivide a parcel, special permits, variances, plan review, design review, preservation review, and grading permits and Building Permits required for Development of the Project and consistent with the Development Plan. Upon approval by CITY, LANDOWNER's Vested Rights under this Agreement shall be deemed to include the Subsequent Approval.

3.2.2 **Processing**. Nothing contained in this Agreement shall preclude CITY from its right and responsibility to review applications for entitlements submitted by LANDOWNER in accordance with its normal and usual procedures and practices, as they may exist at the time the application is accepted as complete, or is otherwise deemed complete by operation of law. CITY shall not unreasonably deny, delay or

condition any Subsequent Approval required for Development of the Project that is necessary or desirable to the exercise of LANDOWNER's Vested Rights under this Agreement as long as the application is in compliance with the Project Entitlements and the Land Use and Development Regulations. In the event LANDOWNER believes any Ministerial Action or application processing action by CITY staff is being unreasonably delayed, LANDOWNER shall request the City Manager coordinate a meeting between LANDOWNER and appropriate CITY staff to facilitate CITY's good faith in processing as required by subsection 5.1.

3.2.3 **Conditions**. In reviewing and approving applications for Subsequent Approvals that are Discretionary Actions, CITY may exercise its independent judgment and may impose terms, conditions, restrictions, and requirements (collectively "Conditions") as follows:

3.2.3.1 CITY may impose Conditions that are consistent with this Agreement and the policies, goals, standards and objectives of the Project Entitlements and Land Use and Development Regulations as may be necessary to comply with all applicable legal requirements and policies of CITY pertaining to such Discretionary Actions.

3.2.3.2 CITY may impose Conditions that are inconsistent with the provisions of this Agreement, if: (i) CITY and LANDOWNER mutually agree to the inconsistent Conditions, or (ii) the Subsequent Approval is subject to compliance with a Subsequent Rule as provided in this Agreement, or (iii) the Conditions are imposed as a mitigation measure for compliance with CEQA, NEPA or a related environmental statute as described in Section 4.1, or (iv) additional Public Facilities are necessary to serve the Development of the Property as proposed in LANDOWNER's entitlement application or changes in the location or size of Public Facilities is required as described in Section 4.8.

3.2.4 **Additional Discretionary Actions**. CITY shall not apply any Subsequent Rule that creates a requirement for any new or additional Subsequent Approvals for the Project, other than additional Ministerial Actions, except as provided in Sections 3.3. and 4.0.

3.3 *Subsequent Rules.*

3.3.1 **Limitation on Application of Subsequent Rules**.

3.3.1.1 Subject to Section 4.0 and except as otherwise set forth in this Agreement, during the Term of this Agreement, CITY shall not apply any Subsequent Rule as a term, condition, restriction or requirement of a Subsequent Approval if it would conflict with the Vested Rights of LANDOWNER as set out in this Agreement without LANDOWNER's express written consent. There exists a "conflict with" Vested Rights when a Subsequent Rules would directly or indirectly modify the Project Entitlements or would substantially increase the cost of Development in order to comply with the Subsequent Rule. Application of a Subsequent Rule relating to new or increases in Development Fees and Assessments are addressed in Section 4.0.

3.3.1.2 To the extent that any Subsequent Rule which is applicable to the Property or the Project is not in conflict with the Vested Rights of LANDOWNER as set out in

this Agreement, or is otherwise made applicable by other provisions of this Agreement, such Subsequent Rule shall be applicable to Development of the Property.

3.3.2 **No General Limitation on Future Exercise of Police Power**. The CITY retains its right to exercise its broad and general police powers and to apply such powers within the Property, except when such exercise would expressly conflict with a Vested Right granted to LANDOWNER under this Agreement, as provided in Section 3.3.1.

3.3.3 **No Limit on Power of CITY to Adopt Subsequent Rule**. Notwithstanding anything contained herein to the contrary, this Agreement does not limit the power and right of the CITY to amend, repeal, suspend, or otherwise modify the Land Use and Development Regulations, or to adopt and amend from time to time other ordinances, resolutions, rules, and procedures governing development within the City, provision and financing of Public Facilities or Public Services, and any other matters that may be related to or affect Development of the Project on the Property or the subject matter of this Agreement; however, such Subsequent Rule shall only apply to the Property or the Project as provided in Sections 3.3 and 4.0 or as otherwise provided in this Agreement.

3.3.4 **Beneficial Changes**. To the extent that any Subsequent Rules would benefit LANDOWNER and LANDOWNER desires that the Land Use and Development Regulations as amended by the Subsequent Rule should be applicable to Subsequent Approvals, LANDOWNER shall notify CITY in writing of its desire to be subject to the amended Land Use and Development Regulations, and the Parties shall mutually agree to amend this Agreement in accordance with Section 2.3 if needed.

4.0 *EXCLUSIONS FROM VESTED RIGHTS*

4.1 *Environmental Compliance*.

4.1.1 **CEQA Compliance**. The CITY prepared and certified the Final Environmental Impact Report for the Project and imposed certain Mitigation Measures in compliance with CEQA for approval of the Development Plan and Project Entitlements. CITY and LANDOWNER shall comply with and perform the Mitigation Measures when and where applicable to each Party as specified in the Mitigation Monitoring Program. Because this Agreement and the Mitigation Measures are intended to mitigate all significant environmental impacts of the Project which can feasibly be mitigated, CITY shall not impose any additional mitigation measures as a condition of any Subsequent Approval, except mitigation measures that CITY determines it is required to impose under CEQA for the approval or certification of any mitigated negative declarations or subsequent or supplemental environmental impact reports that are required to be approved or certified under CEQA prior to taking action on such Subsequent Approval. Nothing contained in this Agreement limits the CITY's ability to comply with CEQA, the CEQA Guidelines, and the CITY's CEQA procedures, and as they may be amended from time to time.

4.1.2 **NEPA Compliance**. If the scope of the Project includes Public Facilities that are to be funded in part with federal funds or requires approval of a federal agency, the CITY shall comply with the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations, and other related federal environmental statutes and regulations. If the environmental reports required for compliance with NEPA have not been completed prior to the Effective Date, the CITY may impose additional mitigation measures as a condition of any Subsequent Approval as CITY is required to impose for compliance with NEPA and other related federal environmental statutes and regulations that are set out as conditions of, or the basis for, approval of a categorical exclusion, environmental assessment, environmental impact statement, or permit by the applicable federal agency for construction of Public Facilities undertaken by CITY or LANDOWNER located within the Property or required for Development of the Project

4.2 *Retained Right to Discretionary Design Review*. Notwithstanding anything contained herein to the contrary, this Agreement does not limit CITY's Discretionary Actions regarding design review of all buildings and structures proposed to be developed on the Property in accordance with the Land Use and Development Regulations. However, in conducting its design review, CITY will apply the Design Guidelines and CITY shall exercise its review in such a manner that does not reduce the square footage or the floor area ratio for the subject site as otherwise allowed under the Design Guidelines and other Project Entitlements and the Land Use and Development Regulations. CITY retains the right to reasonably modify or amend the Design Guidelines as long as such amendments are consistent with the Project Entitlements, Development Plan, and Land Use and Development Regulations and do not conflict with LANDOWNER's Vested Rights.

4.3 *Changes Mandated by Other Agencies*.

4.3.1 **Amendment or Suspension of Agreement**. Nothing in this Agreement shall preclude the application to the Property of a Subsequent Rule if the terms and conditions set out in a Subsequent Rule are specifically mandated by changes in state or federal laws or regulations or by action of a Public Agency after the Effective Date. If state or federal laws or regulations or an action by a Public Agency either (i) prevents or precludes LANDOWNER's or CITY's compliance with one or more provisions of this Agreement, or (ii) requires changes in the Project Entitlements, the Parties shall meet and confer in good faith to determine whether the laws, regulations, or actions apply to the Property and/or the Project and whether suitable amendments to this Agreement can be made to maintain LANDOWNER's Vested Rights and the CITY and LANDOWNER obligations as set out in this Agreement. If the Parties are unable to agree on the terms of an amendment to this Agreement to comply with such laws, regulations, and actions, the Parties shall consider whether suspension of the applicable provision(s) of this Agreement is appropriate, and if so, the terms and conditions of such suspension. If the Parties are unable to agree on the terms of an amendment or suspension with respect to the applicable provision(s) of this Agreement, either Party shall have the right to terminate this Agreement for its convenience in whole or in part by complying with the noticing procedures set out in Section 9.2.

4.3.2 **No Liability of CITY**. To the extent that any actions of federal or state agencies, actions of Public Agencies, or actions of CITY required by federal or state agencies or Public Agencies, and taken in good faith to prevent adverse impacts upon CITY by state or federal agencies or Public Agencies, have the effect of preventing, delaying, or modifying Development of the Property for the Project, CITY shall not in any manner be liable to LANDOWNER for such prevention, delay or modification. Such actions may include, without limitation: (i) flood plain or wetlands designations, (ii) the imposition of air quality measures or sanctions, (iii) the imposition of traffic congestion or travel restriction measures, and (iv) the imposition of new or additional restrictions related to environmental contamination of the Property, regardless as to whether such conditions were known or unknown as of the Effective Date. CITY's actions to comply with such federal or state laws and regulations or actions of Public Agencies shall not be arbitrary or capricious. Nothing contained herein shall be construed as precluding CITY's contractual defenses of impossibility of performance or frustration of purpose to the extent recognized by California law.

4.3.3 **Reserved Right to Contest Laws, Regulations and Actions**. CITY and/or LANDOWNER shall have the right to institute litigation challenging the validity of the laws, regulations or actions of federal and state agencies and Public Agencies as described in Section 4.3.1. If such litigation is filed, this Agreement shall remain in full force and effect until a final judgment affecting this Agreement's force and effect is issued; provided, however, that if any action that CITY would take in furtherance of this Agreement would be rendered invalid, facially or otherwise, by the contested law, regulation, or action, CITY shall not be required to undertake such action until the litigation is resolved or the law, regulation, or action is otherwise determined invalid, inapplicable, or is repealed. If the final judgment invalidates the law, regulation, or action, or determines that it does not affect the validity of this Agreement or the obligations of the Parties as set out in this Agreement, this Agreement shall remain in full force and effect. The Term of this Agreement shall be extended by the amount of time between the date when the litigation was filed and the date of the final judgment if the law, regulation, or action had the effect of preventing or suspending Development of the Property for the Project and the final judgment allowed this Agreement to remain in full force and effect.

4.4 *Building Codes*.

4.4.1 **No Limit on Right of CITY Regarding Uniform Codes or Standards and Local Amendments**. Notwithstanding anything in this Agreement to the contrary, this Agreement does not limit the right of CITY to adopt building, plumbing, electrical, fire, and similar uniform codes, and Public Facilities standards and specifications, or to adopt modifications of and local amendments to those uniform codes and standards and specifications, from time to time, and to require development of the Property and the Project to comply with those uniform codes and standards and specifications in effect at the time of plan review or Building Permit issuance for the Project, regardless as to whether the plans and Building Permits are requested for the Project Entitlements or for Subsequent Approvals.

4.5 *No Effect on Right to Tax, Assess, or Levy Fees or Charges*. Notwithstanding anything in this Agreement to the contrary, this Agreement does not limit the power and right of the CITY to impose new or increases in existing taxes or assessments on, or to require payment of application, processing, inspection, or building permit fees and related charges by, LANDOWNER or any other entity or owner of property in the City. All applications by LANDOWNER for CITY approvals, permits and entitlements shall be subject to the application fees, processing fees, inspection fees and other similar fees within the control of the CITY that are in force and effect as of the date that the application or other request for approval is filed.

4.6 *Development Fees*. Except as provided in Exhibit J, LANDOWNER shall be subject to the imposition of any new or increased development impact fees (Government Code § 66000 et seq.) or other fee, as defined in Section 1.21 as Development Fees, pursuant to the nexus study that is prepared to implement the new or increased development impact fee or program, as such nexus study may be amended from time to time.

4.7 *Health and Safety and Supervening Laws*. Notwithstanding the provisions in Section 3.3.1, during the Term of this Agreement the CITY may adopt and apply a Subsequent Rule to Subsequent Approvals if: (i) CITY upon notice and hearing, in the reasonable exercise of its discretion and based upon findings of fact and determinations of law, certifies to LANDOWNER that application of a Subsequent Rule is necessary to protect persons or property from a condition which could create a serious risk to the health or safety of the public in general or to residents or employees who are occupying or will occupy the Property; or (ii) such Subsequent Rule is mandated or required by supervening federal, state, or Public Agency law, regulation or action enacted prior to or after the Effective Date. The foregoing two options include, without limitation, any flood control restrictions or requirements that may be adopted on a city-wide or lesser basis that encompasses the Property.

4.8 *Changes in Location or Size of Public Facilities*. If at the time of the required Dedication or Reservation of land to CITY or Public Agency for Public Facilities as specified in this Agreement, the location or the quantity of land required for the Public Facilities has changed from that depicted or specified in this Agreement or the Project Entitlements to such a significant degree or extent that could not reasonably have been anticipated as of the Effective Date such that the location or quantity is inconsistent with this Agreement or the Project Entitlements, the Parties shall meet and negotiate and in good faith endeavor to reach agreement on any amendments to this Agreement needed to allow Development of the Property for the Project in a reasonable manner, taking into account the changes in Public Facilities needed to serve the Project that arose after the Effective Date. If agreement is reached between the Parties, the procedures specified in Section 2.3 shall apply to amend this Agreement. If agreement is not reached, either Party shall have the right to terminate this Agreement for its convenience in whole or in part by providing notice as specified in Section 9.2.

4.9 *Suspension of Development*. No Subsequent Rule enacted prior to the expiration of the Term of this Agreement which purports to limit the rate of Development over time or to govern the sequence of Development of the Project shall apply to the Property, except when the CITY enacts a moratorium pursuant to a declaration of a local emergency or a state of emergency which suspends development rights, the moratorium encompasses the Property or the

Project, and the basis for enactment of the moratorium complies with the provisions of Section 4.7.

5.0 *CITY'S OBLIGATIONS AND COMMITMENTS*

5.1 *CITY's Good Faith in Processing*. Subject to the provisions of this Agreement and LANDOWNER's compliance with each and every term and condition herein, CITY agrees that it will accept in good faith for processing, review, and Discretionary or Ministerial Action, all complete applications for tentative parcel maps, zoning, planned unit development designation, planned unit development guidelines, schematic plans, parcel maps, subdivision maps, special permits, variances, design review, preservation review, Building Permits, or other entitlements for Development of the Property for the Project in accordance with the Project Entitlements, Land Use and Development Regulations, and the terms of this Agreement. CITY shall inform the LANDOWNER, upon request, of the necessary submission requirements for each application for a permit or other entitlement for Development and shall review said application and shall schedule the application for review and Discretionary Action by the appropriate CITY board, commission or City Council or for Ministerial Action by CITY staff.

5.2 *Allocation Procedures for Uses, Units, and Building Sizes*. CITY procedures and approvals for allocating the land uses, housing unit numbers and types, and densities and building square footages approved for the Project among the various parcels of land and portions thereof comprising the Property shall be in conformance with the Project Entitlements. Unless otherwise specified in the Project Entitlements, the allocation of nonresidential square footages and housing units shall be as identified in Subsequent Approvals for the Project. The appropriate entitlement to address the allocation of building square footage and housing units shall be determined by CITY. Allocations for residential development by type of housing unit and density shall be determined in the subdivision mapping process, unless CITY determines that some other method is appropriate under the circumstances.

5.3 *Extension of Entitlements*. All subdivision tentative maps, special permits, or any other land use entitlements of potentially limited duration previously, contemporaneously, or subsequently approved for the Property subject to this Agreement, as set out in the Development Plan, Project Entitlements, and Subsequent Approvals, shall be valid for a minimum term equal to the then remaining Term of this Agreement (including the Initial Term and any Extension Period) , or for the period stated in the Planning and Development Code as it reads on the date of approval of the entitlement, whichever is longer, but in no event for a longer period than the maximum period of time permitted by the Subdivision Map Act (Government Code § 66410 et seq.) or Government Code for such land use entitlements. The provisions of Section 8.5 relating to estoppel certificates shall apply to any request made by LANDOWNER to CITY with respect to the life of any entitlement covered by this Section 5.3. Nothing in this Section 5.3 shall be construed, or operate, to extend the Term of this Agreement.

5.4 *Reconfiguration of Parcels*. LANDOWNER shall have the right to file applications with CITY for subdivision, lot line adjustment, lot mergers, or for master parcelization of all or part of the Property, for the purpose of Reconfiguration of the Property. Such applications shall be processed and Discretionary Action taken in accordance with the provisions of this Agreement. Where Reconfiguration requires a special permit, variance, planned unit

development designation, or other entitlement applicable to the Property or portion thereof which is subject to the application, CITY reserves the right to require such entitlements as a condition of approving the application. CITY shall process such Subsequent Approvals in a manner consistent with the Development Plan and Project Entitlements as provided in Section 3.2.

5.5 *Public Facilities Financing Proceedings*.

5.5.1 **Proceedings Initiated by LANDOWNER**. If LANDOWNER desires to initiate proceedings for the formation of a Public Financing Mechanism to fund the construction of Public Facilities required to be funded or constructed by LANDOWNER pursuant to the conditions of approval of the Project Entitlements, LANDOWNER shall file an application with CITY for that purpose in accordance with the Assessment District Policy Manual, as same may be amended from time to time, or such other policy document as may after the Effective Date be adopted by the City Council as a substitute therefor. CITY agrees to diligently process any such application, provided that such application: (i) is complete and is accompanied by payment of City fees applicable on the date of filing of the application; (ii) otherwise complies with the City Code as it exists on the date of the application, including but not limited to the Assessment District Policy Manual; (iii) is consistent with City policies and procedures; (iv) provides for a property value to lien ratio and other financial terms that are reasonably acceptable to CITY; (v) provides for all funding requirements established by CITY for the purpose of payment of the costs of outside consultants needed, in CITY's sole discretion, to establish the Public Financing Mechanism; and (vi) provides that the specific consultants (e.g., bond counsel, financial advisors, underwriters, or other consultants as may be necessary under the circumstances) shall be selected by CITY in its sole discretion.

5.5.2 **Alternative Financing Methods**. Notwithstanding any other provision of this Agreement to the contrary, CITY agrees that upon request made by LANDOWNER, CITY will consider making exceptions to the Assessment District Policy Manual to allow for alternative methods of financing Public Facilities; provided, however, that CITY reserves its discretion to condition use of any such alternatives on satisfaction of performance preconditions and to consider underwriting considerations and criteria. Further, CITY may in its reasonable discretion deny any such request upon grounds, including, without limitation, consistency of application of its policies and the potential for establishing negative precedent.

5.5.3 **Maintenance Districts**. LANDOWNER may, following the procedures specified in Section 5.5.1, request that CITY establish one or more maintenance districts for the purpose of financing the maintenance of landscaping, lighting, or other Public Facilities, whereunder lands benefiting from the Public Facilities and their maintenance are assessed for a proportionate share of the maintenance cost.

5.6 *Annual Review*. In accordance with Government Code § 65865.1 and the Procedural Ordinance, CITY shall annually during the Term review the extent of good faith compliance by LANDOWNER with the terms of this Agreement. Failure of CITY to conduct the Annual Review shall not constitute a waiver by CITY or LANDOWNER of the right to conduct future Annual Review or to otherwise enforce the provisions of this Agreement, nor shall a Party have

or assert any defense to such enforcement by reason of any such failure. The failure of CITY to undertake such review, shall not, in itself, invalidate the terms of this Agreement or excuse any party hereto from performing its obligations under this Agreement. The Annual Review shall be limited in scope to compliance with the terms and conditions of this Agreement.

5.6.1 **Proceedings**. The procedures specified in the Procedural Ordinance for conduct of the Annual Review by the City Manager and City Council shall apply to each Annual Review of this Agreement. At least ten (10) days prior to the commencement of any Annual Review by the City Council, CITY shall deliver to LANDOWNER a copy of any public staff reports and other documents to be used or relied upon in conducting the review. LANDOWNER shall be permitted an opportunity to respond to CITY's evaluation of LANDOWNER's performance by written and oral testimony at the public hearing to be held before the City Council, if LANDOWNER so elects. At the conclusion of the Annual Review, CITY shall make written findings and determinations on the basis of substantial evidence, as to whether or not LANDOWNER or its successors and any Assignees have complied in good faith with the terms and conditions of this Agreement.

5.6.2 **Failure of Compliance**. Any determination by the City Council of LANDOWNER's failure to comply with the terms and conditions of this Agreement shall be a default subject to the notice requirements and cure periods set forth in Section 7.6.

6.0 *LANDOWNER'S OBLIGATIONS AND COMMITMENTS*

6.1 *Project Entitlements*. LANDOWNER shall be obligated to comply with the terms and conditions set out in the Project Entitlements and this Agreement. When required to obtain a Subsequent Approval, LANDOWNER shall execute a mitigation monitoring agreement and such other agreements as may be necessary in CITY's judgment to implement any Mitigation Measure consistent with the terms of this Agreement, and shall fully cooperate with CITY in implementing the Mitigation Measures and Mitigation Monitoring Program and the terms of such other agreements.

6.2 *LANDOWNER's Waivers*. LANDOWNER hereby agrees to the provisions of the Protest Waiver, which is a comprehensive waiver of protest rights with respect to CITY's establishment and implementation of Public Financing Mechanisms and Development Fees, and in levying assessments and taxes pursuant thereto, and CITY's actions in implementing the Project Entitlements. As set forth in the Protest Waiver, LANDOWNER reserves the right to protest the actual amount of any fee, assessment, or tax levy, or other CITY charge imposed on or allocated to the Property pursuant to the Project Entitlements or this Agreement. The Protest Waiver shall be binding on LANDOWNER by LANDOWNER's execution of this Agreement if LANDOWNER fails to separately execute the Protest Waiver provided as Exhibit E.

6.3 *Public Facilities Construction by LANDOWNER*. When required by the conditions of approval of the Project Entitlements, or by any applicable reimbursement agreements, and in accordance with CITY specifications and standards in effect as of the date of construction, LANDOWNER shall diligently construct the specified Public Facilities required for Development of the Property for the Project substantially consistent with the Development Plan.

6.4 *Park and Open Space Development*. At the time of filing final subdivision map(s), CITY may require LANDOWNER to develop some or all of the parks and open spaces located within that final map, as provided in the Special Conditions (Exhibit J) or as may be specified in the Tentative Map conditions, under the terms of CITY's standard form Park Credit/Reimbursement Agreement. LANDOWNER shall receive credit for the cost of developing those parks and open spaces as provided in City Code Chapter 18.44.

6.5 *Levies Imposed by Public Agencies*. LANDOWNER shall be responsible for: (i) all fees (including Development Fees), charges, assessments, special taxes, and levies of any sort imposed by any federal, state or Public Agency in the future as a charge for financing of Public Facilities and Public Services for the Project and for Mitigation Measures imposed for the purpose of mitigation of environmental impacts associated with the provision of the Public Facilities or Public Services; (ii) all special benefit assessments, special taxes, and levies of any sort associated with construction of or maintenance of Public Facilities, where the Property is located within a district formed for that purpose by any federal, state, or Public Agency; and (iii) ad valorem real estate taxes and utility fees and taxes. If any of the fees, charges, assessments, special taxes, or levies covered by this Section 6.5 are imposed and/or collected by or with the assistance of CITY, LANDOWNER shall nevertheless be responsible therefor. Failure to pay such fees, charges, assessments, taxes, or levies when due shall be a default under this Agreement. However, nothing in this Agreement shall be construed to limit LANDOWNER's right to protest, in accordance with applicable provisions of law, the formation of any assessment district, the amount of any assessment levied by or on behalf of such district on the Property or any portion thereof, or the nature and amount of any tax, fee, assessment, or charge imposed, except as provided in Section 6.2.

6.6 *Local, State and Federal Laws*. LANDOWNER shall assure that the construction of the Project is carried out in conformity with all applicable federal and state laws and regulations, and the laws and regulations of Public Agencies which have jurisdiction over Development of the Property. Before commencement of Development of the Property, including, without limitation, grading of land or construction of any buildings, structures, or other works of improvement upon the Property, LANDOWNER shall at its own expense secure any and all certifications and permits which may be required by any federal or state agency or a Public Agency having jurisdiction over such development. LANDOWNER shall permit only persons or entities that are duly licensed in the State of California, County of Sacramento, and City of Sacramento, as applicable, to perform grading, development, or construction work on the Property for Development of the Project.

6.7 *Transfer of Land*. As set forth in the Project Entitlements, LANDOWNER has agreed to transfer lands by Dedication or Reservation that are needed for Public Facilities to CITY or Public Agency as specified or appropriate. LANDOWNER shall transfer the land required to be transferred by Dedication to CITY or Public Agency utilizing the Irrevocable Offer of Dedication agreement form provided as Exhibit G or by placing a Dedication or an Irrevocable Offer of Dedication, as directed by CITY, on a final subdivision or parcel map in accordance with Government Code §s 66439 and 66447. LANDOWNER shall transfer the land required to be transferred by Reservation to CITY or to a Public Agency utilizing the Reservation form provided as Exhibit H and in accordance with Government Code section 66480. LANDOWNER shall transfer the land required to transferred by Dedication or by Reservation at such time as is

either: (i) required pursuant to a condition or term of any entitlement for use or Development of the Property; or (ii) requested by CITY or Public Agency where LANDOWNER has not applied for an entitlement for use or Development of the Property, but the land is needed, in CITY's and/or Public Agency's sole discretion, for purposes of construction and improvement of Public Facilities. CITY shall accept such transfers of land by Dedication or Reservation, as provided therein.

6.8 *Allocation Dispute Resolution*. Where a dispute exists between LANDOWNER, Assignee, and/or any successor or successors in interest with respect to any matter involving the CITY's allocation of the land uses, housing units, densities and building square footages for or on the Property in compliance with the Project Entitlements as set out in Section 5.2, such dispute shall be resolved by arbitration, utilizing the commercial arbitration procedures of the American Arbitration Association, or some other alternative dispute resolution procedure mutually agreed upon by the parties involved in the dispute. In no case shall CITY or another Public Agency, and their respective elective and appointive members of boards, commissions, officers, agents and employees be a party to such dispute or to the dispute resolution procedures. All of the provisions of this Agreement relating to LANDOWNER's obligation to defend and indemnify CITY and payment of CITY costs shall apply to all disputes relating directly or indirectly to such allocation.

6.9 *Annual Report*. LANDOWNER shall, within thirty (30) days of each anniversary of the Effective Date, submit to the City Manager a brief written report on the progress of Development of the Property for the Project as authorized under this Agreement during the prior twelve (12) month period. The annual report shall include, at a minimum, (i) the additional square footage of commercial and office development and the number of housing units constructed or under construction, (ii) the Public Facilities constructed or under construction by LANDOWNER, and (iii) the land Dedications and Reservations conveyed to CITY or Public Agency. The CITY will review the annual report in accordance with Section 5.6. LANDOWNER shall pay a processing fee for each annual review in the amount established by resolution of the City Council.

6.10 *Indemnification*. LANDOWNER agrees to defend and indemnify CITY, Public Agency and their respective elective and appointive members of boards, commissions, officers, agents and employees against any liability for damage or claims for damage for personal injury, including death, or property damage, arising out of or relating in any way to actions or activities to Develop the Property, whether undertaken by LANDOWNER or LANDOWNER's affiliates, contractors, subcontractors, agents or employees. Said indemnification pursuant to this Section 6.10 shall not extend to claims that are based on an indemnified Party's gross negligence or willful misconduct.

6.11 *Reimbursement for Agreement Costs*. LANDOWNER agrees to reimburse the CITY for reasonable and actual expenses incurred by CITY that relate directly to CITY's review, consideration, and execution of this Agreement. Such expenses include, without limitation, recording fees, ordinance publishing fees, any special meeting and notice costs, and staff time, including preparation or staff reports relating to approval of this Agreement and the Adopting Ordinance, and preparation and review of this Agreement and any changes requested by LANDOWNER or by the City Attorney's Office. The cost for the preparation, processing and review of this Agreement by the City Attorney's Office is $140.00 per hour. Such expenses shall

be paid by LANDOWNER within thirty (30) days of receipt of a detailed written statement of such expenses.

6.12 *Inclusionary Housing Requirements*. If and to the extent that the Property is subject to the Inclusionary Housing Ordinance, LANDOWNER has filed an Inclusionary Housing Plan, which has been approved as part of the Project Entitlements. The Inclusionary Housing Plan specifies that certain Subsequent Approvals for the Project will contain conditions to implement the Inclusionary Housing Plan and an Inclusionary Housing Agreement is to be recorded against all or a portion of the Property to secure compliance with these conditions. LANDOWNER shall implement the Inclusionary Housing Plan and execute and comply with the terms of the Inclusionary Housing Agreement.

6.13 *Transportation Management Association*. If formation of, or participation in, a transportation management association is referenced in the Project Entitlements or Mitigation Measures, LANDOWNER shall form or participate in such transportation management association that encompasses all of the Property and imposes an annual fee assessment to fund the association's operations and services. Formation of the association and the initiation of proceedings to establish a community facilities assessment district or similar benefit assessment district to fund the association operations and services shall occur prior to approval of the first final map or issuance of the first building permit, and the protest waiver set out in Exhibit E shall apply to the creation of that district. The transportation management association shall be charged with the obligation to implement transportation system management measures to achieve a reduction in vehicular trips by employees and residents within the Project. The transportation management association articles of incorporation, bylaws, fee assessment, annual budget and transportation system management measures shall be subject to CITY approval. The transportation system management measures funded by the association may include paying for a portion of the net operating costs for the light rail system and other transit services provided by the Sacramento Regional Transit District that serve the Property.

7.0 *LITIGATION, DEFAULT, AND TERMINATION*

7.1 *Litigation by Others*.

7.1.1 Third Party Challenge to Agreement or Entitlements. The Parties agree to cooperate in good faith in the defense of any litigation (which shall include any and all claims, actions, or other proceedings of any kind) instituted by a third party challenging the validity of any portion of this Agreement, or its application or effectiveness, at any time during its Term, including without limitation (i) any litigation by a third party challenging the proceedings taken for its approval (including the CEQA requirements), (ii) any litigation by a third party challenging the validity of any of the Project Entitlements (including CEQA challenges), (iii) any litigation by a third party to enforce the application of a voter approved initiative to Development of the Property for the Project, or (iv) any litigation by a third party challenging any other act undertaken by the Parties in furtherance of this Agreement or its terms, including without limitation Subsequent Approvals.

7.1.2 **Defense, Indemnity, and Release**. In all such litigation covered by paragraph 7.1.1 of this Agreement, the following shall apply:

7.1.2.1 CITY will promptly notify LANDOWNER of any litigation filed and served on CITY arising out of, concerning, or in any way connected to this Agreement or the Project, or any portion of either. The CITY may, in its sole discretion, either defend such litigation or tender its defense to LANDOWNER.

7.1.2.2 If CITY determines to defend the litigation itself, LANDOWNER shall be entitled, subject to court approval if required, to join in or intervene in the action on its own behalf, or to advocate in favor of validity of this Agreement or any challenged entitlement. In such a case, each Party shall bear its own attorney fees and costs.

7.1.2.3 If CITY determines to tender the defense of the litigation to LANDOWNER, CITY shall promptly notify LANDOWNER of its determination. LANDOWNER shall, upon such notice from CITY, at LANDOWNER's expense, defend, indemnify, and hold harmless CITY, its officers, employees, and agents, and each and every one of them, from and against the litigation, including the issuance of or the refusal to issue any permits prior to or during the pendency of the action. LANDOWNER's obligation to indemnify and hold harmless shall include all damages, costs of suit, fees (including attorney's fees awarded under Code of Civil Procedure section 1021.5 or otherwise), and expenses of every type and description, including the cost of preparing the administrative record, fees, and/or costs reasonably incurred by CITY for its staff attorneys or outside attorneys, and any fees and expenses incurred in enforcing this provision, where such damages, costs of suit, fees, and expenses are claimed by or awarded to any party against CITY or otherwise incurred by the CITY. CITY shall have the right to approve the legal counsel providing the CITY's defense under this Section 7.1.2, which approval shall not be unreasonably withheld. If a conflict of interest arises between CITY and LANDOWNER in the joint defense of the action, then, in CITY's sole discretion, LANDOWNER shall provide CITY separate legal counsel acceptable to CITY at LANDOWNER's reasonable expense, or CITY shall retain its own counsel at CITY's expense. LANDOWNER shall have the right to settle such litigation without CITY's consent thereto, provided LANDOWNER accepts the defense and obligation without reservation, and that such settlement does not obligate CITY to make any payment or perform any obligation, or otherwise prejudice CITY, as determined by CITY in its sole discretion. LANDOWNER shall bear all attorney fees and costs associated with such defense from and after the date of the tender. However, CITY may at any time after the tender elect to assume representation of itself; in that event, from and after the date CITY gives notice of its election to do so, CITY shall be responsible for its own attorney fees and costs incurred thereafter.

7.1.2.4 With respect to approvals and entitlements governed by the Subdivision Map Act, California Government Code section 66410 et seq., the obligations under this Agreement shall be construed to be consistent with and shall apply to the extent permitted under California Government Code section 66474.9. In these cases, if CITY should fail to promptly notify LANDOWNER of the litigation or cooperate fully in the defense, LANDOWNER shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees to the extent California Government Code section 66474.9 applies.

LANDOWNER shall not be required to pay or perform any settlement of such claim, action, or proceeding unless the settlement is approved in writing by LANDOWNER.

7.1.2.5 LANDOWNER's obligations under this Agreement shall apply regardless of whether any permits or entitlements are issued.

7.1.2.6 LANDOWNER unconditionally and forever releases and discharges CITY, its officers, employees, and agents, and each and every one of them, from all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that in any way arise from, or are connected with, the issuance of or the refusal to issue any building or other permit for the Project while any litigation concerning the Application, the Project, or any portion of either, is pending. This release and discharge covers all claims, rights, liabilities, demands, obligations, duties, promises, costs, expenses, damages, and other losses or rights of any kind, past, present, and future, whatever the theory of recovery, and whether known or unknown, patent or latent, suspected or unsuspected, fixed or contingent, or matured or unmatured. LANDOWNER hereby waives all rights it has or may have in the future under section 1542 of the California Civil Code, which provides as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which is known by him or her must have materially affected his or her settlement with the debtor.

_____ _____
City Initials Landowner Initials

7.1.3 **Effect of Judgment**. If, in such litigation, a final judgment or other final order is issued by the court which has the effect of invalidating or rendering ineffective, in whole or in part, any provision of this Agreement or the Agreement itself, or any Project Entitlement or Subsequent Approval, the following shall apply:

7.1.3.1 If the judgment or order includes a provision for attorney fees and/or costs of the successful party or parties, LANDOWNER shall pay the entire cost thereof, without right of offset, contribution, or indemnity from CITY, irrespective of anything to the contrary in the judgment or order.

7.1.3.2 CITY and LANDOWNER shall meet and endeavor, in good faith, to attempt to reach agreement on any amendments needed to allow Development of the Property for the Project to proceed in a reasonable manner, taking into account the terms and conditions of the court's judgment or order. If agreement is reached, the procedures for amending this Agreement as specified in Section 2.3 shall apply. If agreement is not reached, either party shall have the right to terminate this Agreement for its convenience by giving the other party notice as provided in Section 9.2.

7.1.3.3 If amendment is not required, and the court's judgment or order requires CITY to engage in other or further proceedings, CITY agrees to comply with the terms of the

judgment or order expeditiously, subject to LANDOWNER's payment of CITY's costs to comply with the terms of the judgment or order.

7.1.4 **No CITY Liability for Damages**. Notwithstanding any other provision of law or any provision of this Agreement to the contrary, in no event shall CITY, Public Agency, or their respective elective and appointive members of boards, commissions, and officers, agents and employees be liable to LANDOWNER in damages in any litigation instituted by a third party as described in this Section 7.1.

7.2 *Force Majeure and Enforced Delay*. In addition to other specific provisions of this Agreement, performance by either Party hereunder shall not be deemed in default where delay or inability to perform is due to: (i) war, insurrection, terrorist acts, riots or other civil commotions; (ii) vandalism or other criminal acts; (iii) strikes, walkouts, or other labor disputes; (vi) acts of God, including floods, earthquakes, fires, casualties, or other natural calamities; (v) enactment of conflicting or supervening federal or state laws or regulations; (vi) shortages of materials and supplies or delivery interruptions; or (vii) litigation instituted by third parties challenging the validity of this Agreement or Subsequent Approvals. A Party's financial inability to perform shall not be a ground for claiming an enforced delay. The Party claiming force majeure or enforced delay shall notify the other Party of its intent to claim a permitted delay and the specific ground for such delay as soon as is reasonable based on the circumstances. Upon request of either Party, a written extension of time for such cause shall be granted for the period of the force majeure or enforced delay, and the Term of this Agreement shall be extended by amendment in accordance with Section 2.3.

7.3 *Waiver*. Except as otherwise expressly provided herein to the contrary, by entering into this Agreement LANDOWNER waives its right to challenge the fairness or appropriateness, as applied to the Property and/or the Project, of: (i) the Project Entitlements; (ii) Public Financing Mechanisms and Development Fees; (iii) the Dedications and Reservations for Public Facilities and Public Services; (iv) the Land Use and Development Regulations; and (v) all actions implemented in furtherance of the foregoing as specified herein.

7.4 *Legal Actions by Parties*. In addition to the provisions set out in Sections 7.6 and 7.7, and any other rights or remedies as set out in this Agreement, either Party may institute legal action to cure, correct, or remedy any default by any other Party to this Agreement, to enforce any covenant or obligation herein, or to enjoin any threatened or attempted violation hereunder. Subject to any mutual extensions, notice, and opportunity to cure, the term "default" shall mean a material failure of performance or a substantial and unreasonable delay in performance by either Party of any of term, condition, obligation, or covenant of this Agreement. Default by either Party may include, without limitation, a material failure to: (i) transfer land for Public Facilities as required by Dedication or Reservation, (ii) undertake construction of Public Facilities, and/or (iii) implement or comply with the terms and conditions of the Project Entitlements.

7.4.1 **No CITY Liability for Damages**. Notwithstanding any other provision of law or any provision of this Agreement to the contrary, in no event shall CITY, Public Agency or their respective elective and appointive members of boards, commissions, and officers, agents, and employees be liable in damages for any breach, default, or violation of this Agreement, it being specifically understood and agreed that the Parties'

sole legal remedy for a breach, default, or violation of this Agreement shall be a legal action in mandamus, specific performance, or other injunctive or declaratory relief to enforce the provisions of this Agreement.

7.4.2 **Limitation of Legal Actions**. No initiation of legal proceedings shall be filed by a Party unless such action is filed within one hundred and eighty (180) days from the date of discovery by the aggrieved Party of the facts underlying the claim of default, and the date of discovery being that the date that the facts became known or should have become known to the aggrieved Party based on the circumstances of the default.

7.4.3 **Applicable Law and Venue**. This Agreement shall be construed and enforced in accordance with the laws of the State of California, the state in which the Agreement is signed. The Parties agree to submit any disputes arising under the Agreement to a court of competent jurisdiction located in Sacramento, California. Nothing in this Agreement shall be construed to prohibit the Parties from engaging in alternative dispute resolution processes prior to initiating legal proceedings, including, without limitation, mediation and arbitration, upon the discretion and mutual consent of the Parties.

7.4.4 **Standard of Review**. LANDOWNER agrees and acknowledges that CITY has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of CITY. To the extent CITY acts in an adjudicatory manner for any Subsequent Approval by conducting hearings, receiving evidence, and making findings of fact, such actions shall be reviewed under principles of administrative mandamus in accordance with applicable law.

7.5 *Attorney Fees*. In any arbitration, quasi-judicial, administrative, or judicial proceeding (including appeals), brought by either Party to enforce or interpret any covenant or any of such Party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing party shall be entitled to reasonable attorneys' fees and all costs, expenses, and disbursements in connection with such action, including the costs of reasonable investigation, preparation, and professional or expert consultation, which sums may be included in any judgment or decree entered in such action in favor of the prevailing party. For purposes of this Section 7.5 and any other portion of this Agreement relating to attorney fees, reasonable attorneys fees of the City Attorney's Office shall be based on comparable fees of private attorneys practicing in Sacramento County, including direct, indirect, and overhead costs.

7.6 *Default*. Subject to any extensions of time by mutual consent of the Parties, and subject to the cure provisions set forth herein, any default (as that term is defined in Section 7.4) of this Agreement shall constitute a breach, and the non-defaulting Party may cancel this Agreement for default.

7.6.1 **LANDOWNER Default**. In addition to any other remedy specified in this Agreement, if notice of default has been given by CITY to LANDOWNER, CITY shall not be obligated to issue any Building Permit or grant any Subsequent Approval for the

Project until such time as the default is cured. If notice of default is given by CITY with respect to only a portion of the Property or the Project that is affected by LANDOWNER's default as specified in the CITY's notice of default, only those Building Permits and Subsequent Approvals applicable to that portion of the Property and/or the Project shall be affected by the suspension of Building Permits and Subsequent Approvals until the such time as the default is cured. In no event shall a default of an Assignee of a portion of the Property prevent LANDOWNER from receiving Building Permits and Subsequent Approvals for the remainder of the Property pursuant to the terms of the Assignment and Assumption Agreement, except as specified herein. In no event shall a default of LANDOWNER prevent an Assignee from receiving Building Permits and Subsequent Approvals for Assignee's portion of the Property pursuant to the terms of the Assignment and Assumption Agreement, except as specified herein.

7.6.2 **CITY Default**. In addition to any other remedy specified in this Agreement, if notice of default has been given by LANDOWNER to CITY, any resulting delays in LANDOWNER's performance caused by CITY's default shall not constitute a LANDOWNER default, or be grounds for termination or cancellation of this Agreement.

7.6.3 **Nonwaiver**. Waiver of any default under this Agreement by either Party shall not constitute a continuing waiver or a waiver of any subsequent default either of the same or of another provision of this Agreement.

7.6.4 **No Cross Default.** Where a portion of the Property has been transferred in accordance with the Assignment provisions of this Agreement and notice of default has been given by CITY to an Assignee: (i) neither LANDOWNER nor any non-defaulting Assignee shall be liable for the default of that Assignee; (ii) the rights of LANDOWNER and non-defaulting Assignees under this Agreement shall not be affected by the default of that Assignee; and (ii) CITY shall not be in default or otherwise liable to LANDOWNER or a non-defaulting Assignee for the CITY's action to declare a default. In no event shall a default of an Assignee of a portion of the Property prevent LANDOWNER or non-defaulting Assignees from receiving Building Permits and Subsequent Approvals for the remainder of the Property pursuant to the terms of the Assignment and Assumption Agreement, except as specified herein. In no event shall a default of LANDOWNER prevent non-defaulting Assignees from receiving Building Permits and Subsequent Approvals for the remainder of the Property pursuant to the terms of the Assignment and Assumption Agreement, except as specified herein. Notwithstanding the foregoing, CITY, in its sole discretion, shall have the right, following notice and hearing, to terminate this Agreement, as to some or all non-defaulting Parties and Assignees, for CITY's convenience, if CITY certifies to the non-defaulting Parties and Assignees that the default of the defaulting Party or Assignee would prevent or impede CITY's performance of its obligations to the non-defaulting Parties and Assignees under this Agreement.

7.6.5 **Cure Period**. In the event of an alleged default of any term or condition of this Agreement, the Party alleging such default shall give the other Party notice in writing as provided in Section 9.2 specifying the nature of the alleged default, the manner in which said default may be satisfactorily cured, and a reasonable period of

time in which to cure the default, which shall not be less than thirty (30) days. If requested by either Party, the Parties shall meet and confer in an attempt to resolve the matter raised by the notice of default. During any such cure period, the Party charged shall not be considered in default for purposes of cancellation or termination of this Agreement and neither Party may institute legal proceedings related to the alleged default.

7.7 *Remedies After Expiration of Cure Period*. After expiration of the cure period, if the alleged default has not been cured in the manner set forth in the notice and to the satisfaction of the Party issuing the default notice, the non-defaulting Party may at its option: (i) institute legal proceedings to obtain appropriate judicial relief including, without limitation, mandamus, specific performance, injunctive relief, or cancellation of this Agreement; or (ii) give the other Party notice of intent to cancel this Agreement.

7.7.1 **Public Hearing**. If notice of intent to cancel this Agreement is given by the non-defaulting Party, CITY shall schedule the matter for public hearing before the City Council to review the matter and make specific written findings regarding the alleged default pursuant to Government Code section 65868 and the Procedural Ordinance. Where LANDOWNER is the Party alleged to be in default, CITY shall provide LANDOWNER: (i) a reasonable opportunity to respond to all allegations of default at such public hearing; (ii) at least thirty (30) days prior written notice of the date, time, and place of the public hearing; and (iii) copies of all CITY staff reports prepared in connection therewith at least five (5) days prior to the hearing. LANDOWNER shall be given an opportunity to be heard at the public hearing. The burden of proof whether the LANDOWNER is in default shall be on CITY, the burden of proof whether the CITY is in default shall be on the LANDOWNER, and the burden on whether default has been properly cured shall be on the Party alleged to be in default.

7.7.2 **Cancellation or Modification of Agreement–LANDOWNER Default**. At the conclusion of the public hearing, if the City Council finds, based on substantial evidence, that the LANDOWNER was in default and the default has not been cured to the satisfaction of CITY, or if the City Council determines that because of the default a serious risk to the public health or safety exists, this Agreement shall be either cancelled for breach as of the date of the City Council's determination, or the City Council may modify this Agreement and impose such conditions as are reasonably necessary to address the default and/or protect the interests of the CITY and the public. LANDOWNER may thereafter institute legal proceedings to obtain appropriate judicial relief including, without limitation, mandamus, specific performance, or injunctive relief. Expiration of the Term of this Agreement shall be tolled during the period of legal proceedings if there be a judicial determination invalidating or reversing the CITY's cancellation or modification of this Agreement.

7.8 *Termination for Convenience*.

7.8.1 **Termination Upon Completion of Development**. This Agreement shall terminate as to each parcel of land contained within the Property when that parcel of land: (i) has been fully developed; (ii) all occupancy permits for the buildings

constructed thereon have been issued by CITY; (iii) CITY has accepted the Public Facilities constructed by LANDOWNER thereon or required to serve that parcel; (iv) CITY and/or Public Agency has accepted the Dedications or Reservations thereon; and (v) all of LANDOWNER'S obligations in connection therewith as set out in this Agreement are satisfied, as reasonably determined by CITY. CITY shall, upon written request made by LANDOWNER to CITY's Community Development Department, determine if the Agreement has terminated with respect to any parcel of land contained within the Property, and shall not unreasonably withhold termination as to that parcel if LANDOWNER's obligations therewith are satisfied. LANDOWNER shall pay to CITY a fee commensurate with the cost of processing the request and making such a determination, including, without limitation, CITY's reasonable administrative and legal expenses. Such fee shall be determined in accordance with CITY's established fees and charges then in effect.

7.8.2 **Multi Family and Single Family Residential Projects**. This Agreement shall automatically terminate and be of no further force and effect as to any single family residence or multi-family building, and the lot or parcel upon which said residence or building is located, when CITY has issued an occupancy permit for that residence or building.

7.8.3 **Termination Upon Mutual Consent of the Parties**. This Agreement may be terminated prior to the expiration of the Term by mutual written agreement of the LANDOWNER and CITY and/or between CITY and Assignee, and any such termination shall not be binding on Assignee or LANDOWNER, as applicable, if it has not executed the written agreement with CITY.

7.8.4 **Termination by Expiration of Term**. This Agreement shall expire as of the date of the expiration of the Term, without notice or any further action of either Party, unless at least one hundred and eighty (180) days prior to said expiration, the Term is extended by mutual agreement of the Parties as set out in an amendment.

7.8.5 **Termination for Convenience**. Whenever this Agreement expressly provides for the termination of this Agreement for convenience, the terminating Party shall exercise such right to terminate the Agreement for its convenience by providing the other Party with written notice of termination as provided in Section 9.2 at least thirty (30) days prior to the effective date of termination as set out in the notice.

7.9 *Recorded Notice of Termination or Cancellation*. Upon termination or cancellation of this Agreement, CITY shall, on its own initiative and/or upon LANDOWNER's request, record a notice of such termination or cancellation against the Property or specific parcels of land in a form satisfactory to the City Attorney that the Agreement has been terminated or cancelled. The notice shall be recorded by CITY within thirty (30) days after CITY's determination that this Agreement is terminated or cancelled. The aforesaid notice may specify, and LANDOWNER agrees, that termination or cancellation shall not affect in any manner any continuing obligations under this Agreement which survive its termination or cancellation as set out herein or in a recorded covenant.

7.10 *Effect of Cancellation/Termination on LANDOWNER's Obligations*. Cancellation or termination of this Agreement as to the Property or any portion thereof shall not affect any of the LANDOWNER's obligations to comply with the Project Entitlements, Public Financing Mechanisms, Development Fees, Land Use and Development Regulations, and Subsequent Approvals. The foregoing includes, without limitation, tentative maps, special permits, plan reviews, variances, Building Permits, and all other entitlements, permits, and approvals issued for the Property and/or the Project prior to the effective date of cancellation or termination which are required: (i) for LANDOWNER to complete construction of any improvements on the Property for which a final map had been recorded or Building Permit had been issued; (ii) for CITY to provide any Public Facilities and/or Public Services to serve improvements on the Property either completed prior to the effective date of cancellation or termination or to be completed under the Building Permits issued and final maps recorded prior to the effective date, or to serve residents and businesses that are then occupying the Property or will occupy the Property under the Building Permits issued and final maps recorded prior to the effective date; and (iii) for LANDOWNER's performance of obligations under the Land Use and Development Regulations or Project Entitlements. Notwithstanding the cancellation or termination of this Agreement or anything contained herein to the contrary, LANDOWNER shall also be obligated to comply with any covenants of this Agreement that are to survive after cancellation or termination of this Agreement, whether express or implied, or which have been recorded against the Property under the terms of a separate agreement.

8.0 *Lender provisions*

8.1 *Lender Rights and Obligations*.

8.1.1 **No Impairment**. Neither LANDOWNER's entering into this Agreement nor its default under this Agreement shall alter, defeat, render invalid, diminish, or impair the lien of any Mortgage or Deed of Trust on the Property made in good faith by the Lender and for value. This Agreement shall not prevent or limit LANDOWNER in any manner, at LANDOWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any Mortgage, Deed of Trust, or other security instrument securing financing with respect to the Property or adjacent properties for the Project.

8.1.2 **Prior to Lender Possession**. No Lender shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion, and shall not be obligated to pay any fees or charges which are liabilities of LANDOWNER or LANDOWNER's successors in interest, but shall otherwise be bound by all of the terms and conditions of this Agreement which pertain to the Property or such portion thereof in which it holds an interest. Nothing in this Section 8.1 shall be construed to grant to a Lender rights beyond those of LANDOWNER hereunder, or to limit any remedy CITY has hereunder in the event of default by LANDOWNER, including, without limitation, suspension, cancellation for breach, and/or refusal to grant entitlements with respect to the Property.

8.1.3 **Lender in Possession**. A Lender who comes into possession of the Property, or any portion thereof, pursuant to foreclosure of a Mortgage or Deed of Trust,

or a deed in lieu of foreclosure, shall not be obligated to pay any fees or charges which are obligations of LANDOWNER, and which remain unpaid as of the date such Lender takes possession of the Property or portion thereof. However, a Lender shall not be eligible to apply for or receive entitlements with respect to Development of the Property for the Project, or otherwise be entitled to Develop the Property or devote the Property to any uses or to construct any improvements thereon, other than the Development contemplated or authorized by this Agreement and subject to all of the terms and conditions hereof, including payment of all fees and charges (delinquent, current, and accruing in the future), and entering into an Assignment and Assumption Agreement to assume of all obligations of LANDOWNER hereunder. No Lender, or successor thereof, shall be entitled to the rights and benefits of the LANDOWNER hereunder or entitled to enforce the provisions of this Agreement against CITY unless and until such Lender or successor thereof qualifies as a recognized Assignee under the provisions of Section 2.6 of this Agreement and Lender cures LANDOWNER's default to the CITY's satisfaction as provided in Section 8.3.

8.2 *Notice of LANDOWNER's Default*. If CITY receives notice from a Lender requesting a copy of any notice of default given LANDOWNER hereunder and specifying the address for service thereof, then CITY shall deliver to such Lender concurrently with sending the notice of default to LANDOWNER a copy of the default notice.

8.3 *Lender's Right to Cure*. Each Lender shall have the right (but not the obligation) during the same period of time available to LANDOWNER to cure or remedy, on behalf of LANDOWNER, the default claimed and set forth in CITY's written default notice, , provided however, that (a) if such default is not capable of being cured within the timeframe set forth in this Section 8.3 and Lender commences to cure the default within such timeframe, then Lender shall have such additional time as is required to cure the default so long as Lender diligently prosecutes the cure to completion, and (b) if possession of the Property or such portion thereof in which Lender holds an interest is required to effectuate such cure or remedy, Lender shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within sixty (60) days after receipt of the default notice, diligently purses such proceedings to completion, and after obtaining possession, diligently completes such cure or remedy. Such action shall not entitle a Lender to develop the Property or otherwise partake of any benefits of this Agreement unless such Lender shall assume and perform all obligations of LANDOWNER hereunder under the terms of the Assignment and Assumption Agreement.

8.4 *Other CITY Notices*. If CITY receives notice from a Lender requesting a copy of any notice, including a notice of default, issued by CITY to LANDOWNER pursuant to the terms of this Agreement, a copy of said notices shall be sent to Lender at the address provided herein within thirty (30) days of sending the notice to LANDOWNER.

8.5 *Estoppel Certificates*. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such other Party to issue a writing known as an estoppel certificate, certifying that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments; and (iii) the requesting Party is not in default in the performance of its obligations under this

Agreement, or if in default, describing therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such estoppel certificate, or give a written detailed response explaining why it will not do so, within thirty (30) days following the receipt of each such request. Each Party acknowledges that such an estoppel certificate may be relied upon by third parties acting in good faith, including Lenders. An estoppel certificate provided by CITY establishing the status of this Agreement with respect to the Property or any portion thereof shall be in recordable form and may be recorded at the expense of the Party requesting the certificate.

8.6 *Interpretations and Amendments*. CITY agrees to negotiate in good faith with Lender to make amendments to this Agreement deemed necessary by Lender. Notwithstanding the foregoing, nothing in this Agreement shall require the CITY to reach agreement with Lender regarding any amendments to this Agreement if the CITY determines in its discretion that any amendment proposed by a Lender is unreasonable or inconsistent with CITY policy.

9.0 *Miscellaneous PROVISIONS*

9.1 *No Joint Venture, Partnership, or Other Relationship*. Nothing contained in this Agreement or in any other document executed in connection with this Agreement shall be construed as creating a joint venture or partnership between CITY and LANDOWNER. Each Party is acting as an independent entity and not as an agent of the other in any respect. No relationship exists as between CITY and LANDOWNER other than that of a governmental entity regulating the development of private property, and the owner of such private property.

9.2 *Notices*. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the CITY and LANDOWNER, or LANDOWNER's successors in interest, and to Lender, if applicable. Notice shall be effective on the date delivered in person, or on the third day after it is deposited in the United States Mail, addressed as set forth below, with postage prepaid:

Notice to the CITY:

City of Sacramento
915 I Street
Sacramento, CA 95814
ATTN: City Manager

Notice to the LANDOWNER:

KW Captowers, LLC
Attn: Dave Eadie
18401 Von Karman, Suite 350
Irvine, CA 92612

with copies to:

Thomas Law Group
Attn: Tina Thomas
455 Capitol Mall, Suite 801
Sacramento, CA 95814

Notice to Lender: _____
_____
_____
_____

Any Party may change the address to which notices are to be mailed by giving written notice of such changed address to each other Party in the manner provided herein.

9.3 *Integrated Documents/Entire Agreement*. This Agreement, the Exhibits, and the documents incorporated by reference in this Agreement or in the Exhibits are to be considered as one document and default of any of the provisions contained herein or therein shall be considered a default of this Agreement. This Agreement, including the Exhibits and documents incorporated herein by reference, integrates all of the terms and conditions related or incidental to its subject matter and constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement.

9.4 *Severability*. If any provision of this Agreement is held invalid, void, or unenforceable, but the remainder of the Agreement can be enforced without failure of material consideration to any Party, then this Agreement shall not be affected, and it shall remain in full force and effect, unless amended or modified by mutual consent of the Parties as provided in Section 2.3. If any provision of this Agreement is held invalid, void, or unenforceable, and the remainder of the Agreement cannot be enforced without failure of material consideration to any Party, either Party shall have the right, in its sole discretion, to terminate this Agreement for its convenience upon providing written notice of such termination to the other Party and specifying the effective date thereof. If either Party so elects to terminate this Agreement, such election shall not affect in any manner the terms and conditions of any entitlement granted by CITY with respect to the Property, or any portion thereof, prior to the termination date, except as specified in Section 7.10.

9.5 *Precedence*. If any direct conflict or inconsistency arises between this Agreement and the Land Use and Development Regulations, or between this Agreement and a Subsequent Rule, the provision of this Agreement shall have precedence and shall control over the conflicting or inconsistent provisions of the Land Use and Development Regulations or the Subsequent Rule, except as provided in Sections 3.3 and 4.0.

9.6 *Recording*. The City Clerk shall cause a copy of this Agreement to be recorded with the Sacramento County Recorder no later than ten (10) days following the Effective Date. If the Sacramento County Recorder refuses to record any Exhibit, the City Clerk may replace it with a single sheet bearing the Exhibit identification letter, title of the Exhibit, the reason it is not being recorded, and that the original Exhibit, certified by the City Clerk, is in the possession of the City Clerk and will be reattached to the original when it is returned by the Sacramento County Recorder to the City Clerk.

9.7 *Referendum*. CITY shall not submit the Adopting Ordinance to a referendum by action of the City Council on its own motion without LANDOWNER's written consent. This Agreement shall not become effective if a referendum petition is filed challenging the validity of the Adopting Ordinance. If the Adopting Ordinance is the subject of a referendum, LANDOWNER shall have the right to terminate this Agreement for its convenience by providing written notice to CITY as provided in Section 9.2 not later than thirty (30) days after

the referendum petition is certified as valid by the County elections officer, or such later time as allowed in writing by the City Manager. The Parties' obligation to perform under this Agreement shall be suspended pending the outcome of any such referendum election.

9.8 *Construction*. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. All Parties have had the opportunity to be represented by legal counsel of their own choice in the preparation of this Agreement, and no presumption or rule that "an ambiguity shall be construed against a drafting party" shall apply to the interpretation or enforcement of any provision hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend, or affect the meaning of the provision to which they pertain, and shall be disregarded in the construction and interpretation of this Agreement.

9.9 *Time*. Time is of the essence of each and every provision hereof.

9.10 *Waiver*. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any other occurrence or event.

9.11 *No Third Parties Benefited*. This Agreement is made and entered into for the sole protection and benefit of Parties and their successors and Assignees, including Lenders. No Person who is not a qualified successor of a Party or an Assignee pursuant to Sections 2.6 and 8.1.3 of this Agreement, or who has not become a party by duly adopted amendment to this Agreement, may claim the benefit of any provision of this Agreement.

9.12 *Effect of Agreement Upon Title to Property*. In accordance with the provisions of Government Code section 65868.5, from and after the time of recordation of this Agreement, the Agreement shall impart such notice thereof to all persons as is afforded by the recording laws of the State of California. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

9.13 *Survivorship*. The LANDOWNER's obligations arising under this Agreement pertaining to indemnity and attorneys' fees as set out in Sections 2.7.5, 6.8, 6.10, 7.1 and 7.5, and LANDOWNER's rights and obligations regarding approved entitlements as set out in Section 7.10, shall survive the expiration, termination, or cancellation of this Agreement.

9.14 *Covenant of Good Faith and Cooperation*. CITY and LANDOWNER agree that each of them shall at all times act in good faith and cooperate with one another in order to carry out the terms of this Agreement. Any information which is readily available and required by one Party from the other Party in order to carry out that Party's obligations under this Agreement shall be provided to that Party within a reasonable period of time and at no cost.

9.15 *Prior Agreements*. There are no oral or written representations, understandings, undertakings or agreements between the Parties related to Development of the Property that are not contained in or expressly referred to in this Agreement, and any such representations, understandings, undertakings, or agreements are superseded by this Agreement. No evidence of

any such representations, understandings, undertakings, and agreements shall be admissible in any proceeding of any kind or nature related to the terms and conditions of this Agreement, or its interpretation or default. This Agreement is specifically intended by the Parties to supersede all prior written agreements, if any, for the Development of the Property which may exist between CITY and LANDOWNER, except as may be specified in the Special Conditions. The provisions of Sections 2.7.5, 6.8, 6.10, and 7.1 of this Agreement relating to indemnification and defense of CITY by LANDOWNER shall be applicable to any claim whatsoever against CITY by an Assignee or a third party arising out of or in any way relating to any existing or future agreement between the Parties, or between LANDOWNER and City Agency, relating to the Development of the Property.

9.16 *Power of Eminent Domain*. It is understood that LANDOWNER may be required by CITY to utilize its best good faith efforts to acquire certain parcels and land and rights-of-way which are not currently owned by LANDOWNER and necessary to construct the Public Facilities as required by CITY to serve the Project. Should it become necessary due to LANDOWNER's failure to acquire such lands and rights-of-way, the CITY shall negotiate the purchase of the needed land and rights of way to allow LANDOWNER or CITY to construct the Public Facilities that are required to be constructed by LANDOWNER or CITY to serve the Project under this Agreement. If necessary, in accordance with the procedures established by State law, CITY may use its power of eminent domain to condemn such lands and rights-of-way. LANDOWNER shall pay for CITY's costs associated with CITY's acquisition and condemnation proceedings unless such costs are paid through a Public Financing Mechanism or Development Fee. If CITY is unable or prevented from acquiring or condemning the necessary land and rights-of-way to enable LANDOWNER or CITY to construct the Public Facilities required under this Agreement, then the Parties will meet to negotiate the terms of an amendment to this Agreement, including, without limitation, changes to the Project Entitlements and LANDOWNER's Vested Rights. Nothing in this Section 9.16 is intended or shall be deemed to constitute a determination or resolution of necessity by CITY to initiate condemnation proceedings and nothing in this Section 9.16 or in this Agreement is intended or shall be construed to constitute a prohibition against CITY to exercise its power of eminent domain to condemn LANDOWNER's Property.

9.17 *Counterparts*. This Agreement may be executed in any number of counterparts and shall be deemed duly executed when each of the Parties has executed such a counterpart.

9.18 *Authority*. Each of the signatories to this Agreement represent that he or she is authorized to sign the Agreement on behalf of such Party, all approvals, acts, ordinances, and consents which must be obtained to bind such Party have been obtained, no further approvals, acts, ordinances, or consents are required to bind such Party to this Agreement, and he or she is signing to guarantee the performance of such Party's obligations under this Agreement.

9.19 *Final Form of Exhibits*. It is the intention of the Parties, and the Parties expressly agree, that the Exhibits to this Agreement may be modified by CITY, in cooperation with LANDOWNER, after City Council approval of the Adopting Ordinance and execution of this Agreement by the Parties, and prior to recordation, in order to conform the contents of the Exhibits to the final City Council approval of the Project.

[REMAINING PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the CITY and LANDOWNER have executed this Agreement as of the dates set forth below.

CITY:
CITY OF SACRAMENTO,
a municipal corporation

By: __
City Manager
Date: .

ATTEST:

_____
City Clerk

LANDOWNER:
KW Captowers, LLC, a California limited liability company

By: __
Its: __
Date: .

APPROVED AS TO FORM:

_____
City Attorney

(ATTACH NOTARY ACKNOWLEDGMENTS)

EXECUTION PAGE FOR LENDER

_____. a _____ (herein "LENDER") owns an equitable interest in the Property described in Exhibit A of this Agreement as the beneficiary of that certain deed of trust and assignment of rents dated _____ and recorded on _____, as Instrument ____, in Book ___, Page ___, Official Records, Sacramento County, California.

LENDER hereby executes this Agreement and agrees to be bound by the terms and condition hereof, subject to the limitations set forth in Section 8.1.

LENDER requests that it be provided with copies of all notices mailed to LANDOWNER pursuant to the terms of this Agreement and that said copies be addressed as follows:

_____
_____
_____
Attn: _____

LENDER:
_____

By: __
Name: _____
Title: _
Dated: _____

(ATTACH APPROPRIATE ACKNOWLEDGMENT)

EXHIBIT A
DESCRIPTION OF LANDOWNER'S PROPERTY

The Property consists of parcels of land IDENTIFIED BY THE Assessor Parcel Numbers listed, AND as more particularly SHOWN AND described, in Exhibit A-1, attached AND incorporated into this Agreement by this reference.

EXHIBIT B
PROJECT DEVELOPMENT PLAN

THE PROJECT EXHIBITS COMPRISING THE DEVELOPMENT PLAN INCLUDE THE EXHIBITS SHOWING THE GENERAL PLAN LAND USE DESIGNATION, ZONING, PUD SCHEMATIC PLAN, TENTATIVE SUBDIVISION MAP, AND TENTATIVE MAPS, WHICH EXHIBITS ARE ATTACHED AND INCORPORATED HEREIN, AND LABELED AS EXHIBITS B-1 THROUGH B-4 THAT ARE ALL PART OF THE VESTED RIGHTS.

NOTE: SUBSTANTIVE CHANGES TO THE ATTACHED EXHIBITS OR THEIR TERMS AND CONDITIONS REQUIRE AN AMENDMENT TO THIS AGREEMENT TO BECOME VESTED UNDER SECTION 2.3.3 OF THE AGREEMENT.

EXHIBIT B-1
GENERAL PLAN LAND USE DESIGNATION

EXHIBIT B-2
ZONING

EXHIBIT B-3
PUD SCHEMATIC PLAN

EXHIBIT B-4
TENTATIVE SUBDIVISION MAP

EXHIBIT B-5
TENTATIVE MASTER PARCEL MAP

EXHIBIT C
PROJECT ENTITLEMENTS

THE FOLLOWING PROJECT ENTITLEMENTS, INCLUDING THE ORDINANCES, RESOLUTIONS, PERMITS, AND FINDINGS AND CONDITIONS ATTACHED TO SUCH ENTITLEMENTS, **AS OF THE EFFECTIVE DATE OF THIS AGREEMENT,** ARE HEREBY INCORPORATED INTO THIS AGREEMENT BY THIS REFERENCE AND ARE ALL PART OF THE VESTED RIGHTS.

NOTE: SUBSTANTIVE CHANGES TO THE FOLLOWING ENTITLEMENTS OR THEIR TERMS AND CONDITIONS REQUIRE AN AMENDMENT TO THIS AGREEMENT TO BECOME VESTED UNDER SECTION 2.3.3 OF THE AGREEMENT. CHANGES (INCLUDING ADDITIONS) TO THE MITIGATION MEASURES AFTER THE EFFECTIVE DATE OF THIS AGREEMENT WILL BE INCORPORATED INTO THIS AGREEMENT WITHOUT THE NEED FOR AN AMENDMENT TO THIS AGREEMENT, UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT.

Commission or City Council	Date of Hearing	Description of Approved Entitlements	Ordinance, Resolution or Record of Decision

EXHIBIT D
PROJECT ENVIRONMENTAL CERTIFICATION
FINAL ENVIRONMENTAL IMPACT REPORT
AND MITIGATION MEASURES

RESOLUTION NO. _____ CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT, ADOPTING FINDINGS OF FACT, MITIGATION MEASURES, AND STATEMENT OF OVERRIDING CONSIDERATION, AND APPROVING THE MITIGATION MONITORING PROGRAM WAS APPROVED BY THE CITY COUNCIL ON _____ AND IS INCORPORATED IN THIS AGREEMENT BY THIS REFERENCE AND IS PART OF THE VESTED RIGHTS.

NOTE: IF THE CITY APPROVES ANY CHANGES TO THE MITIGATION MEASURES AFTER THE EFFECTIVE DATE OF THIS AGREEMENT, THOSE CHANGES WILL BE INCORPORATED INTO THIS AGREEMENT WITHOUT THE NEED FOR AN AMENDMENT TO THIS AGREEMENT, UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT.

EXHIBIT E
PROTEST WAIVER PROVISIONS

LANDOWNER understands and agrees that financing and maintenance of the Public Facilities required under the Project Entitlements may be accomplished through a variety of Public Financing Mechanisms, including, without limitation, a combination of special assessment districts, tax districts (such as Mello-Roos Community Facilities Districts), and Development Fees, all of which mechanisms are designed to spread the cost of the Public Facilities in accordance with benefit to the properties included in such Public Financing Mechanisms and other fee programs and methodologies. LANDOWNER further understands and agrees that an important component of this Agreement is LANDOWNER's advance consent to the formation of, or implementation of, any such Public Financing Mechanisms, and LANDOWNER's agreement not to protest or contest such formation, implementation or fee imposition.

Accordingly, LANDOWNER agrees for itself, its constituents, successors and assigns that it fully, finally, and forever waives and relinquishes any right it may have to protest or contest the formation or implementation of any Public Financing Mechanism to fund and maintain Public Facilities, together with any rights it may have to contest the imposition of any related fees, assessments, taxes, or other charges. Nothing in this Agreement, however, shall prevent LANDOWNER from presenting CITY any information or opinions regarding any Public Financing Mechanism that CITY may from time to time consider establishing or imposing, which information or opinions relate to the dollar amount of any fees, assessments, taxes or other charges imposed by CITY.

If a Public Financing Mechanism or Development Fee is proposed for adoption by CITY, which Public Financing Mechanism or Development Fee directly and significantly conflicts with the Nexus Study adopted by the City Council in connection with establishment of the financing mechanism or fee, LANDOWNER shall have the right to protest only the actual amount of the directly and significantly conflicting proposed fee, charge, special tax, or assessment proposed to be levied, charged, assessed or taxed against the Property by virtue of the proposed Public Financing Mechanism or Development Fee . However, LANDOWNER's right to protest, or object shall be waived unless LANDOWNER's protest or objection is made at or before the time of the public hearing wherein the proposed Public Financing Mechanism or Development Fee is established by the City Council.

LANDOWNER shall not have the right, in connection with any land use entitlement proceeding with respect to the Property, to judicially challenge the Public Financing Mechanism or Development Fee, or the fees, charges, assessments or special taxes as applied to the Property or the Project for Public Facilities, and waives any statutory or common law right to withhold payment or to pay such fees, charges, assessment or special taxes under protest. For purposes of this Agreement, "fees, charges, assessments or special taxes" shall include any monetary exaction or payment required to be paid by LANDOWNER by virtue of or relating to Development of the Property.

Without limiting the generality of the foregoing, LANDOWNER for itself, its constituents, successors and assignees specifically, as to the Property, agrees to the following:

(1) Waives, and hereby grants advance consent to the formation and implementation of any and all special assessment districts, tax districts (such as Mello-Roos Community Facilities Districts), fee districts or other Public Financing Mechanisms of a similar nature recommended or established by CITY for the purpose of financing and maintaining Public Facilities .

Without limiting the generality of the foregoing, LANDOWNER specifically waives: (i) the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 of the Streets and Highways Code, beginning at section 2800), together with associated provisions of the California Constitution; (ii) the provisions of any other statute designed to provide a protest or contest procedure in connection with formation and implementation of a district or similar financing mechanism; and (iii) the provisions of any procedure embodied in the Sacramento City Code designed to provide a protest or contest procedure in connection with formation and implementation of a district or similar financing mechanism.

(2) Waives, and hereby grants advance consent to the establishment or imposition of any and all Development Fees and special fees, exactions, development fees, assessments, taxes or other charges established by CITY for the purpose of financing and maintenance of Public Facilities. Without limiting the generality of the foregoing, LANDOWNER specifically waives: (i) to the extent applicable, those statutory and constitutional provisions specified in paragraph (1) above; and (ii) the provisions of Government Code sections 66000, et seq., or any other provision of law providing a procedure for contest or protest of establishment or imposition of Development Fees, and special fees, exactions, development fees, assessments, taxes or other charges of a similar nature.

(3) Agrees to: (i) affirmatively petition CITY, where applicable, for the formation of all special districts and other Public Financing Mechanisms that have been or will be in the future selected or recommended by CITY ; (ii) execute an irrevocable proxy or proxies when necessary (such as in the formation of, or imposition of taxes relative to, a Mello-Roos Community Facilities District) authorizing a representative designated by CITY, who will vote in favor of establishing the specific Public Financing Mechanism in question; and (iii) execute immediately upon presentation any document which is required or convenient for the formation of the district or facilitation of the particular Public Financing Mechanism.

LANDOWNER agrees and specifically represents to CITY that it is fully aware of all of its legal rights relative to the waivers, advance consents and other agreements set forth herein, having been fully advised by its own independent attorneys. Having such knowledge and understanding of its rights, LANDOWNER has nevertheless voluntarily entered into the Agreement, of which this Exhibit is a material part. LANDOWNER is aware that CITY is relying on the representations contained in this Exhibit in entering into the Agreement.

EXHIBIT F
SUMMARY LISTING AND MAP OF LAND DEDICATIONS AND RESERVATIONS AND PUBLIC FACILITIES TO BE CONSTRUCTED BY LANDOWNER

A SUMMARY LISTING AND MAP OF THE APPROXIMATE LOCATION AND PURPOSES OF THE LAND DEDICATIONS AND RESERVATIONS ARE ATTACHED AS EXHIBITS F-1 AND EXHIBIT F-2.

EXHIBIT F-1

SUMMARY OF LAND DEDICATIONS, RESERVATIONS
AND CONSTRUCTION OF PUBLIC FACILITIES BY LANDOWNER

A. Streets (dedicated easements):

B. Parks, Greenbelts, Trails, Plazas and other Public Open Space (dedications in fee):

C. Land for CITY and Public Agencies (by dedication or reservation):

D. Public Facilities to be Constructed by LANDOWNER (dedicated in fee or easement as determined by CITY):

EXHIBIT F-2

MAP OF THE APPROXIMATE LOCATION AND PURPOSES OF THE LAND DEDICATIONS AND RESERVATIONS

EXHIBIT G
IRREVOCABLE OFFER OF DEDICATION FORM

SEE ATTACHED

Recording Requested by and Benefiting
the City of Sacramento, a Government Entity –
No Fee Required per Government Code § 6103
RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City Clerk
City of Sacramento
915 I Street (Historic City Hall)
Sacramento, CA 95814

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

IRREVOCABLE OFFER TO DEDICATE
(IN FEE OR EASEMENT)

_____, a _____, ("GRANTOR") hereby irrevocably offers to dedicate in (fee or easement) to the CITY OF SACRAMENTO, a municipal corporation ("CITY"), that certain real property ("Property") in the City of Sacramento, County of Sacramento, State of California, described as follows:

SEE EXHIBIT A, LEGAL DESCRIPTION, AND EXHIBIT B, EXHIBIT MAP, ATTACHED HERETO AND MADE A PART HEREOF.

GRANTOR, for itself, its successors and assigns hereby waives any claims for any and all damages which: (i) will accrue to the remaining property of the undersigned by reason of its severance from that portion the Property subject to this offer to dedicate, (ii) taking compensation, if any, or (iii) damages on account of the location, establishment, construction or operation of the public facilities to be located on the Property, except as specifically provided herein. The foregoing waivers shall include any and all rights or claims that GRANTOR may have under Article 1, Section 19 of the California Constitution, the Eminent Domain Law, or any other law or regulation. GRANTOR acknowledges for itself, its successors and assigns that it has been advised to seek the advice of counsel on the issue of waiver of severance and other damages, and has either done so or has chosen not to do so despite being given such advice.
GRANTOR acknowledges and agrees as follows:

1. This offer is given pursuant to Government Code section 7050, and is irrevocable upon its recordation in the office of the County Recorder, County of Sacramento.

2. This offer may be accepted at any time by the City Council of CITY. This offer may be terminated only in the manner specified in the Streets and Highways Code, commencing at section 8300, for summary vacation of streets or highways.

3. CITY assumes no responsibility or liability whatsoever with respect to the Property or occurrences thereon, as a consequence of the offer set forth herein.

4. GRANTOR shall not create, nor permit to be created, any lien, encumbrance or other title impediment of any sort or nature on or affecting the Property.

5. At the time CITY accepts this offer, GRANTOR shall insure that the Property is free and clear of all rights, restrictions, easements, impediments, encumbrances, liens, assessments or other security interests of any kind, except (a) easements or rights-of-way for public utilities, if any, and (b) item which CITY has expressly consented in writing, if any.

6. If there are improvements upon the Property placed thereon either before or after this offer is recorded, GRANTOR shall have full legal responsibility, without cost to CITY, to remove such improvements, if this offer is accepted by CITY.

7. To the best of GRANTOR's knowledge, there are no notices or other information giving GRANTOR reason to believe that any conditions existing on the Property or in the vicinity thereof subject or could subject an owner of the Property to potential liabilities under any federal, state or local law, statute, ordinance, regulation, rule, order, decree, or other governmental requirement that pertains to the regulation of Hazardous Substances and/or the protection of public health and safety or the environment, including, but not limited to, the ambient air, soil, soil vapor, groundwater, surface water or land use, except as disclosed in the Draft Environmental Impact Report, Final Environmental Impact Report and appendices thereto or information or documents referenced therein. As used in this offer, the term "Hazardous Substances" means any substance, material, waste or other pollutant or contaminant that is or becomes designated, classified and/or regulated as hazardous or toxic under any federal, state or local law, statute, ordinance, regulation, rule, order, decree, or other governmental requirement now in effect or later enacted. Any liability associated with the presence of any Hazardous Substances on or adjacent to any portion of the Property shall be governed by the provisions of section 8 below, regardless of whether any inspection, examination, sampling, testing, assessment or other investigation is conducted by CITY prior to acceptance of the offer.

8. GRANTOR agrees and covenants to indemnify and defend CITY and its officers, employees and agents, harmless from and against any and all liabilities, penalties, losses, damages, costs, expenses (including reasonable attorneys' fees, whether for outside or staff counsel), causes of action, claims, or judgments that arise by reason of any death, bodily injury, personal injury, property damage, or violation of any law or regulation resulting from any acts or omissions related to the presence, use, storage, treatment, transportation, release, or disposal of Hazardous Substances on or about any portion of the Property as long as the Property is used by CITY for the purpose for which it was dedicated. GRANTOR further agrees and understands that CITY does not, and shall not be deemed to, waive any rights against GRANTOR which it may have by reason of the aforesaid indemnity and hold harmless agreement because of any insurance coverage available to CITY. The provisions of this Section 8 shall survive the acceptance of the Property by CITY hereunder.

9. This offer is made by GRANTOR for itself, its heirs, successors and assigns, and shall be fully binding on such heirs, successors and assigns.

GRANTOR represents and warrants that the GRANTOR owns the entire fee interest in

the Property and therefore has the legal right to execute this offer. The individual executing this offer on behalf of GRANTOR represents and warrants that he or she has been authorized to do so by GRANTOR and that GRANTOR shall thereby be obligated to perform the terms of this offer.

IN WITNESS WHEREOF, GRANTOR has executed this offer on the date set forth below.

GRANTOR(s):

_____

By: _____

Title:

Print Name:

Date: _____

EXHIBIT H
RESERVATION AGREEMENT FORM
SEE ATTACHED

Recording Requested by and Benefiting
the City of Sacramento, a Government Entity –
No Fee Required per Government Code § 6103
RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City Clerk
City of Sacramento
915 I Street (Historic City Hall)
Sacramento, CA 95814

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

RESERVATION OF REAL PROPERTY AGREEMENT

THIS RESERVATION AGREEMENT (herein "this Agreement") is entered into this _____ day of _____, 20___, (the "Effective Date") by and between _____ (herein "LANDOWNER") and _____ (herein "PUBLIC AGENCY").

RECITALS

A. LANDOWNER has entered into a Development Agreement (herein "the Development Agreement") dated _____, with the City of Sacramento, pursuant to which LANDOWNER agreed to develop certain property more particularly described in the Development Agreement located in the _____ Community Plan Area, subject to certain conditions and obligations set forth in the Development Agreement.

B. Pursuant to the Development Agreement, LANDOWNER is required to reserve a portion of the Property (herein "the Reservation Parcel") for the future development by PUBLIC AGENCY of specified public facilities.

C. The purpose of this Reservation Agreement is to specify the purchase price and schedule for acquisition of the Reservation Parcel.

AGREEMENT

NOW, THEREFORE, LANDOWNER AND PUBLIC AGENCY HEREBY AGREE AS FOLLOWS:

1. Property Ownership

LANDOWNER hereby certifies that it is the owner in fee title of the real property situated in the City of Sacramento as depicted in Exhibit A, which is attached hereto and incorporated herein by this reference ("Property").

2. Consideration for Reservation

LANDOWNER's offer to reserve a portion of the Development Property for future sale to PUBLIC AGENCY as described herein is made in furtherance of a condition of approval by the City of Sacramento for LANDOWNER to develop the Property.

3. Reservation Parcel

Subject to the conditions set forth herein, LANDOWNER shall designate, set aside, and irrevocably offer to sell to PUBLIC AGENCY for _____ purposes a portion of the Property consisting of _____ as the Reservation Parcel, which is depicted on Exhibit A and described in Exhibit B, which is attached hereto and incorporated herein by this reference. If a conflict between Exhibits A and B, Exhibit B shall prevail.

4. Purchase Price

In accordance with Government Code section 66480, the purchase price for the Reservation Parcel shall be based on the fair market value of the property at the time of the filing of the tentative map that encompasses the Reservation Parcel, plus the taxes paid and any other costs incurred by LANDOWNER for the maintenance of the Reservation Parcel, including interest costs incurred on any loan covering the Reservation Parcel, from the date of filing of the referenced tentative map to the date of acquisition.

5. Documents and Agreements

At the time of filing the tentative map that encompasses the Reservation Parcel, the LANDOWNER shall provide PUBLIC AGENCY the following documents that were prepared within the prior six months: (i) an appraisal of the fair market value of the Reservation Parcel prepared by a licensed MAI appraiser, (ii) a phase I environmental site assessment of the Reservation Parcel, (iii) a preliminary title report for the Reservation Parcel, and a (iv) a form purchase and sale agreement for transfer of title to the Reservation Parcel.

6. Acquisition Schedule

In accordance with Government Code section 66480, PUBLIC AGENCY shall have two years from the date of the filing of the final subdivision or parcel map that encompasses the Reservation Parcel, and such longer period if LANDOWNER is obligated to complete improvements to the Reservation Parcel and such improvements are not completed within the referenced two year period, to close escrow to acquire the Reservation Parcel. This period of time may be extended by mutual agreement of the parties.

7. Acquisition of Reservation Parcel

LANDOWNER shall negotiate with PUBLIC AGENCY in good faith to determine the fair market value of the Reservation Parcel, the purchase price, and reasonable terms and conditions of the purchase and sale agreement. PUBLIC AGENCY shall have the sole and absolute discretion to determine whether to purchase the Reservation Parcel at the price and based on the terms and condition in this Agreement and the documents referenced in Section 5, above. Nothing contained in this Agreement shall be construed as binding the PUBLIC AGENCY to purchase the Reservation Parcel.

8. Encumbrances and Improvements

From the date of this Agreement and until PUBLIC AGENCY acquires the Reservation Parcel, or provides written notice to LANDOWNER of PUBLIC AGENCY's determination to terminate this Agreement and release LANDOWNER from its obligation to set aside the Reservation Parcel for acquisition by PUBLIC AGENCY, LANDOWNER shall not construct or cause to be constructed on the Reservation Parcel: (i) any structures, including, without limitation, buildings, driveways, or signs; (ii) any utilities not existing on the Reservation Parcel as of the Effective Date of this Agreement; or (iii) the planting of any trees, although Reservation Parcel may be landscaped.

9. Hazardous Substances

To the best of LANDOWNER's knowledge, there are no notices or other information giving LANDOWNER reason to believe that any conditions existing on the Reservation Parcel or in the vicinity thereof subject or could subject an owner of the Reservation Parcel to potential liabilities under any federal, state or local law, statute, ordinance, regulation, rule, order, decree, or other governmental requirement that pertains to the regulation of Hazardous Substances and/or the protection of public health and safety or the environment, including, but not limited to, the ambient air, soil, soil vapor, groundwater, surface water or land use, except as disclosed in the Draft Environmental Impact Report, Final Environmental Impact Report and appendices thereto or information or documents referenced therein. As used in this offer, the term "Hazardous Substances" means any substance, material, waste or other pollutant or contaminant that is or becomes designated, classified and/or regulated as hazardous or toxic under any federal, state or local law, statute, ordinance, regulation, rule, order, decree, or other governmental requirement now in effect or later enacted. Any liability associated with the presence of

any Hazardous Substances on or adjacent to any portion of the Reservation Parcel shall be governed by the provisions of Section 10 below, regardless of whether any inspection, examination, sampling, testing, assessment or other investigation is conducted by PUBLIC AGENCY prior to close of escrow.

10. Hazardous Substances Indemnity

LANDOWNER agrees and covenants to indemnify and defend PUBLIC AGENCY and its officers, employees and agents, harmless from and against any and all liabilities, penalties, losses, damages, costs, expenses (including reasonable attorneys' fees, whether for outside or staff counsel), causes of action, claims, or judgments that arise by reason of any death, bodily injury, personal injury, property damage, or violation of any law or regulation resulting from any acts or omissions related to the presence, use, storage, treatment, transportation, release, or disposal of Hazardous Substances on or about any portion of the Reservation Parcel. LANDOWNER further agrees and understands that PUBLIC AGENCY does not, and shall not be deemed to, waive any rights against LANDOWNER which it may have by reason of the aforesaid indemnity and hold harmless agreement because of any insurance coverage available to PUBLIC AGENCY. The provisions of this Section 10 shall survive the transfer to title of the Reservation Parcel to PUBLIC AGENCY hereunder.

11. Notices

All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the PUBLIC AGENCY and LANDOWNER or LANDOWNER's assigns and successors, and to Lender, if applicable. Notice shall be effective on the date delivered in person, or the date when received if such notice was mailed to the address of the other party as indicated below:

Notice to the PUBLIC AGENCY: _____
_____
_____
_____

Notice to the LANDOWNER: _____
_____
_____
_____

Notice to Lender: _____
_____
_____
_____

Any party may change the address to which notices are to be mailed by giving written notice of such changed address to each other party in the manner provided herein.

12. Successors and Assigns

All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

LANDOWNER:

By: _____

PUBLIC AGENCY:

By: _____

EXHIBIT I
ASSIGNMENT AND ASSUMPTION AGREEMENT FORM

SEE ATTACHED

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (herein "this Assignment") is entered into this _____ day of _____, 20___, by and between _____, a _____ (hereinafter the "LANDOWNER"), and _____, a _____ (hereinafter "ASSIGNEE. The LANDOWNER and ASSIGNEE hereinafter may be referred to collectively as the "Parties" or in the singular as "Party," as the context requires.

RECITALS

A. LANDOWNER has entered into a Development Agreement with the City of Sacramento dated _____ (herein "the Development Agreement"), pursuant to which LANDOWNER obtained vested right to develop certain property as more particularly described in the Development Agreement (herein "the Property") for the project referred to as _____ (herein "the Project"), subject to LANDOWNER's compliance with certain conditions and obligations set forth in the Development Agreement.

B. LANDOWNER intends to transfer a portion of the Property to ASSIGNEE (herein the "Assigned Parcel(s)") under the terms of a written agreement between LANDOWNER and ASSIGNEE dated _____ (the "Exchange Agreement").

C. LANDOWNER has agreed to assign to ASSIGNEE, and ASSIGNEE has agreed to assume from LANDOWNER, all of the rights and obligations under the Development Agreement as they relate to the Assigned Parcel (s).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals which are specifically incorporated into the body of this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Effective Date; Termination**. This Assignment shall be effective as of the "Closing Date," as defined in the Exchange Agreement (the "Effective Date"). If the Exchange Agreement terminates prior to the closing thereunder, this Assignment shall automatically terminate and the Parties shall have no further obligations hereunder.

2. **Assignment and Assumption.** As of the Effective Date, LANDOWNER hereby assigns and transfers to ASSIGNEE any and all of LANDOWNER's rights under the Development Agreement as they relate to the Assigned Parcel(s), and ASSIGNEE hereby accepts and assumes all of the duties and obligations of LANDOWNER under the Development Agreement as they relate to the Assigned Parcels(s). ASSIGNEE hereby agrees to observe and fully perform all of the duties and obligations of LANDOWNER under the Development Agreement, and to be subject to all of the terms and conditions thereof, with respect to the Assigned Parcel(s).

3. **Assumption Terms and Conditions.** LANDOWNER and ASSIGNEE understand and agree that this Assignment is subject in particular to Section 2.6 of the Development Agreement, which reads as follows:

"2.6 Assignment.

2.6.1 Right to Assign. LANDOWNER shall have the right to freely sell, alienate, transfer, assign, lease, license and otherwise convey all or any portion of the Property and improvements thereon as part of a contemporaneous and related sale, assignment or transfer of its interests in the Property, or any portion thereof, without the consent of CITY; provided that no partial transfer shall be permitted to cause a violation of the Subdivision Map Act (Government Code § 66410 et seq.). LANDOWNER shall notify CITY of any sale, transfer or assignment of all of LANDOWNER's interests in all or any portion of the Property by providing written notice thereof to CITY in the manner provided in Section 9.2 not later than thirty (30) days before the effective date of such sale, transfer or assignment. LANDOWNER's failure to provide such notice to CITY shall not invalidate such sale, transfer or assignment; however, any successor in interest in ownership of all or a portion of the Property shall not benefit from the Vested Rights conferred herein without executing and delivering to CITY an Assignment and Assumption Agreement.

2.6.2 Release. LANDOWNER shall remain obligated to perform all of terms and conditions of this Agreement unless the purchaser, transferee or Assignee delivers to CITY a fully executed Assignment and Assumption Agreement to assume all of the obligations of LANDOWNER under this Agreement and to comply with all of the terms and conditions of this Agreement with respect to the Property, or such portion thereof sold, transferred or assigned, for Development of the Project. Upon such execution and delivery of the Assignment and Assumption Agreement, CITY shall release LANDOWNER from all duties, liabilities and obligations under this Development Agreement with respect to the interest(s) sold, assigned or transferred only if LANDOWNER is not in default under this Agreement as of the effective date of the Assignment.

2.6.3 Assignees. The Assignee shall be obligated and bound by the terms and conditions of this Agreement if it executes the Assignment and Assumption Agreement, and shall be the beneficiary hereof and a party hereto, only with respect to the Property, or such portion thereof, sold, assigned, or transferred to Assignee by LANDOWNER. The Assignee shall observe and fully perform all of the duties and obligations of LANDOWNER under this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred. CITY shall release Assignee from all duties, liabilities and obligations under this Development Agreement of LANDOWNER with respect to the interest(s) that are not sold, assigned or transferred to Assignee. Any such assumption agreement shall be deemed to be to the satisfaction of the City Attorney if executed substantially in form of the Assignment and Assumption Agreement attached hereto as Exhibit I and incorporated herein by this reference, or such other form as shall be proposed by LANDOWNER and approved by the City Attorney prior to the effective date of the assignment."

4. **Assignee Development Agreement.** At the request of the City, ASSIGNEE agrees to enter into a separate development agreement with respect to the Assigned Parcel(s) in accordance with the same terms and conditions as set out in the Development Agreement, subject only to those changes in the Development Agreement that are mutually agreed to by both

City and ASSIGNEE, and subject to processing of the approval of that development agreement in accordance with City's Procedural Ordinance.

5. **No Cross-Default**. The Parties acknowledge and agree that the respective obligations of LANDOWNER and ASSIGNEE under the Development Agreement shall be separate and independent from one another, such that a default by LANDOWNER of any of the LANDOWNER's duties and obligations will not constitute a default under the Development Agreement by ASSIGNEE, and a default by ASSIGNEE of any of the ASSIGNEE's duties and obligations will not constitute a default under the Development Agreement by LANDOWNER, and the City's rights and remedies under the Development Agreement shall apply only to the Party, and the Property or Assigned Parcel(s), that is the subject of the default. Any duties and obligations under the Development Agreement that apply to both the Property and the Assigned Parcel(s) must be complied with by both LANDOWNER and ASSIGNEE, but as separate obligations.

6. **Successors and Assigns.** All of the covenants, terms and conditions set forth in this Assignment shall be binding upon and shall inure to the benefit of the Parties and to their respective heirs, successors and assigns.

7. **Legal Advice.** ASSIGNEE agrees that it has read, and has sought and received all required legal and other expert consultation with regard to the duties and obligations set out in the Development Agreement to which ASSIGNEE is hereby bound, and fully understands all of its terms and conditions. ASSIGNEE further agrees that: (i) LANDOWNER has furnished ASSIGNEE with a copy of all documents and materials containing or relating to terms and conditions of development of the Assigned Parcel(s); (ii) ASSIGNEE has read and understands all of the terms and conditions of said documents and materials; and (iii) with such knowledge and understanding, which includes the nature and extent of the fees, taxes, assessments and other public financing mechanisms and obligations inherent in such documents and materials, nevertheless has voluntarily, freely and knowingly assumed and agreed to perform all of obligations and requirements, and be bound by all of the provisions of such documents and materials, in addition to the express terms and conditions of the Development Agreement.

8. **Representations; Entire Agreement.** ASSIGNEE hereby affirms and acknowledges that City has not made any representations, commitments or promises to ASSIGNEE that are contrary to or different from the express terms and conditions of the Development Agreement, unless such terms and conditions have been set forth in writing and approved by ASSIGNEE and the City Council prior to the execution of this Assignment. This Assignment contains the entire agreement of the Parties, no other understanding whether verbal, written or otherwise exists between the Parties, and no prior verbal or written communications regarding this Assignment shall be binding on any Party.

9. **Further Assurances**. The Parties agree to execute all such additional instruments and documents and to take all such additional actions, as may be reasonable and necessary to carry out the provisions of this Assignment.

10. **Notices.** All notices required or provided for under this Assignment shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt

requested, to the principal offices of the other Parties and to Lender, if applicable. Notice shall be effective on the date delivered in person, or the date when received if such notice was mailed to the address of the other Party(ies) as indicated below:

Notice to the LANDOWNER: _____
_____
_____
_____

Notice to the ASSIGNEE: _____
_____
_____
_____

Notice to Lender: _____
_____
_____
_____

Any Party may change the address to which notices are to be mailed by giving written notice of such changed address to each other Party(ies) in the manner provided herein.

11. **Governing Law.** The Assignment shall be governed by and construed in accordance with the laws of the State of California.

12. **Counterparts.** This Assignment may be executed in counterparts, each of which shall be deemed an original (including copies sent to a Party by facsimile transmission) as against the Party signing such counterpart, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Assignment as of the date and year first above written.

By: _____
LANDOWNER

By: _____
ASSIGNEE

EXHIBIT J
SPECIAL CONDITIONS

I. PURPOSE AND INTENT

The definitions applicable to the body of the Agreement shall apply to this Exhibit J. Under no circumstances can Development of the Property proceed without satisfaction of the conditions specified in this Exhibit J. These Special Conditions shall constitute binding and legally enforceable obligations of LANDOWNER and its successors and assigns, and binding and legally enforceable requirements and conditions for the Development of the Property for the Project, in addition to other obligations, requirements and conditions imposed as set out in the Agreement.

II. PARTIES' OBLIGATIONS

TO BE DELIVERED IN JULY 2015.

Back to Report Table of Contents

Draft Rezone Ordinance

ORDINANCE NO.

Adopted by the Sacramento City
Council

AMENDING TITLE 17 OF THE SACRAMENTO CITY CODE BY REZONING 10.1± ACRES GENERALLY BOUNDED BY 5TH STREET, N STREET, 7TH STREET, AND P STREET (APNs: 006-0300-002; 006-0300-003; 006-0300-004) FROM HIGHRISE RESIDENTIAL (R-5) TO HIGHRISE RESIDENTIAL (R-5 PUD) AND LOCATED IN THE SACRAMENTO COMMONS PLANNED UNIT DEVELOPMENT (P14-012); COUNCIL DISTRICT 4

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

As used in this ordinance, "**Property**" means the real property depicted in attached Exhibit A and generally bound by 5th Street, N Street, 7th Street, and P Street (APNs 006-0300-002; 006-0300-003; 006-0300-004), consisting of approximately 10.1 acres.

SECTION 2

Title 17 of the Sacramento City Code ("the Planning and Development Code") is hereby amended by rezoning the Property from Highrise Residential (R-5) to Highrise Residential (R-5 PUD) and located in the Sacramento Commons Planned Unit Development.

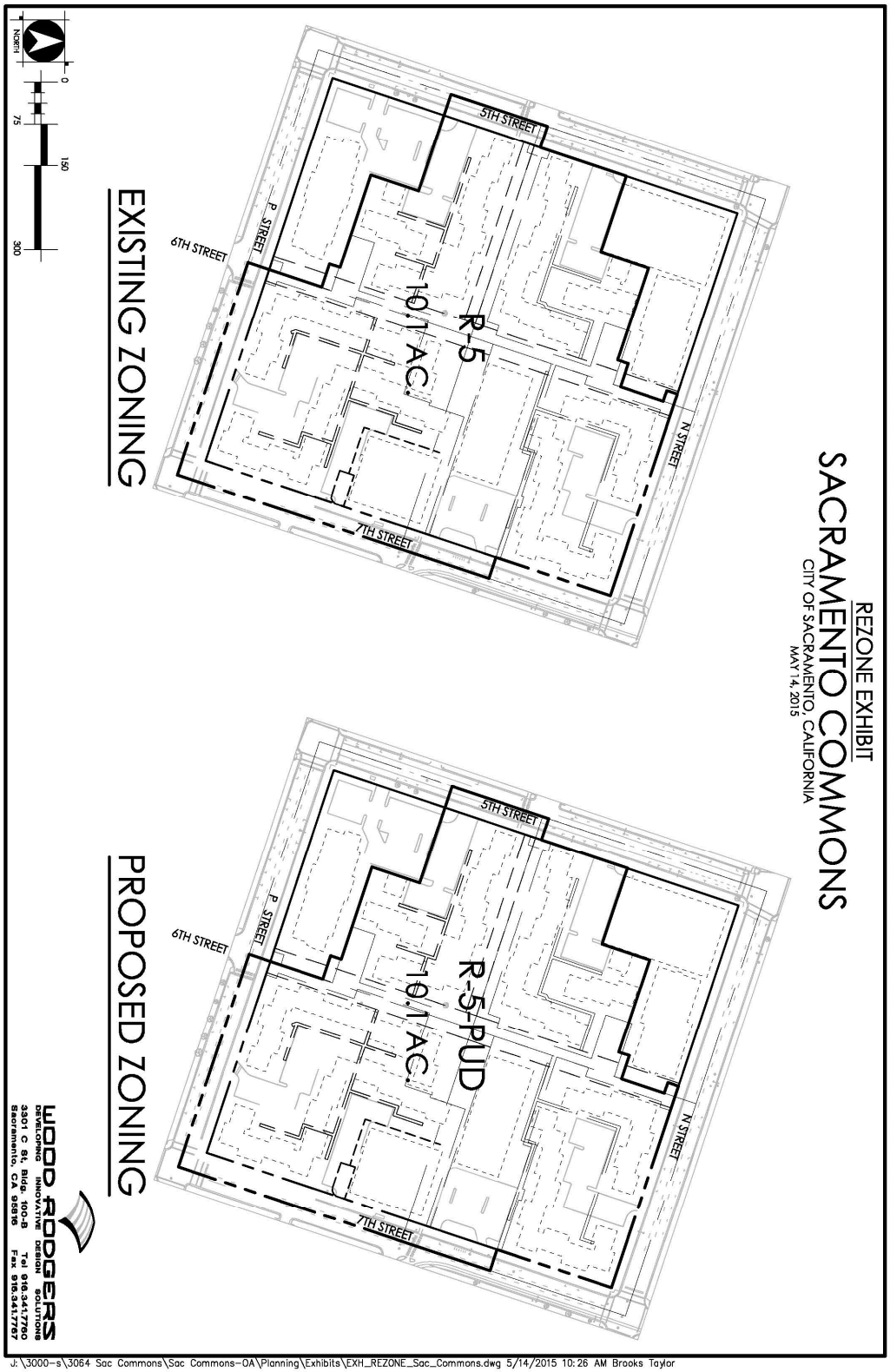
SECTION 3

The rezoning of the Property by this ordinance is consistent with the applicable land-use designation, use, and development standards in the City's General Plan; with the goals, policies, and other provisions of the General Plan; and with any applicable specific plan. The amendment promotes the public health, safety, convenience, and welfare of the City.

SECTION 4

The City Clerk is hereby directed to amend the City's official zoning maps to conform to this ordinance.

Table of Contents:
Exhibit A: Sacramento Commons Rezone Map – 1 Page



J:\3000-s\3064 Sac Commons\Sac Commons-OA\Planning\Exhibits\EXH_REZONE_Sac_Commons.dwg 5/14/2015 10:26 AM Brooks Taylor

Back to Report Table of Contents

RESOLUTION NO. 2015-

Adopted by the Sacramento City Council

APPROVING THE SACRAMENTO COMMONS PLANNED UNIT DEVELOPMENT (PUD) GUIDELINES AND SCHEMATIC PLAN (P14-012)

BACKGROUND

A. On June 11, 2015, the Planning and Design Commission conducted a public hearing on the Sacramento Commons project and forwarded to the City Council a recommendation to approve the project; and

B. On July 14, 2015, the City Council conducted a public hearing, for which notice was given pursuant to Sacramento City Code section 17.812.010 (2)(b) and received and considered evidence concerning the Sacramento Commons Project.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. Based on the verbal and documentary evidence received at the hearing on the Sacramento Commons Project, the City Council approves the Sacramento Commons Planned Unit Development Guidelines and Schematic Plan for the Sacramento Commons Project.

Section 2. The City Council approves the Sacramento Commons PUD Development Guidelines and Schematic Plan based on the following Findings of Fact:

1. The designation, adoption, or amendment is consistent with the applicable general plan land use designation, use, and development standards; the goals, policies, and other provisions of the general plan; and any applicable specific plan or transit village plan; and

2. The adoption of the PUD promotes the public health, safety, convenience, and welfare of the city in that it allows additional density in the Central Business District and the PUD guidelines and schematic plan ensure it will be well-designed and in harmony with the surrounding community; and

3. The zoning classification of the subject parcel is consistent with the proposed designation of a planned unit development, or adoption of or amendment to the planned unit development schematic plan and development guidelines.

Section 3. The Planned Unit Development Guidelines and Schematic Plan for the Sacramento Commons PUD are adopted as attached hereto as Exhibit A.

Table of Contents:

Exhibit A: Sacramento Commons PUD Guidelines and Schematic Plan

Back to Report Table of Contents

Sacramento Commons

Planned Unit Development Guidelines

Prepared for:

KW CapTowers, LLC

Prepared by:

AECOM

Draft - June 2015

Sacramento Commons

Planned Unit Development Guidelines

TABLE OF CONTENTS

TABLE OF CONTENTS 1

I. INTRODUCTION 1

1.1 PROJECT OVERVIEW 1

1.1.1 Sacramento Commons PUD Area Context and Existing Conditions 2

1.1.2 Purpose and Applicability of PUD Guidelines 8

1.1.3 PUD Organization 8

1.1.4 Regulatory and Planning Context 8

1.2 COMMUNITY VISION 13

1.2.1 Community Objectives 13

1.2.2 Master Plan Concept 13

1.2.3 Sustainability Vision 22

II. LAND USE AND DEVELOPMENT STANDARDS 25

2.1 LAND USE PLAN 25

2.1.1 Residential and Residential Mixed-Use 33

2.1.2 Hotel Uses 33

2.1.3 Active Ground Floor Uses 33

2.1.4 Parking 34

2.1.5 Open Space, Landscaping, and Circulation Features 35

2.2 PERMITTED AND PROHIBITED USES 46

2.2.1 Table of Permitted and Prohibited Uses 46

2.3 DEVELOPMENT STANDARDS 47

2.3.1 Development Standards Table Summary 48

2.3.2 Parking and Loading 49

2.3.3 Signage Standards 50

III. COMMUNITY DESIGN 53

3.1 COMMUNITY DESIGN FRAMEWORK 53

3.1.1 Site Form and Function Concepts 54

3.1 SITE, STREETSCAPE, AND LANDSCAPE DESIGN 58

3.1.1 Siting and Orientation 58

3.1.2 Public Realm Design 59

3.1.4 Parking, Loading, and Service Areas 61
3.1.5 Landscape Design 62
3.1.6 Signage and Public Art 65
3.2 ARCHITECTURE AND BUILDING FORM 67
3.2.1 Street Frontage/Ground Level Uses/Façade Treatment 67
3.2.2 Massing and Design Details 68
IV. ADMINISTRATION AND IMPLEMENTATION 71
4.1 PHASING 71
4.2 FUTURE DEVELOPMENT APPLICATIONS 72
4.2.1 Development Permitting Process 72

Figures

Figure 1.1: Sacramento Commons PUD Area 3
Figure 1.2: Existing Site Context 4
Figure 1.3: Existing City Street Tree and Heritage Tree Locations 7
Figure 1.4: Master Plan Concept 14
Figure 1.5: Conceptual Land Use Diagram 15
Figure 1.6: Conceptual Circulation Diagram 21
Figure 2.1: Conceptual Ground Level Landscape Plan 27
Figure 2.2: Conceptual Podium Level Landscape Plan 28
Figure 2.3: Conceptual View from P Street to the North-South Promenade 29
Figure 2.4: Conceptual View of High-Rises at the Corner of 7th and P Streets 30
Figure 2.5: Conceptual View from N Street at Hotel/Condo 31
Figure 2.6: Conceptual View of Mid-Rise Development from 5th Street 32
Figure 2.7: Conceptual View of East-West Promenade Looking Towards O Street 38
Figure 2.8: Conceptual View of Central Plaza 39
Figure 2.9: Conceptual View of Overhoff Relief Art Wall Along the North-South Promenade 40
Figure 2.10: Conceptual View of Community Plaza on the Corner of P and 7th Streets 41
Figure 2.11 Conceptual View of Streetscape at N Street Entrance to the North-South Promenade 42
Figure 2.12: Existing Open Space/Land Use Summary Plan 43
Figure 2.13: Open Space/Land Use Summary Plan for the Proposed Project 44
Figure 2.14: Site Integrated Low Impact Development Strategies 45
Figure 3.1: Circulation Concept 54
Figure 3.2: Ground Floor Activation Concept 55
Figure 3.3: Open Space Concept 56
Figure 4.1: Phasing Sequence Diagram 71

Tables

Table 1.1: Site Program Overview 2
Table 1.2: Project Consistency with SACOG Blueprint Growth Principles 12
Table 2.1: Land Use Summary 25
Table 2.2: Vehicular Parking Summary 34
Table 2.3: Open Space Summary 37
Table 2.4: Permitted and Prohibited Uses 46
Table 2.5: Development Standards Summary 48

This page intentionally left blank.

I. INTRODUCTION

1.1 PROJECT OVERVIEW

Sacramento Commons is a planned new residential, mixed-use community, located on a four block infill site, bounded by 5th, 7th, N, and P Streets. Sacramento Commons provides urban housing opportunities in Sacramento's Downtown Central Business District, within the region's major employment, retail, entertainment, cultural, and transportation center. The project plans for mixed-use, high-rise and mid-rise apartments and condominiums, with opportunities for live-work and neighborhood retail and support services, including the potential for a specialty market. Modern community amenities, two broad open space promenades, landscaped decks, rooftop open space, and the potential for a hotel are other planned features of the community. Sacramento Commons is planned to be a cohesive residential community, incorporating sustainable best practices that complement the character of the Downtown urban fabric, existing resources on the site, and the surrounding neighborhood area context.

Existing Capitol Towers multifamily complex

Existing View of Capitol Villas apartments at 7th and N

As part of the site's development, the project plans to enhance the existing pedestrian walkways on-site, replace 206 existing garden apartment units (Capitol Villas) with new dwelling units, and retain the existing 15-story Capitol Towers (containing 203 apartment units). As summarized in Table 1.1, after development of the project, the project site will include between approximately 1,374-1,470 dwelling units of various types and densities, including up to 49 live-work units to activate the ground floor, streets and pedestrian spaces of the community (the range of dwelling units relates to whether or not a hotel is constructed as part of the project; if so, the dwellings would be at the lower end of the range; if not, the dwelling units would be at the upper end of the range). As the project site currently includes 409 dwelling units (203 in Capitol Towers and 206 garden apartments), the project represents an increase of

Existing 6th Street walkway

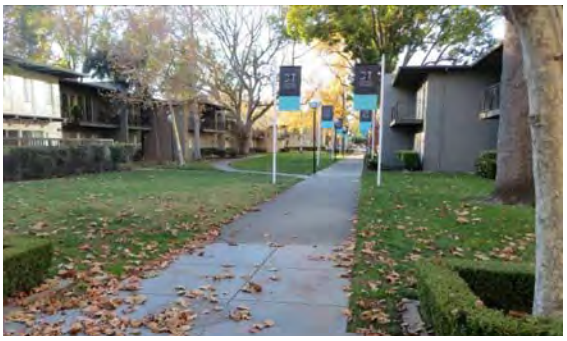
965-1,061 dwelling, compared to existing conditions. The project also includes new parking structures to serve on-site uses; between 56,122-74,122 square feet of neighborhood retail and support uses, including the potential for up to a 15,000 square foot specialty market; and the potential for a 300-room hotel, with supporting services. The existing 15-story Capitol Towers building will remain an integral part of the Sacramento Commons community. Improvements to Capitol Towers could include interior modifications to reconfigure apartments. The building's exterior will likely undergo a makeover to ensure overall architectural compatibility with the development of Sacramento Commons.

Table 1.1: Site Program Overview

Land Use Program	Maximum Units or Square Footage
Residential Uses (Hotel/Condo/Retail Scenario)	1,374 units
Residential Uses (Condo/Retail Scenario)	1,470 units
(Live Work Included in Unit Totals)	(49 units)
(Existing Capitol Towers Building Included in Unit Totals)	(203 units)
Hotel (Hotel/Condo/Retail Scenario)	300 rooms
Neighborhood Support/Retail (Hotel/Condo/Retail Scenario)	74,122 square feet
Neighborhood Support/Retail (Condo/Retail Scenario)	56,122 square feet

1.1.1 SACRAMENTO COMMONS PUD AREA CONTEXT AND EXISTING CONDITIONS

Sacramento Commons encompasses approximately 10.13 net acres on portions of four city blocks and is currently comprised of three parcels (assessor's parcel numbers: 006-0300-002, 006-0300-003, and 006-0300-004). The project site presently contains 409 dwelling units, consisting of 206 two- and three-story garden apartments; 203 dwelling units within the 15-story Capitol Towers building; six surface parking lots totaling approximately two acres and 190 parking spaces and a three level parking structure, with 200 parking spaces. Capitol Towers was completed in 1966 and renovated between 2005 and 2006. The garden apartments on-site were constructed in 1962 and were renovated between 2002 and 2004. Sharing the four-block project area, but not part of the project, are the 15-story 500 N Street residential tower (Bridgeway Towers, completed in 1980) and the 12-story Pioneer Towers active adult (62+) apartments, completed in 1978 (see Figure 1.1).

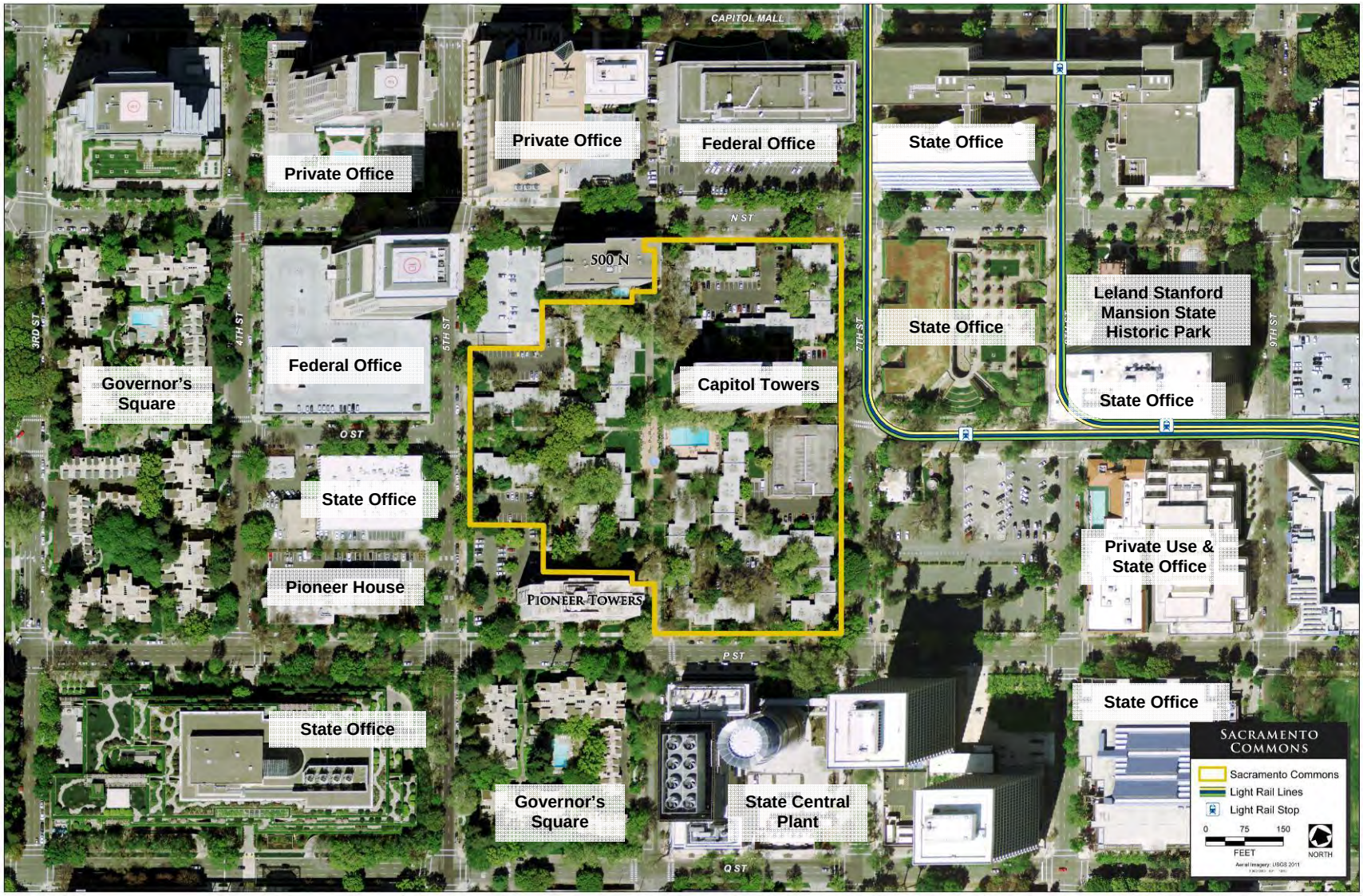


Villas lined along O Street walkway

Adjacent 500 N Street (Bridgeway Towers)

The development of the PUD area in the 1960s involved the closure of 6th Street, between N and P Streets and O Street, between 5th and 7th Streets. Walkways, landscaping, and community space are provided where this street grid has been interrupted (see Figure 1.2 for existing site uses). Walkways will be maintained and enhanced as part of the development of Sacramento Commons.

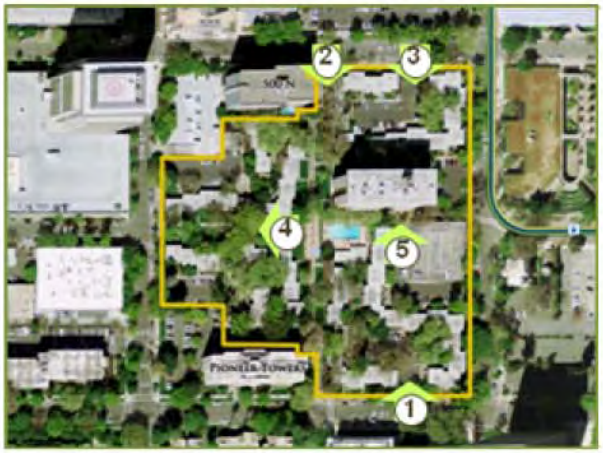
Figure 1.1: Sacramento Commons PUD Area



* Note: The PUD boundary is identified at the ground level plane and does not include the 500 N Street or Pioneer Towers properties. The project boundary only appears to overlap with the existing towers, due to the oblique perspective of the aerial.

Source: Google Maps, AECOM, 2014

Figure 1.2: Existing Site Context



2 *6th Street Walkway, Viewed from N Street*

4 *View of O Street Walkway*

1 *View to Site from P Street*

3 *View of Capitol Towers from N Street*

5 *Capitol Towers Entry from Walkway*

Source: AECOM, 2014

Within the project site is a multi-pane concrete relief art wall in the property's central courtyard, west of the swimming pool. The wall was created by French-born San Francisco Bay Area sculptor, Jacques Overhoff, and was installed on the property in 1961. The relief wall will be retained and relocated north, adjacent to the existing Capitol Towers.

Jacques Overhoff's concrete relief wall

Sacramento Commons is surrounded by a mix of high-density residential and office complexes. Federal and state office buildings front Capitol Mall, a block away and surround the north, west, east, and southwest blocks of the PUD area. The State of California Central Utility Plant, providing heating and cooling to 22 state office buildings in Downtown, is located south of the PUD area on P Street, between 5th and 6th Streets. In addition to the adjacent Pioneer Towers and 500 N Street, two multifamily residential properties, Pioneer House and Governor's Square, are located at the northwest and southeast corner of 5th and P Streets, respectively.

Neighboring State Central Utility Plant

The Sacramento Commons project site is located in an area of the Central City that is highly walkable and is well served with access to vehicular, pedestrian, bicycle, and transit facilities. A bicycle lane is located on both sides of 5th Street. The streets on all four sides of the project site are one-way streets. 5th Street runs one-way north, 7th Street runs one-way south, N Street runs one-way east, and P Street runs one-way west. Site access to the freeway is provided nearby from P and Q Streets to Interstate 5 (I-5) and connects on to State Route 99, Highway 50, Interstate 80, and Business 80.

Freeway access on P Street

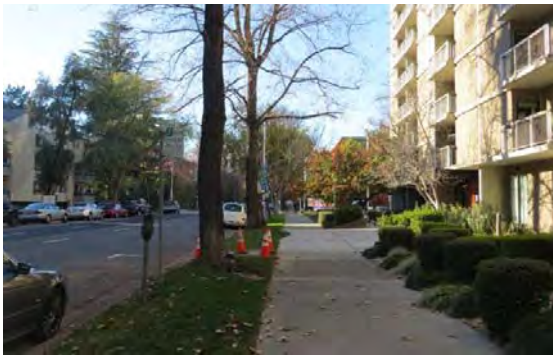
Eight bus routes (routes 2, 3, 6, 7, 15, 34, 51, and 109) operate and have bus stops adjacent to the PUD area, along N, P, 5th, and 7th Streets. These bus routes connect the PUD area to other neighborhoods in the City and to other communities in the region. Bus routes connect to the Sacramento Valley Station at 5th and H Streets, the terminal for intercity passenger train service on the Capitol Corridor, with daily Amtrak train and feeder bus service between the Sacramento and Bay Area regions. The Capitol Corridor, with 17 stops, travels through eight counties between Auburn and San Jose.

Bus stop located on 7th Street

The nearest existing light rail stop at 8th and O Streets, east of the PUD area, serves all (Blue, Gold, and Green) light rail lines. The Blue Line connects the region north-south, between Meadowview and Watt Avenue. An extension of the Blue Line is planned south to Cosumnes River College. The Gold Line connects the PUD area to the Sacramento Valley Station on the west and travels east to Folsom, with plans to be extended further east into El Dorado County. The Green line currently connects the PUD area, in Downtown north to Township 9 and is planned to extend further north into Natomas; ultimately, connecting to the Sacramento International Airport. All light rail lines share the same track and stop at 8th and O Streets, traveling southbound on 7th Street, northbound on 8th Street, and in the east and west directions of O Street.

The project site is generally flat with elevations on the site ranging from approximately 15 to 20 feet above mean sea level, traveling from the northeast to the southwest corner of the project site. Tree cover is distributed across the site. The *Arborist Report for the Sacramento Commons Project Site* (Arborist Report) prepared identified 50 trees on or along the site's perimeter that meet the City of Sacramento's definition of either a City Street Tree[1] (City Code Section 12.56.020) or a Heritage Tree[2] (City Code Section 12.64.020) and another 241 on-site trees that do not meet the criteria for classification as either a City Street Tree or a Heritage Tree. Based on the report, 33 trees qualify only as a City Street Tree, 11 trees qualify only as a Heritage Tree, and six trees qualify as Heritage-sized City Street Trees. The location of City Street and Heritage Trees on the existing site is shown in Figure 1.3. A total of 50 different tree species are located on-site and along the project's perimeter, as identified in the Arborist Report.

View of light rail line at O and 7th Streets

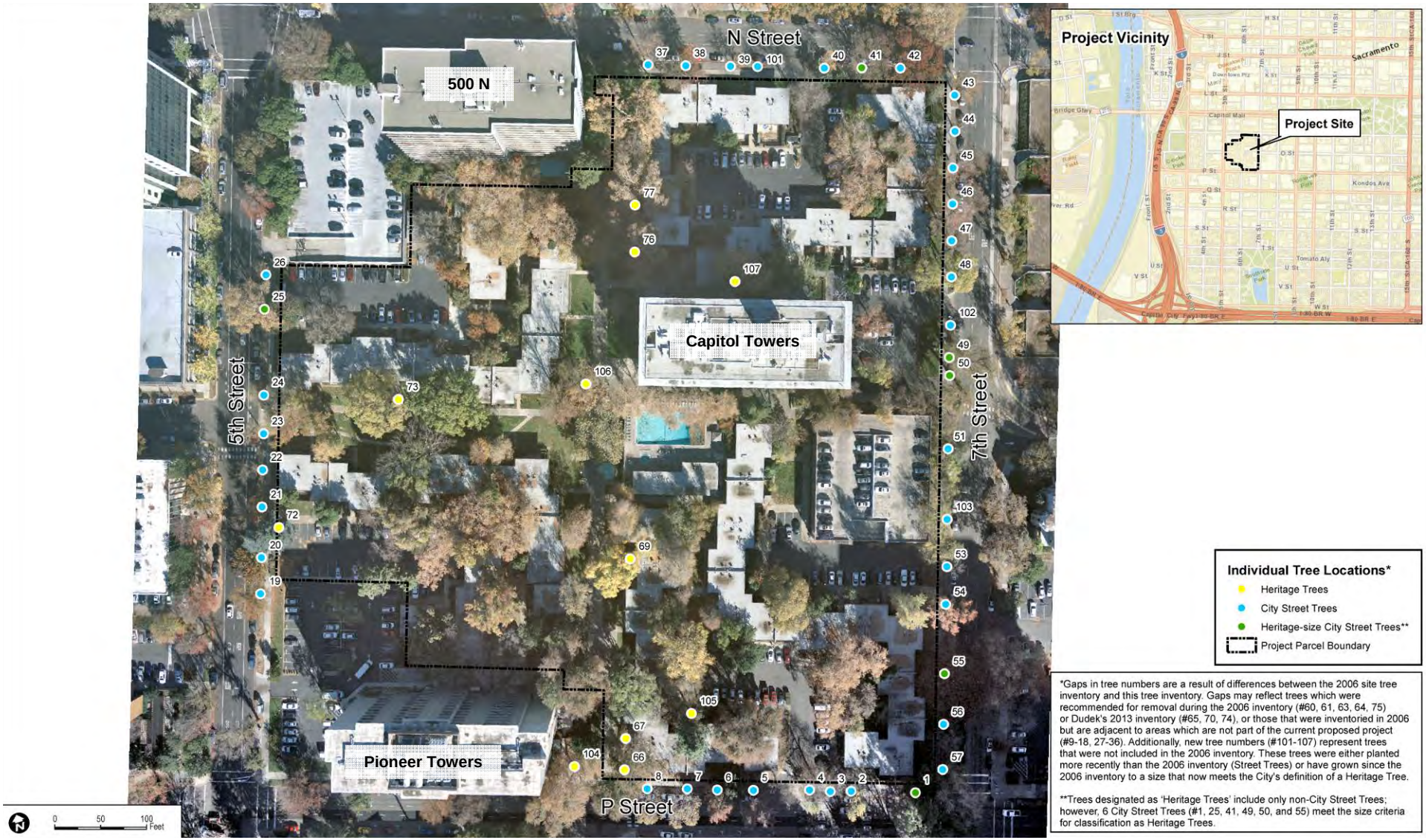


Typical City Street Tree and planter on P Street

On-Site Heritage-Sized City Street Tree

[1] Defined as any tree growing on a public street right-of-way. City Street Trees are maintained by the City.
[2] Defined as any tree of any species with a trunk circumference measuring 100 inches or more, which is of good quality in terms of health, vigor of growth, and conformity to generally accepted horticultural standards of shape and location of its species; any native oak, sycamore, buckeye, or riparian tree, having a circumference of 36 inches or greater, which is of good quality in terms of health, vigor of growth, and conformity to generally accepted horticultural standards of shape and location of its species; or any tree, grove of trees or woodland trees designated by resolution of the City Council to be of special historical or environmental value or of significant community benefit.

Figure 1.3: Existing City Street Tree and Heritage Tree Locations



Source: Arborist Report, Dudek, Wood Rodgers, December 2014

1.1.2 PURPOSE AND APPLICABILITY OF PUD GUIDELINES

This Sacramento Commons Planned Unit Development (PUD) Guidelines sets the development framework and design guidance for the land use, circulation, infrastructure, community design, architecture, landscaping, open space, and other components of the project that help create a distinct community for Sacramento Commons. The PUD Guidelines are intended to promote high quality design and development of Sacramento Commons, while permitting flexibility for innovative design solutions, site-specific standards to ensure preservation of existing site resources (to the extent feasible), compatibility with the surrounding area context, and a cohesive development vision.

The PUD Guidelines provide information on the size, timing, and sequence of project development; establish the framework for future development; and identify the process to evaluate, review, and approve future applications within Sacramento Commons. These Guidelines supplement and replace the zoning and development standards for all uses on the property, which would otherwise be subject to the City's Planning and Development Code, unless otherwise noted. The requirements of the City Code and Section 3 - Central Core Design Guidelines of the Central City Urban Design Guidelines (CCUDG) shall apply, unless modified by this PUD.

1.1.3 PUD ORGANIZATION

The chapters in the PUD Guidelines, summarized below, define and set the standards for development of Sacramento Commons.

Chapter I **Introduction (this chapter)** – Provides an overview of Sacramento Commons, the organization of the document, and relationship to relevant planning regulations and defines the overall vision and project objectives.

Chapter II **Land Use and Development Standards** – Describes the land use and development program; transit, vehicular, bike, and pedestrian circulation; open space, landscape features, and other shared spaces within the PUD; permitted uses; and development standards, including parking and signage standards.

Chapter III **Community Design** – Provides the design guidelines for site; landscaping; architecture; circulation and access; and other significant project features.

Chapter IV **Administration and Implementation** – Describes the phasing, entitlement process, and administrative procedures governing the Sacramento Commons PUD.

1.1.4 REGULATORY AND PLANNING CONTEXT

Sacramento Commons includes a variety of for-sale and rental housing types, community amenities, neighborhood support/retail, and the potential for a hotel that will serve the needs of a diverse population and address the demand for housing in the Central Business District. The project plans to include an average net density for all residential uses (not including hotel rooms) of between 136 and 145 units per net acre and an overall FAR for all uses of between 3.2 and 3.3 (depending on whether the Hotel/Condo/Retail Scenario is provided or the Condo/Retail Scenario is provided). Development of Sacramento Commons is consistent with the goals and policies of the City of Sacramento's 2030 General Plan (including Central City Community Plan section), the Planning and Development Code, and the goals in the Central City Urban Design Guidelines.

As authorized through the PUD Guidelines, the project will modify the maximum R-5 lot size standard for one of the parcels within Sacramento Commons (Parcel 1 as depicted in Figure 1.4). All residential parcels included in the PUD (Parcels 1, 2A, 2B, and 4B) are consistent with density limits for the R-5 zone, ranging between 116 to171 units per acre. The mixed-use parcels (Parcels 3 and 4A) have a FAR of between 3.6 and 6.0, consistent with FAR requirements for the Central Business District General Plan designation, applicable to the project. The PUD defines project specific standards for signage and vehicular parking, as addressed in Section 2.3, consistent with standards in the City Code and other applicable goals and policies. Standards relating to tower interior side and rear yard setbacks and bulk control standards for towers are proposed that modify the standards in the Code and Central Core Design Guidelines. The planned location of driveways for parking access on both numbered and lettered streets in limited quantities modifies the standards in the Central Core Design Guidelines, as addressed in the Design Guidelines in Chapter 5. These design features, however, are intended to support a quality project development and have been designed to respond to the unique configuration of the project site.

In order to qualify as a Transit Priority Project, the project must be consistent with the Sacramento Area Council of Governments' (SACOG) Metropolitan Transportation Plan 2035/Sustainable Communities Strategy (MTP/SCS) and incorporate all feasible mitigation measures, performance standards, or criteria from the Master EIR for the 2030 General Plan and Program EIR for the MTP/SCS.

City of Sacramento 2030 and 2035 General Plan and Central City Community Plan

The Sacramento 2030 General Plan (General Plan), in place at the time of the development of the PUD Guidelines, plans for future growth in Sacramento, with a focus on implementing regional smart growth strategies; state climate change legislation; planning goals and policies based on themes of livability and sustainability; and place-based guidance emphasizing the character and form of places rather than zoning categories. The City is in the process of preparing its 2035 General Plan Update. As described in the Draft Environmental Impact Report for the 2035 General Plan Update, "the proposed 2035 General Plan is a technical update of the 2030 General Plan, and the proposed changes constitute minor revisions" (2035 General Plan Update Draft Environmental Impact Report, pg. ES-1). The proposed 2035 General Plan retains the overall land use and policy direction established in the 2030 General Plan, and includes a refinement and updating of the goals and policies, including updates to housing, employment and population projections consistent with the 2035 planning horizon for the Metropolitan Transportation Plan; incorporation of greenhouse gas reduction measures, as addressed in the City's Climate Action Plan; and updates to traffic modeling to implement a flexible, context sensitive level of service standard.

The Sacramento Commons PUD, within the Central City Community Plan area, is currently designated Central Business District (CBD). The vision for the CBD is a vibrant Downtown core that will continue to serve as the business, governmental, retail, and entertainment center for the city and region. A significant element of the future CBD includes new residential uses. Increasing the residential population will add vitality to the CBD by extending the hours of activity and the built-in market for retail, services, and entertainment.

The CBD designation provides for mixed-use, high-rise development and single-use or mixed-use development that includes ground floor office or retail beneath residential apartments and condominiums. Uses permitted include office, retail, and services; condominiums and apartments; compatible public and quasi-public uses; and gathering places such as plazas, courtyards, or parks. The allowable density and FAR permitted by the General Plan designation is a minimum density of 61.0 units/net acre and maximum density of 450.0 units/net acre for residential uses; and a minimum FAR of 3.0 and maximum FAR of 15.0 for mixed-use and non-residential uses.

Key urban form characteristics for the CBD, identified in the General Plan, and as relevant to the project site include:

- a mixture of mid- and high-rise buildings creating a varied and dramatic skyline;
- buildings are sited to positively define the public streetscape and public spaces;
- building façades and entrances directly addressing the street with a high degree of transparency;
- an interconnected street system providing for traffic and route flexibility;
- vertical and horizontal integration of residential uses;
- public parks and open space areas within walking distance of local residents;
- parking is integrated into buildings or placed in separate structures;
- minimal or no curb cuts along primary streets (except for necessary parking and service access, as permitted);
- broad sidewalks appointed with appropriate pedestrian amenities, including sidewalk restaurant/café seating;
- street design integrating pedestrian, bicycle, transit, and vehicular use and incorporates traffic-calming features and on-street parking; and
- consistent planting of ~~street~~ trees that provide shade and enhance character and identity (the project includes existing planted street trees that shall be protected to preserve the character along the street, as described in the Arborist Report).

City of Sacramento Planning and Development Code

The Planning and Development Code is the legal tool to implement the General Plan and is required to be consistent with the General Plan by State law. The Code (adopted in April 2013) designates the PUD area as High-Rise Residential (R-5) zone. The purpose of this zone is to develop multifamily residential, with limited commercial and service uses for the surrounding neighborhood. The R-5 zone allows for institutional, office, and commercial land uses as accessory uses, with area limitations, unless otherwise permitted or approved. The maximum density for residential projects in the R-5 zone is 175 dwelling units per acre, with a maximum 80% lot coverage. For non-residential and mixed-use projects in the R-5 zone, the FAR included in the City's General Plan (3.0 to 15.0) is applicable. Maximum height for residential or mixed use buildings in the R-5 zone is 240 feet, unless otherwise permitted.

Central City Urban Design Guidelines

The objective of the Central City Urban Design Guidelines (CCUDG) is to direct future growth in a manner that builds on the existing urban context, while acknowledging Sacramento's potential for dynamic and transformative growth and maturation as an urban center. The intent is to ensure that all development in the Central City contributes to making Downtown Sacramento a unique and special place. The CCUDG seek to ensure that higher density development provides the qualities and amenities that will create an attractive, livable Downtown, with a lively mix of uses, walkable streets, convenient transit, distinctive neighborhoods, and access to its riverfront.

Sacramento Area Council of Governments

Metropolitan Transportation Plan 2035/Sustainable Communities Strategy

The Metropolitan Transportation Plan and Sustainable Communities Strategy (MTP/SCS) is based on the Blueprint. The MTP/SCS was adopted April 19, 2012 by Resolution No. 14-2012 of the SACOG Board of Directors. On June 12, 2012, the State Air Resources Board, by Executive Order No. G-12-044, accepted the determination by SACOG that implementation of the MTP/SCS would achieve the greenhouse gas emission reduction targets. In order to qualify as a Transit Priority Project, Sacramento Commons must be consistent with the use designations, density, building intensity, and applicable policies specified for the PUD area in the MTP/SCS, prepared by SACOG for the Sacramento region.

The MTP/SCS identifies the property as falling within the multifamily and commercial growth, assigned to Centers and Corridor Communities. Center and Corridor communities typically have a more compact development pattern, greater mix of uses, and a wider variety of transportation infrastructure, compared to the rest of the region. These communities are typically identified in local plans as Downtowns, central business districts, town centers, rail station areas, and other high density destinations. Sacramento Commons also qualifies as a Transit Priority Project, which requires the project to have a minimum net density of 20 dwelling units per acre; 50% or more of its building square footage in residential uses; and a location within a transit priority area, with transit service, and no more than 25% of parcels further than a half mile from a major transit stop or high-quality transit corridor. The project must also incorporate all feasible mitigation measure, performance standards, or criteria set forth in prior applicable EIRs, including the MTP/SCS Program EIR, certified on April 19, 2012, and City of Sacramento 2030 General Plan Master EIR, certified on March 3, 2009.

Sacramento Commons is within the transit priority area studied within the MTP/SCS and complies with the above requirements to qualify as a Transit Priority Project, including incorporating all applicable mitigation measures, performance standards, or criteria in applicable EIRs.

Blueprint Plan

The intent of the Blueprint Plan is to target areas of the Sacramento region for urban growth, focused on infill development, higher density development along major corridors, transit-oriented development, and more intense development within and around Transit Priority Areas, such as the Sacramento Central City. The Blueprint also places relatively less emphasis on “greenfield” development (development of undeveloped lands further out from existing communities). Although the Blueprint is not intended to guide development in a parcel-specific manner, the Blueprint Preferred Scenario currently suggests that Sacramento Commons be developed as “Attached Residential.”

The themes of the smart growth principles identified in the Blueprint Plan: transportation choices; housing choice and diversity; mixed-use development; compact development; use of existing assets; quality design; and natural resources conservation are embraced by the Sacramento Commons project. Planning and design concepts of Sacramento Commons that demonstrate consistency with Blueprint Plan growth principles are summarized in Table 1.2, which follows.

Table 1.2: Project Consistency with SACOG Blueprint Growth Principles	
Transportation Choices	Provides facilities to encourage walking and biking and access to nearby bus, light rail, and other transportation alternatives.
Mixed-Use Development	Develops homes, shops, and services, in vertical and horizontal mixed-use formats, that encourage local activity and walking or biking to jobs, services, and other destinations in the City's Central Business District.
Compact Development	Provides higher-density residential development and supporting uses within a compact building footprint on an infill site, surrounded by generous common open space.
Housing Choice and Diversity	Provides diverse housing types, styles, and arrangements for a variety of people, incomes, and needs.
Use of Existing Assets	Replaces aging garden-style apartments and updates an existing residential tower to allow for high quality, high density, and greater housing diversity Downtown, where existing public infrastructure is available.
Quality Design	Focuses on quality design and pedestrian-scaled development that creates an attractive and livable new residential Downtown community.
Natural Resources Conservation	Incorporates public open space, including promenades, plazas, and other public spaces for sitting, gathering, and enjoyment of the outdoors; and sustainable site planning and building design features, as described in the sections that follow.

Source: AECOM, 2014

1.2 COMMUNITY VISION

Designed to support the Smart Growth principles of the Blueprint Plan, Sacramento Commons is designed to integrate into the urban fabric of Downtown Sacramento, providing a development pattern that offers a broad range of housing choices for the community and supports transit use.

1.2.1 COMMUNITY OBJECTIVES

The objectives for Sacramento Commons are to:

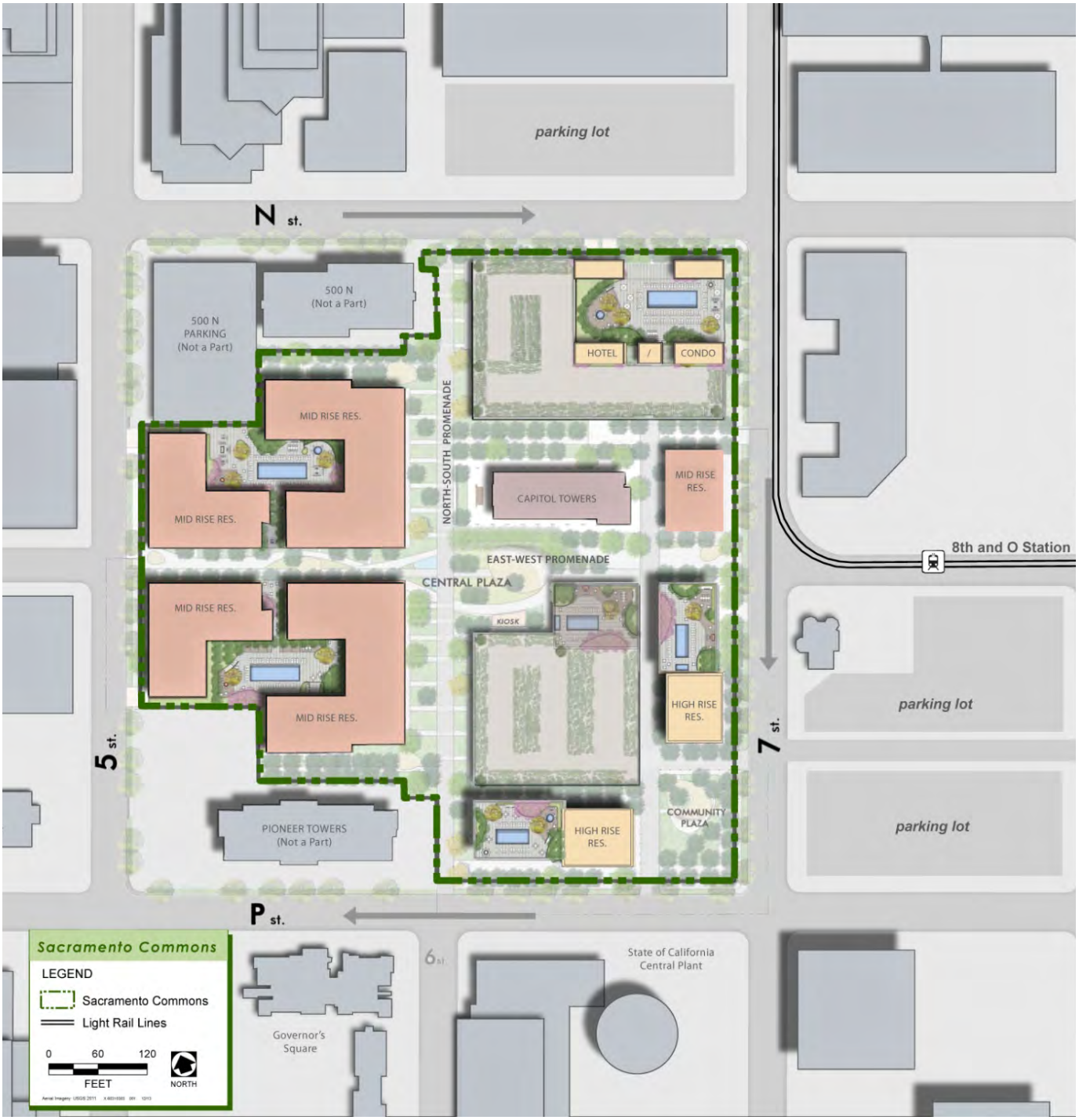
- intensify an existing urban Downtown residential community close to urban amenities (e.g. shopping, services, transit, entertainment, and cultural attractions);
- support investment and reinvestment in Downtown Sacramento, particularly with more residential uses;
- intensify an existing infill development project with a new project that includes additional residential uses, near the major employment centers of Downtown Sacramento;
- provide high-density residential uses that utilize surrounding transit services and provide access to a variety of transportation modes;
- enhance pedestrian movement through the central portions of the project site;
- provide additional housing choices for Sacramento's diverse population, and supporting retail and other commercial services for the residents and guests of the proposed development;
- provide open space areas that support uses on-site and provide places for community gathering, activity, privacy, and connectivity;
- provide development that is consistent with the Sacramento General Plan and the SACOG Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS); and
- incorporate sustainability features that help the City and region achieve its sustainability targets, while enhancing the livability of the community.

1.2.2 MASTER PLAN CONCEPT

Figure 1.4, below, summarizes the Master Plan Concept for Sacramento Commons. The Sacramento Commons plan features diverse housing types, urban architecture and landscaping, an existing open space framework with mature trees from which the community can expand upon, sustainable development features, and modern amenities. These features, together, support development of a distinct and desirable new urban residential mixed-use community for future residents, occupants, neighbors, and guests to the community. Live-work, neighborhood support/retail, and other ground floor active uses are planned along the streets and East-West and North-South Promenades. On-site parking in podium parking garages and parking structures serves the needs of residents, occupants, and guests to the community, but do not dominate the street scene. Urban parking ratios are utilized that take advantage of other modes of transit conveniently surrounding the property.

Descriptions of the parcel concepts for Sacramento Commons that follow are accompanied by sample images and conceptual renderings of the type of character and scale of development envisioned for project area parcels.

*Figure 1.4: Master Plan Concept**



Source: Van Tilburg, Banvard & Soderbergh, Melendrez, adapted by AECOM in 2015

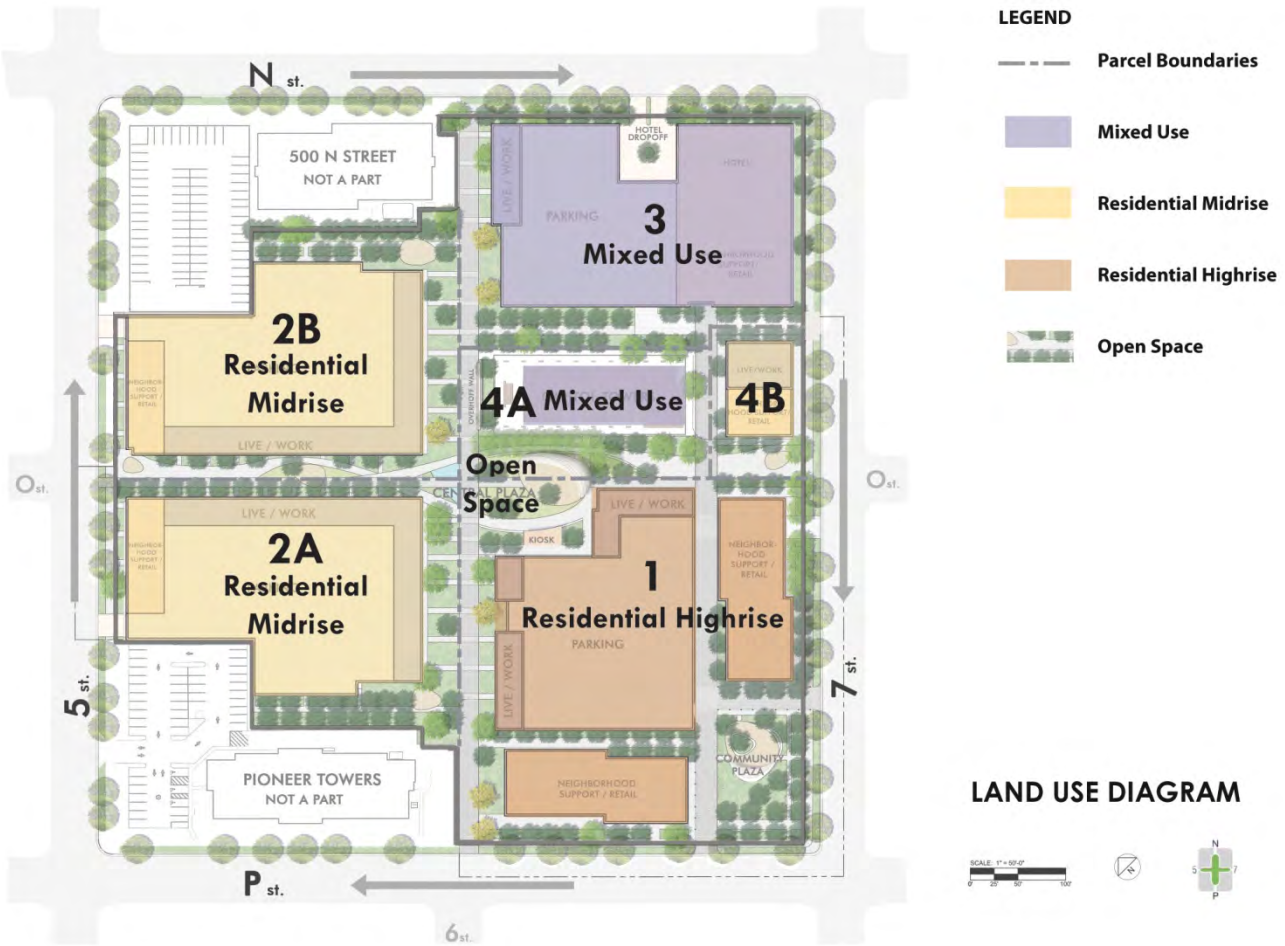
*Note: The master plan concept above reflects the concepts for both the Hotel/Condo/Retail Scenario and Condo/Retail Scenario.

Land Use and Development Concepts

The conceptual land use diagram for Sacramento Commons, illustrated in Figure 1.5, identifies four basic land uses: open space, mixed-use, mid-rise residential, and high-rise residential planned on the six parcels (Parcels 1, 2A, 2B, 3, and 4A and 4B) proposed on the project site. The sequence of these parcel numbers does not reflect a particular phasing sequence. Project phasing is addressed in Chapter 4 of these PUD Guidelines.

Parcel 3 and Parcel 4A (existing Capitol Towers) are mixed-use parcels with residential and retail uses. Two potential land use scenarios are proposed on Parcel 3. Parcel 3 (Hotel/Condo/Retail Scenario) proposes a hotel-condominium, mixed-use development. Parcel 3 (Condo/Retail Scenario) proposes a mixed-use residential condominium development. Both scenarios for Parcel 3 include neighborhood support/retail uses on the first and second floors to serve their respective functions and may include up to a 15,000 square foot specialty market, as described in the parcel summaries that follow. Parcels 1, 2A, 2B, and 4B are planned as residential parcels, with support uses and the potential to include some retail uses.

Figure 1.5: Conceptual Land Use Diagram



Source: Van Tilburg, Banvard & Soderbergh, Melendrez, AECOM, 2014

The images and conceptual renderings in this section are intended only as illustrative examples of the type, quality, and character of building and landscape development proposed for Sacramento Commons, consistent with the guidelines in this PUD.

Parcel 1

Parcel 1, located at the corner of P and 7th Streets, is planned for high-rise residential uses in two- 24 story towers with ground floor neighborhood support/retail along both P and 7th Streets, live-work uses fronting the promenades, and on-site structured parking interior to the parcel, with open space amenities above, as shown in Figure 1.3. A new community plaza at the corner of 7th and P Streets will provide a focal point and community gateway that serves as the "front door" to Sacramento Commons.

Parcel 1 Highrise Development Concepts

Parcel 1 Highrise Residential Tower Massing and Landscape Concept

Parcels 2A and 2B

Mid-rise residential uses on Parcels 2A and 2B border 5th Street and the west side of the promenade. Designed to appear as seven stories, with five stories of housing above three stories of podium parking (one level of parking located halfway below grade) and wrapped with live-work uses, these mid-rise units are scaled to respect the adjacent neighbors (500 N Street and Pioneer Towers). Parcels 2A and 2B incorporate ground floor neighborhood support/retail along 5th Street; live-work uses along the promenades; and open space amenities above the rooftop podium parking deck for the use of the residents.

Parcels 2A and 2B Midrise Development Concepts

Parcels 2A and 2B Midrise Residential Massing and Landscape Concept

Parcel 3

Two development scenarios are planned for Parcel 3. The Hotel/Condo/Retail Scenario plans for a 24-story mixed-use, high-rise hotel and residential condominium development that would include a lobby area, restaurant, hotel meeting spaces, live-work, and other supporting ground floor uses on floors 1-4); hotel rooms on floors 5-13; and condominium units on floors 14-24. The Condo/Retail Scenario proposes a mixed-use condominium option, with ground floor retail, live-work, and common areas. Parcel 3 also provides the potential for up to a 15,000 square foot specialty market on the ground floor of both scenarios. Uses in Parcel 3 are served by an attached parking garage, directly accessible from the interior building to the uses and units on-site.

Parcel 3 Development Concepts

Parcel 3 Hotel/Condo/Retail and Condo/Retail Massing and Landscape Concept

Parcels 4A and 4B

Parcel 4A is the site of the existing Capitol Towers building which includes both residential and retail uses. The building's interior and exterior will likely undergo a makeover to ensure overall architectural compatibility with the development of Sacramento Commons. A compatible mid-rise housing development, with ground floor live-work units and neighborhood support/retail is planned on Parcel 4B. Parking for Parcels 4A and 4B are envisioned to be shared with the parking structure, located on Parcel 3.

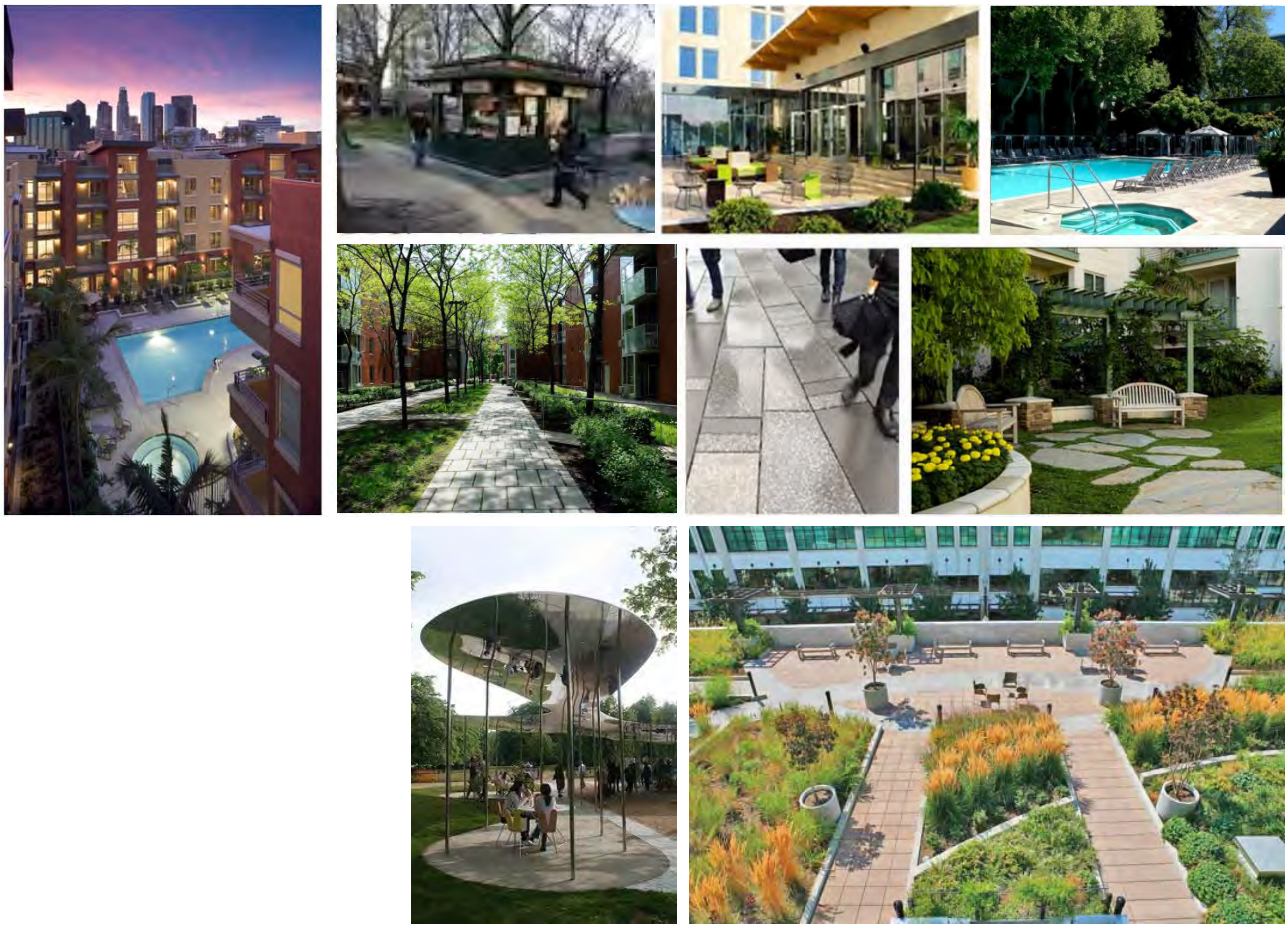
Parcels 4A and 4B Development Concepts

Capitol Towers Residential Massing and Landscape Concept

Landscape and Open Space Concepts

Sacramento Commons enjoys a generously landscaped garden setting, organized by two landscaped promenades, as well as podium and rooftop decks that serve as open space amenities and form the open space framework of the community. The landscape theme for Sacramento Commons derives from the concept of balancing the natural and man-made landscapes that have developed in the City of Sacramento over time. It draws from Sacramento's connection to the river and the site's perpendicular orientation to the river, where the promenades filter out and into the surrounding Downtown area. Thus, landscaping on the site consists of a balance of natural and man-made elements, including shaded and landscaped promenades; tree-lined streets, sidewalks, and walkways; and a variety of open space amenities for seating, gathering, and outdoor activity.

As illustrated in the images below, open space within Sacramento Commons incorporates a landscape palette, consisting of shade and ornamental trees, plazas, shaded gathering spaces, water features, a retail kiosk, open grass areas fronting ground floor residential and live-work units, fixed and movable seating areas, and bicycle parking facilities. The existing Overhoff art wall, currently located on the site, is proposed to be integrated as public art and relocated adjacent to Capitol Towers, along the North-South Promenade. A community plaza, planned at the corner of 7th and P Streets, serves as a front door to the community. Shaded walkways serve and connect internal courtyards, uses, and residences in the community to uses in the Downtown. Internal courtyards feature intimate seating, gathering, and landscaped spaces and podium and rooftop areas include outdoor common space and open space amenities for residents.

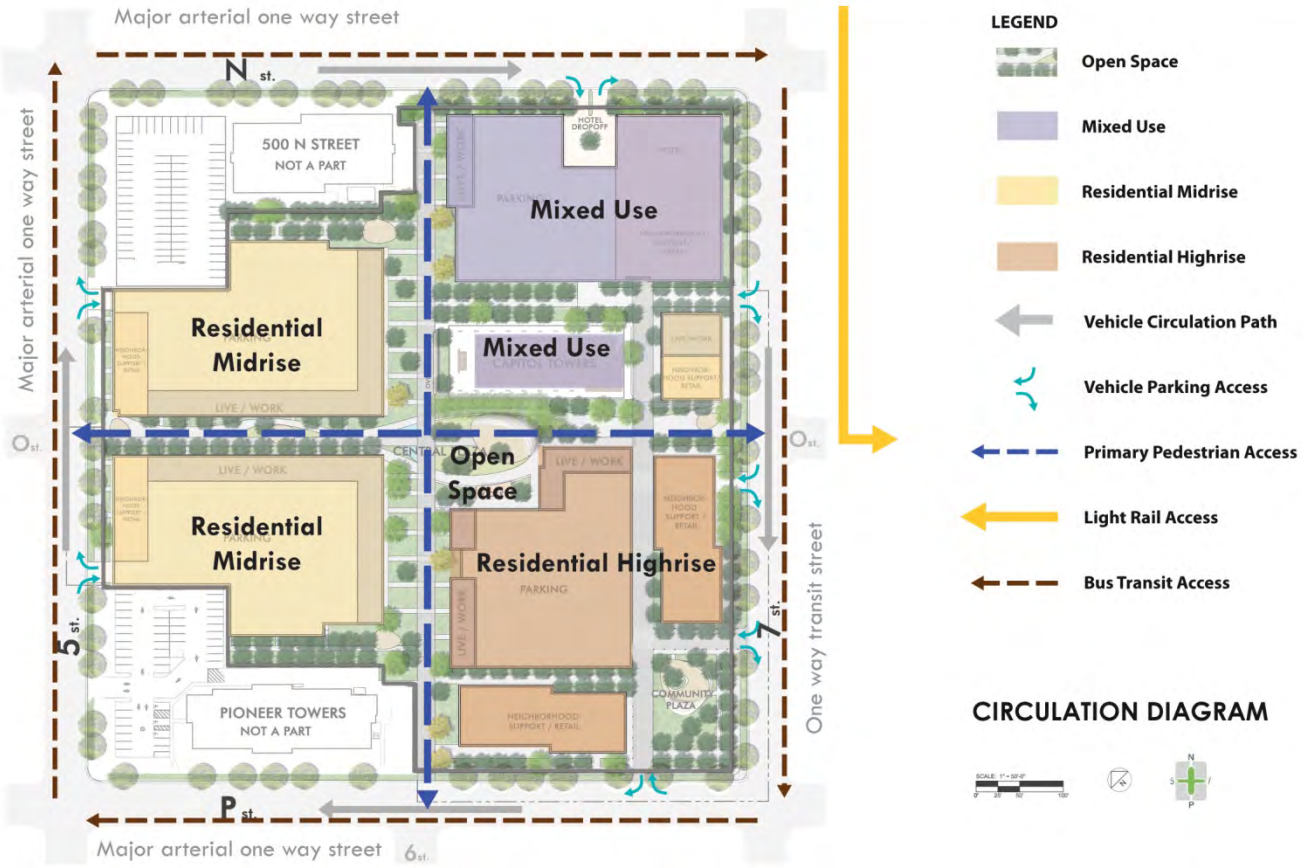


Landscape and Open Space Character Concepts

Pedestrian and Circulation Concept

Bicycle, pedestrian, vehicular, bus, and light rail circulation concepts, including parking access into Sacramento Commons are illustrated in Figure 1.6. The East-West and North-South Promenades are planned to continue the urban grid of the City and are integrated with a network of walkways through the community to allow easy pedestrian flow internally and externally to nearby transit stops and the surrounding Downtown area activities and destinations. Parking and vehicular access are distributed along each of the street frontages of Sacramento Commons, but have been designed to limit the number of driveways to what is essential for vehicular access. Driveways are planned to be clearly marked and paved to ensure visibility by motorists and pedestrians. To ensure the safety of pedestrians, existing and new circulation facilities shall be designed and constructed to the standards of the City Improvement Standards for each development phase. The skewed alignment and wide flare of the existing driveways on the project site, at N and 7th Street, has been identified by the community to allow ingress at speeds that are dangerous for pedestrians. This design shall not be duplicated in future plans on the project site. Driveways shall be designed in accordance with City improvement standards, including providing appropriate site distances, widths, and radii.

Figure 1.6: Conceptual Circulation Diagram



Source: Van Tilburg, Banvard & Soderbergh, Melendrez and adapted by AECOM in 2014

1.2.3 SUSTAINABILITY VISION

Sacramento has adopted near-term and long-term goals in its Climate Action Plan to reduce greenhouse gas (GHG) emissions by 15% by 2020 and 38% by 2030, relative to 2005 levels. The anticipated time frame for the project's development and build-out is within the 2030 timeframe. As part of the project's commitment to sustainability and contribution to meeting the City's GHG reduction targets, Sacramento Commons will incorporate best practices in land use, site, and building design that can serve as an example for high quality, high-density, mixed-use residential development, appropriate to the scale and context envisioned in Downtown Sacramento.

As planned, Sacramento Commons has several inherent GHG reduction and other sustainability features that contribute to lower vehicle use, vehicle miles traveled, energy use, and water consumption, including:

- its location in Downtown Sacramento, within a one-quarter mile radius of bus and light rail transit; proximity to freeways and Amtrak rail service; a walkable and bikable street grid near jobs, services, parks/open space, and other Downtown destinations;
- the addition of a significant number of housing units (proposed net gain of between 965-1,061 units, above the 409 existing units in the PUD area) in an area of the Central City with a deficit of such housing relative to jobs;
- on-site neighborhood support services for the convenience of Sacramento Commons residents and guests, and on-site retail uses for use by the Sacramento Commons neighborhood;
- protection and incorporation of a majority of the existing Heritage Trees and Street Trees in place and planting of additional trees on-site to maintain the City's robust urban forest;
- creation of the North-South and East-West Promenades, with accompanying landscaping and open space to enhance the existing walkways and meet the City's vision for high-quality public urban space with storm water management benefits;
- lower per unit energy and water use, compared to a similar number of dwelling units in a lower density suburban setting; and
- a variety of housing types meeting the needs of a broad segment of the population.

Due to the project's proximity to transit services, employment, potential to house a specialty grocery store on-site, and the mix of uses in the Central City, the project can help reduce the need for additional trips outside the project area and reduce dependence on automobiles while supporting sustainable growth objectives for the Sacramento region.

Planning, Site, and Landscape Design

Sacramento Commons has been designed to incorporate sustainable planning and site design practices in an area of Downtown Sacramento that is well supported by transit and provides opportunities to bring additional housing closer to jobs in the Downtown Sacramento Central Business District. Sacramento Commons plans for a mix of uses in proximity to transit, providing opportunities for neighborhood support/retail uses and the potential for a hotel and specialty market to serve on-site residents and nearby residents and guests in the surrounding community. Additionally, in the planning and site development of the community, sustainable site design and development features have been incorporated into Sacramento Commons. These features include:

- Replacement of aging housing with more energy- and water-efficient development.
- Consideration of building massing, scale, and separation distances adjacent to the existing towers on the property.
    - The nearest buildings on the Sacramento Commons property have been set back a minimum of 55 feet from the existing 500 N and Pioneer Towers and are stepped back further at the corners of the North-South Promenade.
    - Towers have been designed with compact building footprints to maximize neighborhood retail/support amenities and open space on the ground level for pedestrian circulation and open space.
    - The PUD design guidelines also address reducing the massing of building facades on the ground floor as well as, the bulk and massing of planned towers through building step backs and elevation differences.
- Over 50% of the site will be in open space, consisting of public and private open space in softscape and hardscape areas on the ground level and within podium and rooftop decks, shaded by trees, and providing functional outdoor open space for gathering and active use, as well as, passive open space uses such as, stormwater run-off reduction, as further described in Section 2.1.4. Sustainable landscape and open space features of the community include:
    - Preserving the existing mature trees on-site, to the extent feasible, and integrating them into the community's overall landscape plan.
    - Improvement of the existing walkways in the community with climate appropriate and water-efficient landscaping, shade trees, and other open space amenities.
    - Provision of landscaped podium and rooftop decks to include planting of a minimum of 100 trees, landscaping and trellises on parking structures, and residential recreational amenities.
    - Integration of Low Impact Development (LID) features into the Landscape Plan with run-off reduction measures, including interceptor trees, disconnected roof drains, disconnected pavement or hardscape areas interspersed with landscaping, use of permeable or porous paving within promenade landscape areas, plazas, and gathering nodes and use of source control measures at loading areas, waste management sites, and storm drains to limit or reduce pollutants entering the storm drain system.
- Provision of quality bike, pedestrian, and transit facilities and amenities, including the addition of long-term bicycle parking spaces on the ground floor of parking garages.
- Integration of public art and signage into the community.

Building Design

Sacramento Commons has been planned to provide a variety of distinct building types, designed to comply with building code standards and support environmentally responsible design practices. Development within Sacramento Commons will comply with current building efficiency standards, required by the City and target CALGreen Tier 1 Water Efficiency standards, at a minimum. The project shall strive to achieve improved environmental performance in energy efficiency, water efficiency, construction and demolition waste (reuse and recycling), selection of materials, and indoor air quality.

New development will be built and designed with water-efficient fixtures and appliances; energy efficient building materials and resources; low VOC paints and adhesives; and other industry standard best practices for building design, construction, and operation that will help the project achieve certification in a green rating system program such as, LEED, GreenPoint, Enterprise Green, or equivalent, as guided by the Central City Urban Design Guidelines.

II. Land Use and Development Standards

2.1 LAND USE PLAN

Sacramento Commons provides an opportunity to renew the existing community with newer, mixed-use residential development that is integrated and connected to the surrounding Downtown area. Sacramento Commons is approximately 10.13 net acres in size and planned to be generally organized into six parcels to enable the project to be phased and developed to respond to market conditions. As described in Chapter I, two site scenarios are proposed on Parcel 3, on the corner of 7th and N Streets. Sacramento Commons is proposed to include the land uses, summarized in Table 2.1, identified in the conceptual site plans in Figures 2.1 and 2.2 and the three-dimensional site development renderings in Figures 2.3-2.6 that follow and are further described in this Chapter. Illustrative site views renderings also follow in Figures 2.7-2.11.

Table 2.1: Land Use Summary

Land Use	Max. Units or Rooms	Use Area (square feet)
Parcel 1 (3.30 net acres)		
Residential (24-story high-rises)	550	496,680
Neighborhood Support/Retail [2]	NA	21,000
Live-Work Units	12	10,800
Parking (604 spaces, 6 levels) [5]		
Parcel 2A (1.83 net acres)		
Residential (seven-story mid-rises)	206	163,530
Neighborhood Support/Retail [2]	NA	4,000
Live-Work Units	15	13,500
Parking (229 spaces, 3 levels) [5]		
Parcel 2B (1.90 net acres)		
Residential (seven-story mid-rises)	206	163,530
Neighborhood Support/Retail [2]	NA	4,000
Live-Work Units	15	13,500
Parking (229 spaces, 3 levels) [5]		
Parcel 3, Hotel/Condo/Retail Scenario (2.02 net acres)		
Hotel Rooms	300	131,250
Residential (24-story high-rise)	110	158,400
Neighborhood Support/Retail [1],[3]	NA	37,000
Live-Work Units	4	3,600
Parking (639 spaces, 6 levels; includes 212 spaces for Parcel 4A and 61 spaces for Parcel 4B) [5]		

Table 2.1: Land Use Summary		
Land Use	**Max. Units or Rooms**	**Use Area (square feet)**
Parcel 3, Condo/Retail Scenario (2.02 net acres)		
Residential (24-story high-rise)	206	296,640
Neighborhood Support/Retail [1],[3]	NA	19,000
Live-Work Units	4	3,600
Parking (573 spaces, 6 levels; includes 212 spaces for Parcel 4A and 61 spaces for Parcel 4B) [5]		
Parcel 4A (0.68 net acres), Existing Capitol Towers		
Residential (15-story high-rise)	203	171,000
Neighborhood Support/Retail	NA	4,122
Parcel 4B (0.40 net acres)		
Residential (seven-story mid-rise; two bottom levels are live-work)	50	33,250
Neighborhood Support/Retail [2]	NA	4,000
Live-Work Units	3	2,700
Project Totals Based on Hotel/Condo/Retail Scenario on Parcel 3 (10.13 net acres)		
Total Residential	1,374 (which includes 49 live-work units)	1,230,490
Hotel Rooms	300	131,250
Neighborhood Support/Retail [4]	NA	74,122
Parking (1,701 spaces) [5]		
Project Totals Based on Condo/Retail Scenario on Parcel 3 (10.13 net acres)		
Total Residential	1,470 (which includes 49 live-work units)	1,368,730
Neighborhood Support/Retail [4]	NA	56,122
Parking (1,635 spaces) [5]		

Notes:

[1] In Parcel 3, neighborhood support/retail includes first and second floor space.

[2] Neighborhood support/retail uses in Parcels 1, 2A, 2B, and 4B may consist of amenities exclusively available for building residents and guests (e.g. gym, spa, etc.).

[3] Neighborhood support/retail square footage includes the possibility for up to a 15,000 square foot specialty market. The total neighborhood support/retail square footage, including the possibility of a specialty market, would not exceed 37,000 square feet under the Hotel/Condo/Retail Scenario and 19,000 square feet under the Condo/Retail Scenario.

[4] On a project-wide basis, a minimum of 30 percent of the neighborhood support/retail square footage under both the Hotel/Condo/Retail Scenario and the Condo/Retail Scenario will consist of amenities exclusively available for building residents and guests (e.g., gym, spa, etc.).

[5] Parking numbers are based on parking ratios identified in Table 2.2 in Section 2.1.4.

Source: Van Tilburg, Banvard & Soderbergh, Wood Rodgers, and compiled by AECOM in 2014

*Figure 2.1: Conceptual Ground Level Landscape Plan**

LANDSCAPE FEATURES

1. North-South Promenade
2. East-West Promenade
3. Plaza with Shade Structure
4. Gathering Nodes
5. Retail Kiosk
6. Overhoff Art Wall
7. Grass and Plantings, Typical
8. Water Feature
9. Hotel Drop-Off Plaza

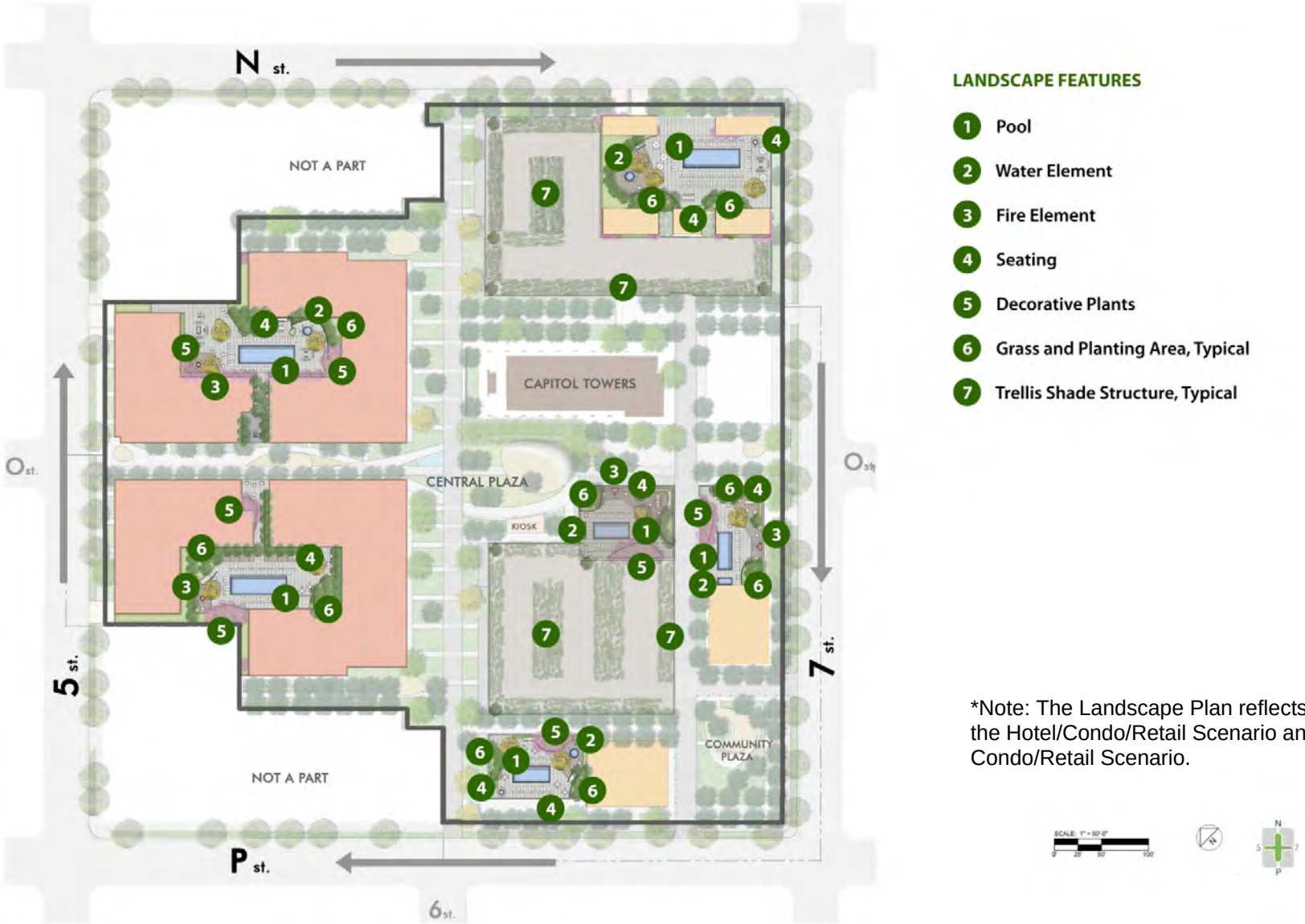
Tree Legend:

- Existing City Street Trees to Remain
- Heritage Trees to Remain
- Potential Non-Heritage Trees to Remain
- Proposed New Trees

*Note: The landscape plan reflects the footprint of both the Hotel/Condo/Retail Scenario and Condo/Retail Scenario.

Source: Van Tilburg, Banvard & Soderbergh, Melendrez, and adapted by AECOM in 2015

*Figure 2.2: Conceptual Podium Level Landscape Plan**



*Note: The Landscape Plan reflects both the Hotel/Condo/Retail Scenario and Condo/Retail Scenario.

Source: Van Tilburg, Banvard & Soderbergh, Melendrez, and adapted by AECOM in 2015

Figure 2.3: Conceptual View from P Street to the North-South Promenade

Figure 2.4: Conceptual View of High-Rises at the Corner of 7th and P Streets

VIEW LOOKING NORTHWEST

Figure 2.5: Conceptual View from N Street at Hotel/Condo

Figure 2.6: Conceptual View of Mid-Rise Development from 5th Street

Source: Van Tilburg, Banvard & Soderbergh, 2014

2.1.1 RESIDENTIAL AND RESIDENTIAL MIXED-USE

Sacramento Commons plans for up to a total of 1,374 residential dwelling units (not counting hotel rooms) for the Hotel/Condo/Retail Scenario on Parcel 3 and a total of 1,470 residential dwelling units for the Condo/Retail Scenario on Parcel 3. Residential units consist of new rental and for-sale residential units, existing units within the Capitol Towers building, and up to 49 new live-work units, as shown in Table 2-1. The residential development mix within each parcel is anticipated to consist of the following housing products and unit counts, as conceptually shown in Figures 2.1 and 2.2.

- On Parcel 1, two 24-story high-rise towers, with ground floor neighborhood support/retail, totaling 550 apartment units; plus an additional 12 live-work units, wrapped around the parking structure, interior to the parcel and 604 parking spaces.
- On Parcels 2A and 2B, 412 apartment units in mid-rise buildings, consisting of five levels of residential uses over three levels of podium parking (a half level of parking is below grade) with 229 parking spaces on each parcel (for a total of 458 parking spaces), and wrapped by neighborhood support/retail and a total of 30 live-work units.
- Parcel 3, Hotel/Condo/Retail Scenario includes a high-rise development with 110 condominium units and 300 hotel rooms, over two stories of neighborhood support/retail for a total of 24 stories, including a 639 space parking garage; while the Condo/Retail Scenario provides a total of 206 condominium units over two stories of neighborhood support/retail for a total of 24 stories, including a 573 space parking garage. Both scenarios include four live-work units.
- On Parcel 4A, interior modifications to the existing 203 residential units and retail space that currently exist in the Capitol Towers building, with 212 parking spaces accommodated in the parking garage on Parcel 3 and future potential for exterior modifications to ensure overall architectural compatibility with the development of Sacramento Commons.
- On Parcel 4B, 50 units in a seven-story mid-rise building, with three live-work units and neighborhood support/retail provided on the first two stories of the building and 61 parking spaces accommodated in the parking garage on Parcel 3.

2.1.2 HOTEL USES

Sacramento Commons plans for the potential for hotel uses in a high-rise hotel/residential combination development on Parcel 3. The Hotel/Condo/Retail Scenario for Parcel 3 would include up to 300 hotel rooms, with two stories of support functions, including a hotel lobby, fitness center, conference and meeting spaces, a restaurant/bar, the potential for up to a 15,000 square foot specialty market, a hotel guest drop-off zone (accessed from N Street); and an attached six level podium parking structure to accommodate hotel guests and other functions, as shown in Figure 2.1. Approximately 110 condominium units are planned in conjunction with the hotel. Parcel 3, Condo/Retail Scenario does not include hotel rooms and instead provides 206 condominium units, two stories of neighborhood support/retail, including the potential for up to a 15,000 square foot specialty market on the ground floor, and an attached six level parking structure, with the potential for one level to be built below grade.

2.1.3 ACTIVE GROUND FLOOR USES

To ensure a vibrant residential community, active uses, including neighborhood support/retail, are located at the ground level of each housing development, fronting the streets surrounding the PUD area, as shown in Figure 2.1. Live-work units wrap around podium garages and parking structures, designed to create an active frontage along the East-West and North-South Promenades. Existing retail uses at the Capitol Towers building include a neighborhood convenience store, a coffee shop, a

barber, and a restaurant, among other uses, which will continue to operate. These uses serve both existing Capitol Towers' residents and the surrounding neighborhoods. Existing support uses at Capitol Towers include a leasing and management office.

Additional retail uses are proposed to serve residents and guests, as well as the surrounding area. Additional support uses would provide amenities for residents and their guests and may include uses such as a gym, spa, meeting spaces, activity rooms, and other similar uses. Resident-serving uses are estimated to account for approximately 30% of the total proposed neighborhood support/retail square footage.

2.1.4 PARKING

Sacramento Commons proposes to provide vehicular parking spaces to serve project parking demand on-site, based on the number of parking spaces identified in Table 2-2. Vehicular parking for Sacramento Commons is planned to be accommodated within podium parking garages below the midrise units, west of the North-South Promenade and through two parking structures to serve parking demand for land uses, east of the North-South Promenade.

Table 2.2: Vehicular Parking Summary

Land Use	Parking Ratio Utilized	Parking Spaces Provided
Residential Apartments and Live-Work Units	1 space per unit	1,264 spaces
Condominium Units	1.25 space per unit	138 spaces (Hotel/Condo/Retail Scenario) or 258 spaces (Condo/Retail Scenario)
Hotel (Parcel 3, Hotel/Condo/Retail Scenario)	1 space per 2 guest rooms	150 spaces
Neighborhood Support/Retail	1 space per 500 gross square feet of retail, including hotel services (conference center, restaurant, etc.) or events	149 spaces (Hotel/Condo/Retail Scenario) or 113 spaces (Condo/Retail Scenario)
Total Vehicular Spaces	-	**1,701 spaces (Hotel/Condo/Retail Scenario) or 1,635 spaces (Condo/Retail Scenario)**

Source: Van Tilburg, Banvard & Soderbergh and compiled by AECOM in 2014

As summarized in Table 2.1, the approximate number of parking spaces provided within each parcel includes:

- For Parcel 1, 604 parking space would be included in a six-level garage (one level of the garage may be located below grade). The garage would include live/work units and neighborhood retail and/or support uses, wrapped on the ground floor along the North-South and East-West Promenades.
- For both Parcels 2A and 2B, 229 parking spaces would be included in a three-level garage (one level may be sunken half way below grade), for a total of approximately 458 spaces across the two parcels. The garages would serve as the base of the apartment buildings and neighborhood

retail and/or support services and live/work units would wrap along the ground floor of the building, screening the garage from public view.

- For Parcels 3, 4A, and 4B, parking would be provided in a parking garage that is attached to the west side of the hotel/condo building on Parcel 3. The garage is wrapped by live/work units and retail and support services on the ground floor of the hotel/condo building, along the North-South Promenade. Under the Hotel / Condo / Retail scenario, the garage on Parcel 3 would include approximately 639 parking spaces, within six levels of parking (one level of the garage could be located below grade). Under the Condo / Retail scenario, the garage on Parcel 3 would include approximately 573 parking spaces within six levels of parking (one level of the garage may be located below grade).

In addition to vehicular parking, the project would include both long-term and short-term bicycle parking spaces, consistent with the parking ratios and standard identified for the Central Business District in City Code Chapter 17.608 and further summarized in Section 2.3.2 of this document.

2.1.5 OPEN SPACE, LANDSCAPING, AND CIRCULATION FEATURES

Open Space and Landscape Features

The landscape and open space features within Sacramento Commons are illustrated in Figures 2.1-2.6 and identify the major open space features of the community, including the formal North-South Promenade, less formal East-West Promenade, a central plaza at the crossroads of both promenades, gathering nodes along these paths of travel, a community plaza on the corner of 7th and P Streets, and podium and rooftop amenity spaces.

The central East-West and North-South Promenades that cross the project site accommodate the major pedestrian flow of residents and neighborhood area users, who traverse the site to access the bus stops and light rail stations or en route to other Downtown area businesses, locations, or neighborhood destinations. The conceptual ground level view along the East-West Promenade from the mid-rises, looking east towards O Street, is pictured in Figure 2.7. The central plaza, with shade structure, a community lawn, and retail kiosk serves as a gathering place and focal point for the community, as pictured in Figure 2.8; while smaller gathering nodes, open lawn areas facing residential and live-work units, water features, and other open space areas provide opportunities for more intimate gathering, seating, café dining, and other outdoor activities.

Another landscape feature of the community is the Overhoff relief art wall. The art wall, currently located at the existing Capitol Towers pool area, is proposed to be relocated and moved north to align with the North-South Promenade, adjacent to the Capitol Towers building, as illustrated in Figure 2.9. Ground floor neighborhood support/ retail, live-work uses, and residential common space provide eyes on the street and along the promenades, supporting a safe pedestrian atmosphere within the community. A second large community plaza, with water feature, shade structure, and landscaping, is planned on the corner of P and 7th Streets, as shown in Figure 2.10,to provide a welcoming entry to the community. Extended living space and community amenities such as, pools, decks, shaded seating areas, and play areas are provided above podium parking structures and residential rooftops, as shown in Figure 2.2 and in the three-dimensional site concepts, illustrated earlier in Figures 2.3-2.6.

A secondary network of walkways connects residential units to the uses on- and off-site and is designed to complement landscaped themes and features in the community, with shaded and landscaped paths and seating areas. Lighting within the community is designed to create a comfortable and safe pedestrian environment into the evening, with emphasis on low level or ambient pedestrian lighting that prevents unnecessary light spillage or glare on adjacent or adjoining residential units.

Pedestrian-scaled lighting is planned along the streets and the North-South and East-West Promenades within Sacramento Commons, as suggested in the conceptual streetscape view of N Street towards the entrance to the North-South Promenade in Figure 2.11. Improvements to crosswalks and sidewalks and pedestrian and transit facilities adjacent to the project site will be coordinated with the City, Regional Transit, and other agencies to be compatible with surrounding Downtown development.

New trees planned on-site will be selected to integrate with existing trees on-site that will remain subsequent to project development. Trees should be planted where the available space between structures is equal to or greater than the footprint of a tree's expected mature canopy in order to achieve adequate soil volume. As the project is designed, the spaces between the buildings will be carefully studied and adjusted to ensure that the number of trees planted will be equal to or exceed those shown on the conceptual landscape plans. The canopy tree palette will be carefully chosen to meet several important criteria.

- Emphasis will be placed on trees that are adapted to Sacramento's climate and are consistent with the existing urban tree canopy found within the Downtown area.
- Trees that are drought tolerant and have watering needs consistent with understory plantings will be prioritized.
- Overall, a broadly multi-species tree canopy palette is desired to provide greater resistance to disease and dieback, which is more common in monoculture plantings.

Information on impacts to Heritage Trees, City Street Trees, and Non-Heritage Trees on-site as a result of the development and new trees planned on-site as replacement are summarized in the Arborist Report. Trees impacted shall be replaced, consistent with City Code standards for tree removal and replacement, as recommended by the Arborist Report. The Arborist Report also collected data and provided analysis of ecosystem service values of existing trees on-site and evaluates when future project landscape improvements would return comparable ecosystem service values as existing conditions. Characteristics, including canopy cover, leaf surface area, carbon storage, carbon sequestration, and avoided run-off were considered in the analysis. The results of the analysis reflected different time spans for each tree characteristic to reach the value currently calculated for the site.

Open space, planned for Sacramento Commons, will serve multiple functions, including opportunities for stormwater treatment; in addition, to meeting the open space and recreational needs of community residents and neighbors who access the site. Figures 2.12, 2.13, and Table 2.3 that follows provide a comparison of the differences in the built and open space (hardscape and softscape) environment/uses within Sacramento Commons, under existing conditions and proposed project conditions. Development within Sacramento Commons shall comply with City Code park requirements, requiring dedication of either park land or payment of an in-lieu fee to satisfy the project's Quimby requirements.

Table 2.3: Open Space Summary [1]		
Land Use	**Existing Site Conditions Area (acres)**	**Project Site Conditions Area (acres)**
Common Open Space	**4.32**	**4.17**
Open Space (Lawn and Landscaping)	2.14	1.82
Hardscape (Walkways)	2.18	2.35
Private Open Space	**0.72**	**2.97**
Private Open Space	0.50	1.32 (upper floor patios)
Pool Area	0.22	[2]
Residential Podium/Roof Open Space	-	1.65
Open Space Subtotal	**5.04**	**4.17 (ground level open space); 2.97 (above ground open space); 7.14 (total open space)**
Other Development Area (Ground Level)	**5.09**	**5.96**
Building Footprint (including Parking Garages)	3.10	5.96
Surface Parking	1.99	-
Total Area (Ground Level)	**10.13**	**10.13**

Notes:

[1] Refer to Figure 2.3 for the existing open space/land use summary plan and Figure 2.4 for the proposed project open space/land use summary plan.

[2] Pools are included on podium/roof open space, as shown in Figure 2.2.

Source: Van Tilburg, Banvard & Soderbergh, and compiled by AECOM in 2014

As an infill site in Downtown Sacramento, the project proposes a site-integrated approach to stormwater management, using a variety of stormwater quality control measures, consistent with guidance provided in the *Stormwater Quality Design Manual for the Sacramento and South Placer Regions*. The project proposes an array of run-off reduction and source control measures for the treatment of storm water quality on-site, which begins with utilizing existing site features, including the large number of mature street trees that surround the project site. These trees intercept the rain and their roots take in the water that soaks into the ground. Within the North-South and East-West Promenades, the project will employ run-off reduction measures such as, porous pavement, disconnected roof drains, disconnected pavement, and interceptor trees, as identified in Figure 2.14. The project will comply with site planning source control principles and design guidance for loading, outdoor storage, and waste management areas, as recommended in the *Stormwater Quality Design Manual for the Sacramento and South Placer Regions*.

Figure 2.7: Conceptual View of East-West Promenade Looking Towards O Street

Figure 2.8: Conceptual View of Central Plaza

Figure 2.9: Conceptual View of Overhoff Relief Art Wall Along the North-South Promenade

Figure 2.10: Conceptual View of Community Plaza on the Corner of P and 7th Streets

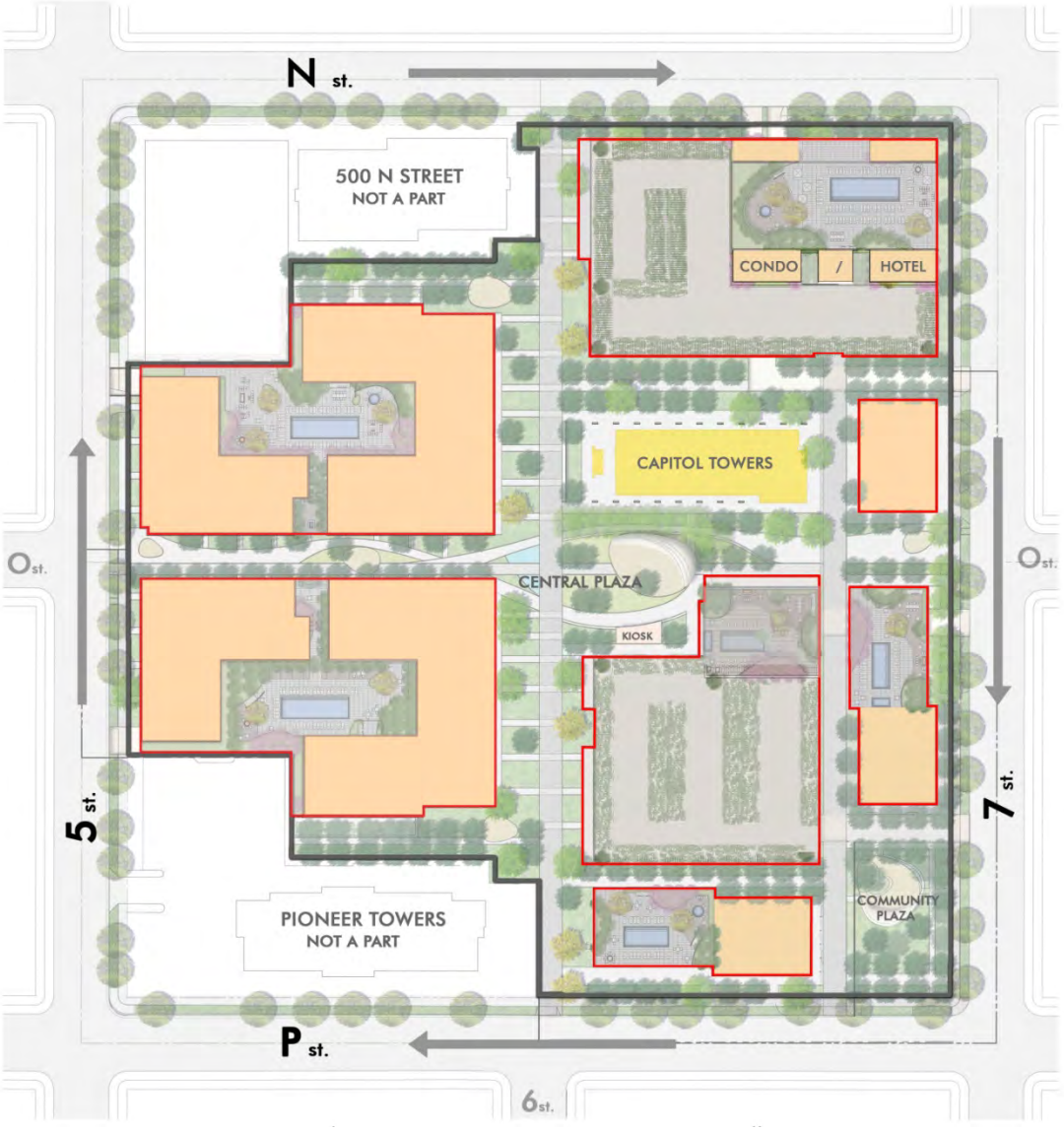
Figure 2.11 Conceptual View of Streetscape at N Street Entrance to the North-South Promenade

Source: Van Tilburg, Banvard & Soderbergh, 2014

Figure 2.12: Existing Open Space/Land Use Summary Plan

Source: Van Tilburg, Banvard & Soderbergh, 2014

Figure 2.13: Open Space/Land Use Summary Plan for the Proposed Project

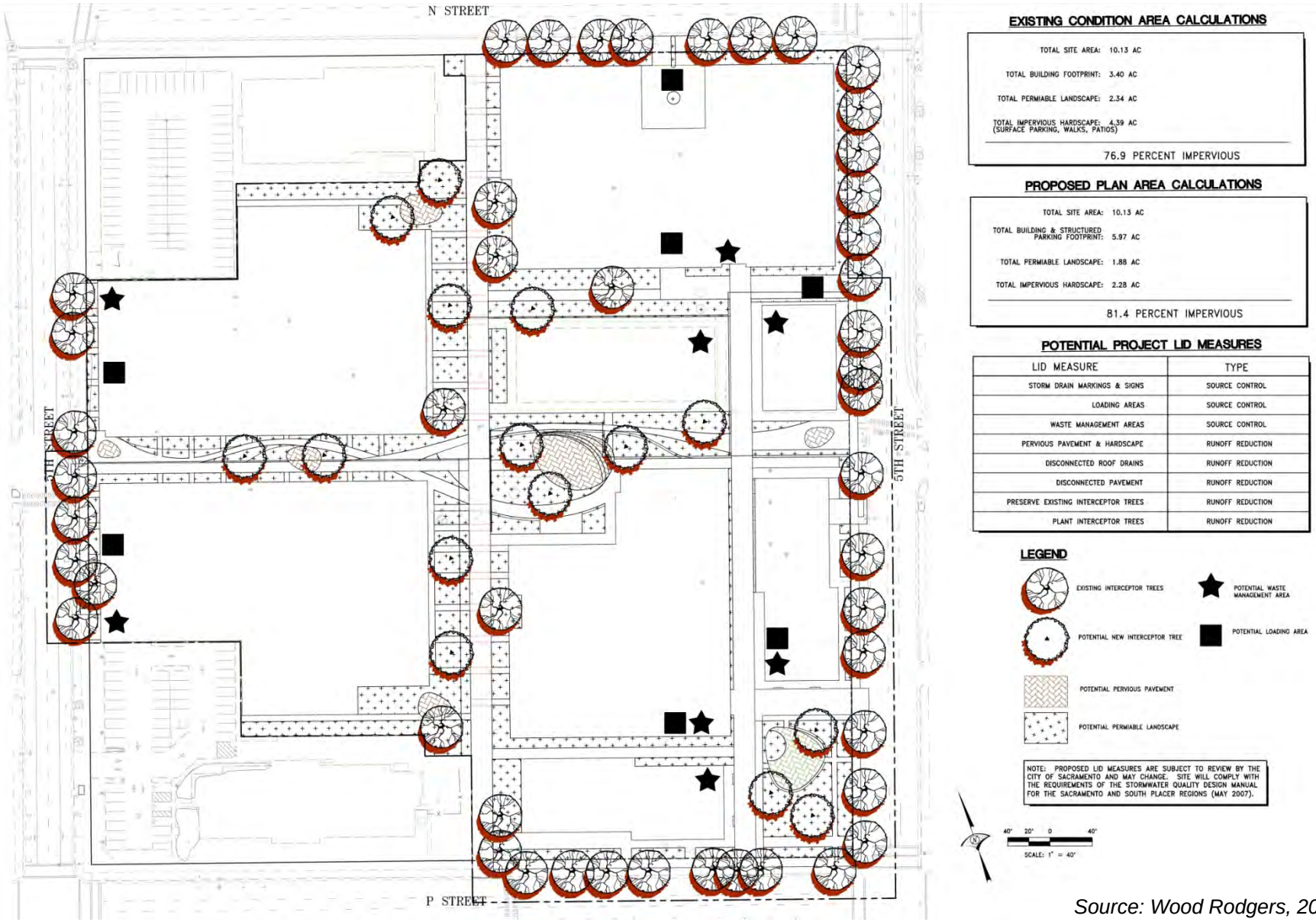


Hardscape (Walkways)	2.35 acres
Open Space (Lawn)	1.90 acres
Residential Open Space (Podium/Roof)	1.55 acres
Building footprints at Grade	5.64acres
Capitol Towers	.24 acres
Total Common Public/Private Open Space	7.12 acres*
*Residential Private Open Space (Balconies not shown)	1.32 acres

PROPOSED
LAND USE/OPEN SPACE SUMMARY

Source: Van Tilburg, Banvard & Soderbergh, 2015

Figure 2.14: Site Integrated Low Impact Development Strategies



Source: Wood Rodgers, 2014

2.2 PERMITTED AND PROHIBITED USES

Sacramento Commons is to be designated R-5-PUD, maintaining the purpose of R-5 zones to permit dwellings, institutions, and limited retail and service uses to the surrounding neighborhood. Permitted, conditionally permitted, and uses not permitted for Sacramento Commons are consistent with and shall follow the same standards identified for the R-5 zone in the City Code, except as summarized in Table 2.3, below.

2.2.1 TABLE OF PERMITTED AND PROHIBITED USES

Uses proposed to be "not permitted," in Table 2.4, are currently "permitted" in the R-5 zone, but would not be consistent with the project proposal. The project proposes to separately define "bar" from "nightclub," as addressed in paragraph A and sets specific standards for live-work uses, as addressed in paragraph B, following Table 2.4.

Table 2.4: Permitted and Prohibited Uses

Land Use	Type of Approval
Residential Use	
Mobilehomes and mobilehome parks	Not Permitted
Non-Residential Use	
Bar (see definition in paragraph A., that follows)	Permitted
Cemetery	Not Permitted
Check-cashing center	Not Permitted
High voltage transmission facility	Not Permitted
Mortuary; crematory	Not Permitted
Night club (see definition in paragraph A., that follows)	Not Permitted
Non-profit organization, food storage and distribution and meal service facility	Not Permitted
Passenger terminal	Not Permitted
Temporary residential shelter	Not Permitted
Well-gas, oil	Not Permitted

Source: AECOM, 2014

A. Bars and Nightclubs

Within the R-5 zone, "bar; nightclub" is identified as a conditional use approved by the Planning and Design Commission. For the purposes of the PUD Guidelines, bars and nightclubs are separately identified and defined, where the term, "bar" is consistent with the existing City Code definition for "bar; and nightclub" to mean: "any establishment designed, maintained, operated, used, or intended to be used for the selling or serving of alcoholic beverages to the public for consumption on the premises, which does not qualify as, or is part of, a bona fide public eating place such as, a wine bar or off-site tasting room, as defined in Business and Professions Code section 23038. A "nightclub," as defined in the Sacramento Commons PUD Guidelines, shall mean: "An establishment in which music, dancing, or entertainment is conducted as a primary use." The PUD Guidelines is intended to allow a hotel

restaurant, with kitchen and bar that would permit selling or serving of alcoholic beverages to the public for consumption on the premises and music, dancing, or entertainment as an accessory use.

B. Live-Work Use and Standards

"Live-work" units in Sacramento Commons allow for the convenience of both living and working in one place. Live-work units provide for creative and active use of the ground floor space and typically, feature high ceilings and other comforts of living in a home with additional flex space to accommodate nonresidential uses allowed by the Code. Uses allowed in live-work units such as, offices, artist studios, or incubator businesses depend on little or no client or customer traffic; and thus, are consistent with the residential character and nature of the community. Live-work units provide community benefits by promoting employment opportunities and a day time population to activate the community on a regular basis; allow for mixed-use living arrangements to accommodate a variety of lifestyles; reduce commute travel and vehicular use; and promote creative development plans and designs. Live-work units shall be governed by the following standards:

1. The work use shall be provided on the ground floor to activate the street or open space. Living areas and private uses should be located above or behind the work use.

2. Home occupations or businesses shall comply with all applicable permitting processes for the City, as required for the use or operation.

3. Uses on-site shall not generate external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors or detract from or cause a nuisance to the community.

2.3 DEVELOPMENT STANDARDS

Development within the Sacramento Commons PUD area is subject to the building setbacks, massing, and other development standards of this PUD. Unless otherwise noted, the development standards included in Table 2.5 supersede and supplement the development standards for R-5 in the Planning and Development Code. Development standards for Sacramento Commons are generally consistent with the development standards for the R-5 zone, except in a few respects, including in the maximum lot size; maximum lot depth; rear yard setbacks; and tower interior side and rear yard setbacks. These variations are due to the unique configuration of the project site, as four city blocks, with centrally located promenades and frontage on four major roadways.

The project proposes to modify the definition of "building base" in the Planning and Development Code from the first 65 feet of the building height to the first 75 feet of the building height, which is consistent with the Central Core Design Guidelines that addresses building base heights of between 65 feet and 85 feet. The project also proposes bulk control standards that deviate from recommendations in the Central Core Design Guidelines, but are permitted under the Central Core Design Guidelines, subject to meeting performance standards, further described in Section 2.3.1.A, "Bulk Control Standards for High-Rise Towers."

The design of the building structures and towers were given significant thought and consideration. The proposed project has been designed to balance multiple site objectives, including maintaining a sense of proportionality with new structures, in relation to the three existing towers within the four block site; providing design features for the construction of functional and efficient structures; and maximizing ground floor open space. In order to accomplish these objectives, the development standards for Sacramento Commons vary from the R-5 zone, as noted above.

2.3.1 DEVELOPMENT STANDARDS TABLE SUMMARY

Table 2.5: Development Standards Summary	
Lot Size and Coverage and Building Density, Intensity, and Height	
Lot Coverage (percentage)	80% maximum
Lot Size (square feet)	144,000 maximum
Lot Width (feet)	40 minimum
Lot Depth (feet)	80 minimum; 370 maximum
Density for Residential Parcels (units/net acre) [1]	175 maximum
Floor Area Ratios for Non-Residential and Mixed-Use Parcels	3.0 minimum; 15.0 maximum
Height	240 feet maximum
Building Setbacks (in feet) [2]	
Front Yard and Street Side Yard Setback	10 minimum; 25 maximum
Ground Floor Transparency	60% minimum
Permitted Setback Encroachments into the Front and Street Side Yard	Structures such as, storefronts and arcades; covered and uncovered porches, decks, and patios may extend into minimum front and street side setback areas, up to a height of 15 feet, if not interfering with the street tree canopy
Interior Side Yard Setback	0
Midrise to Midrise and Midrise to Tower Building Separation (within PUD area) [3]	40 minimum
Separation from Existing Buildings (500 N and Pioneer Towers) Outside the PUD area [3]	55 minimum
Tower [4] Setbacks (in feet)	
Front Yard and Street Side Yard Setbacks	Same as for the main wall of the building base
Interior Side Yard and Rear Yard Setbacks	
Tower to Tower Separations [3]	80 minimum
Other Development Standards	
Architectural Design Guidelines	See Code Chapter 17.600
Landscaping and Paving Requirements	See Code Chapter 17.612
Recycling and Solid Waste Disposal Regulations	See Code Chapter 17.616
Wall, Fence, and Gate Regulations	See Code Chapter 17.620
Parking Requirements	See Section 2.3.2, below
Sign Standards and Regulations	See Section 2.3.3, below

Notes:

[1] As proposed, Parcels 1, 2A, 2B, and 4B are residential parcels; parcels 3 and 4A are mixed-use parcels.

[2] No rear yards due to unique site configuration.

[3] Minimum separation distances between buildings are not applicable to parking garages.

[4] "Tower" means the portion of the building located above a building base height of 75 feet.

Source: AECOM, 2015

A. Bulk Standards for High-Rise Towers

The following bulk controls shall be applicable to the high-rise towers planned within the PUD area, above a base height of 75 feet. These standards are proposed to vary from the CCUDG. Section 4.D.3 of the Central Core Design Guidelines provides bulk control guidelines, intended to serve as a framework for the review of projects. Alternative designs are permitted that meet the intent of the Central Core Design Guidelines if: "the proposed design provides equal or greater amenities and benefits to compensate for areas of the project design not in compliance. Projects that do not adhere to bulk control criteria should ensure, at a minimum that tower designs take into consideration shadow casting, heat island effect, solar orientation, wind tunnel effects, prevailing winds, as well as viewsheds."

1. For the high-rise tower on Parcel 3, both site development scenarios, with a maximum building height of 240 feet:
   a. Maximum average tower floor plate: 17,000 square feet;
   b. Maximum plan dimension: 185 feet; and
   c. Maximum diagonal dimension: 225 feet.
   d. Bulk reduction: 10% reduction required for top 20% of the tower height, measured from grade; no setback from the street is required at the street wall base height
2. For the residential high-rise towers on Parcel 1, with a maximum building height of 240 feet:
   a. Maximum average tower floor plate: 13,500 square feet;
   b. Maximum plan dimension: 192 feet;
   c. Maximum diagonal dimension: 208 feet; and
   d. Bulk reduction: 10% reduction required for top 20% of the tower height, measured from grade; no setback from street required at the street wall base height.

2.3.2 PARKING AND LOADING

Vehicular Parking and Loading

No minimum parking requirements are identified for land uses within the Central Business District in City Code Chapter 17.608. Refer to Section 2.1.4 for the description of parking, proposed to serve parking demand on-site. Refer to the parking standards in Code Chapter 17.608 for all other parking requirements.

The number, size, and design of loading areas proposed to serve the project shall be addressed through the Site Plan and Design Review process, at the time of submittal of future development applications.

Bicycle Parking

Bicycle parking for Sacramento Commons shall include both long-term and short-term bicycle parking spaces and conform to applicable bicycle parking standards for the Central Business District in City Code Chapter 17.608. In addition, the project will comply with CalGreen standards for non-residential uses (including spaces for hotel and neighborhood support/retail uses) that require short-term bicycle parking be permanently anchored bicycle racks within 100 feet of a visitor entrance, visible to passersby for 5% of the visitor vehicle parking capacity.

2.3.3 SIGNAGE STANDARDS

Signage used within Sacramento Commons generally consists of project identity signs; business identification signs; wayfinding signs; live-works signs; real estate signs; informational signs; and building or unit number signs. Signage for Sacramento Commons shall comply with the standards in Chapter 15.148 of the City's Code, except as defined and provided in the standards that follow. Signs shall be designed to the following standards, consistent with the overall design themes of the community, as addressed in the design guidelines for signage and public art in Section 3.1.5. Unless otherwise permitted, exceptions to these standards shall require an amendment to the PUD Guidelines. A Master Sign Plan, to be submitted to the City during the Site Plan and Design Review process and subject to the standards set forth below, is proposed to guide development of all project identity and wayfinding signs.

A. Project Identity Signs

Project identity signs identify the community and present a uniform image and character for Sacramento Commons. Project identity signs may consist of landscaped monument signs, pilaster signs, freestanding signs, wall signs, banner signs, and other attached or detached signs, as regulated by City Code Chapter 15.148. The number, location, and size of project identification signs permitted along the street frontage and on interior promenades and walkways shall be identified in a master sign plan, consistent with the following standards.

1. **Number and Location of Signs.**

   a. **Monument Signs.** One monument sign or other project identity sign is permitted at each major or promenade entrance into the community and in the landscaped setback of a street corner, subject to visibility requirement for corner lots in Chapter 17.60 of the Code. Project identification signs shall be coordinated with the location of business tenant identification signs to prevent signage clutter.

   b. **Interior Signs.** Signs located interior to the property, including signs along the promenades and walkways intended to be viewed primarily from inside the premises, shall be located in visible locations and coordinated with other signs on the property.

   c. **Banner Signs.** Banner signs may be permitted. The maximum number and size of banner signs and locations shall be determined with the approval of the master sign plan.

   d. **Attached Signs.** Attached signs, where provided, shall be limited to one for each building, per street frontage.

2. **Size and Design of Signs.** The design of signs shall be addressed in a master sign plan, consistent with the intent of regulations in the City Code and the following standards.

   a. Monument signs shall not exceed six (6) feet in height or a maximum sign area of 48 square feet, unless, otherwise permitted in the master sign plan.

   b. Banner signs shall be limited to 40 square feet.

   c. Attached signs shall be placed flat against a building or designed as part of an architectural feature, as addressed in City Code, Sections 15.148.280 and 15.148.150. The maximum area of an attached sign shall not exceed a total aggregate area of two square feet for each foot of linear street frontage, up to a maximum of 150 square feet.

B. Business Tenant Identification Signs

Tenant signs shall be used to identify business tenants on the property. Tenant identification signs may consist of a variety of attached signs and/or freestanding signs. Building tenant identification signs shall be regulated by City Code, Chapter 15.148 and the standards that follow.

1. **Number and Location of Signs**

   a. **Attached Tenant Signs.** Each tenant may have up to two attached signs, one per building face, to be located either flat against the wall of the building or projecting, subject to the standards for attached signs in Section 15.148.280 and projecting signs in Sections 15.148.370 through 15.148.440 of the City Code. If a hotel use is included in the high-rise tower proposed on Parcel 3, the high-rise tower may include a rooftop sign for each building face, identifying the hotel use. The rooftop sign may project above the parapet wall.

   b. **Freestanding Tenant Signs.** One tenant monument sign, tenant directory sign, or other freestanding tenant sign is permitted for each building, per street front to be coordinated with the location of freestanding project identity signs, as addressed in paragraph A.1.a above. Signage for multiple in-line tenants within a building are encouraged to be provided on one common base.

   c. **Window Signs.** For each ground floor tenant, no more than two permanent window signs may be painted on or otherwise displayed on the inside surface of any window.

2. **Size and Design of Signs.**

   a. **Attached Tenant Signs.** The total area for all attached signs shall not exceed a total aggregate area of two square feet for each foot of linear street frontage, up to a maximum of 150 square feet per tenant frontage, for a maximum of two street faces (if on a corner lot). If a hotel use is included in the high-rise tower proposed on Parcel 3, the high-rise tower may include signage in the upper sign area or on the rooftop sign of each building face, identifying the hotel use. The rooftop sign may project above the parapet wall.

   b. **Freestanding Tenant Signs.** Freestanding tenant signs shall not exceed 48 square feet in area, unless otherwise permitted with a sign permit.

   c. **Window Signs.** The total area of window signs for each ground floor tenant shall not exceed a sign area of four square feet.

C. Wayfinding Signs

Wayfinding signs support the identity themes for Sacramento Commons and may consist of directional signs and site information maps that aid residents, tenants, and visitors in navigating the property. Wayfinding signs shall be developed in accordance with a master sign plan for the overall project site and coordinated with the location of other site signage.

1. **Number and Location of Signs** One directional wayfinding sign or site information map is permitted at each promenade entrance into the community, visible from the street and as permitted for signs located interior to the property, as addressed in paragraph a., below.

   a. **Wayfinding Signs.** One directional wayfinding sign or site information map is permitted at each promenade entrance into the community, visible from the street and

as permitted for signs located interior to the property, as addressed in paragraph 1.b, below.

b. **Interior Signs.** Signs located interior to the property, including signs along the promenades and walkways, intended to be viewed primarily from inside the premises, constitute "Interior Signs" for the purposes of City Code, Section 15.148.660.D and are exempt from permit requirements in the City Code, Chapter 15.148. Interior signs may be illuminated, subject to an electrical permit. Signs shall be located in visible locations and coordinated with other signs on the property.

2. **Size and Design of Signs.** Wayfinding directional signs shall not exceed 20 square feet in area. Site information maps shall not exceed a maximum area of 30 square feet. Both types of signs may be double-sided and illuminated.

D. Live-Work Tenant Signs

Live-work tenant signs shall be subject to the standards that follow.

1. **Attached Tenant Signs.** Signage intended to promote on-site commercial uses shall be restricted to projecting signs or signs permanently affixed to the door or wall of the business, subject to the standards for attached signs in Section 15.148.280 and projecting signs in Sections 15.148.370 through 15.148.440 of the City Code.

2. **Freestanding Tenant Signs.** Freestanding signs shall not be permitted for live-work uses.

E. Small Signs

Signs providing direction or instruction on the property and not advertising a business shall be regulated as "Small Signs," addressed in City Code, Section 15.148.660.C of the City Code, and not to exceed four square feet in area, unless otherwise permitted by the City. Identification of the community: "Sacramento Commons" or a Sacramento Commons logo, do not constitute general advertising.

F. Building or Unit Number Signs

Building or unit numbers and name plates should not exceed two square feet in area for each residential building, unless otherwise permitted by the City.

G. Sign Illumination

Signage may be indirectly or directly illuminated, when designed, located, and appropriately screened to avoid casting direct light sources on residential units in the PUD area, subject to City review and approval as part of a master sign plan or signage permit. All illuminated signs shall be subject to an electrical permit.

III. COMMUNITY DESIGN

Community design concepts, standards, and guidelines are described in this chapter, to guide and support the quality site, architectural, and landscape design of the Sacramento Commons community, consistent with the site form and function summary concepts specific for the project development that follows and the City's guidelines for the Central Core. Design standard and guidelines also recognize and provide flexibility to respond to market needs and conditions and ensure compatibility with existing surrounding development and uses. The standards and guidelines in this chapter will assist planning staff, the Planning and Design Commission, and City Council in evaluating future site plans on the project site for consistency with the PUD Guidelines. To this end, this chapter identifies both design standards, which express a requirement that must be followed and use the terms: "shall" or "required;" and design guidelines, which are intended to be qualitative and express design intent. Design Guidelines provide flexibility for interpretation, so long as the intent of the guidelines is upheld. Design Guidelines use terms like "should," "may," "encouraged," and "discouraged."

Application of the standards and guidelines in this chapter ensures development that may occur over an extended period of time within Sacramento Commons is of high quality, consistent with the City's adopted goals and policies, and addresses the project objectives of the PUD Guidelines. The design standards and guidelines in this chapter reference Section 3 (Central Core Design Guidelines) of the Central City Urban Design Guidelines (CCUDG). They, therefore, supplement and provide adjustments to the City's guidelines and provide additional specificity, as they apply to project conditions, goals, objectives, and the overall design themes for Sacramento Commons. The standards and guidelines in this chapter address the intent of the design guidelines set forth in Chapter 3 - Public Realm and Chapter 4 - Private Realm of the Central Core Design Guidelines.

Where the design standards and guidelines are silent, the project shall comply with the City's Planning and Development Code and Central Core Design Guidelines. Where design guidelines in this document are not the same as those contained within the Central Core Design Guidelines, the design standards and guidelines in this document shall prevail. Design standards and guidelines in this chapter that change or modify guidelines in the Central Core Design Guidelines are identified in brackets and italicized text, with section references provided to corresponding descriptions in the Central Core Design Guidelines.

3.1 COMMUNITY DESIGN FRAMEWORK

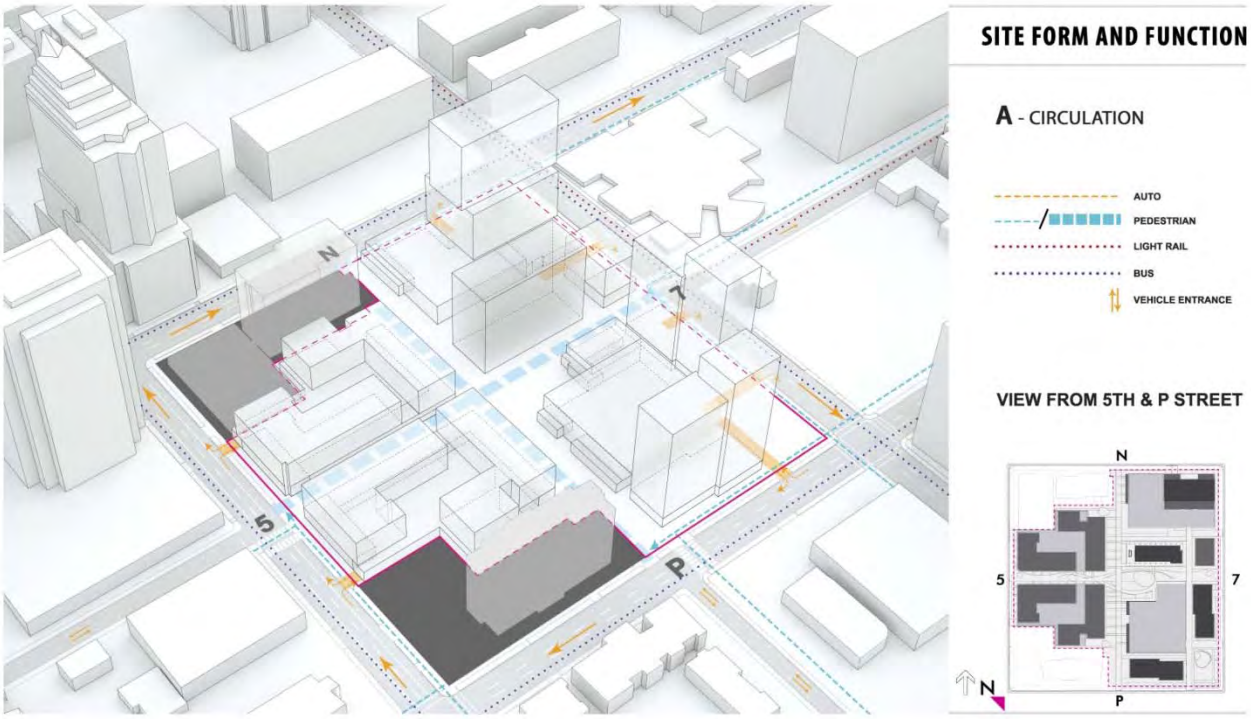
The community design framework for Sacramento Commons are summarized in the following site form and function diagrams that highlight the basic concepts guiding development of Sacramento Commons.

3.1.1 SITE FORM AND FUNCTION CONCEPTS

A- Circulation

Bicycle, pedestrian, vehicular, and transit circulation and access, including vehicular parking entrances into Sacramento Commons, is illustrated in Figure 3.1. The East-West and North-South Promenades (represented by turquoise blue lines) continue the urban grid of the City and establish the primary pedestrian and bicycle access movements through the community. These walkways provide connections to nearby transit stops on- and off-site and support surrounding Downtown area access. Vehicular and parking access has been balanced and distributed along each of the street frontages (with one-way streets that circulate traffic in a clockwise direction around the site) to serve the vehicular access and on-site parking needs of the community. The community also benefits from being served by bus and light rail transit, with bus lines traveling along all four street sides that surround the property and light rail access along 7th and O Street, with a station on O Street, east of the property. Located within the rich, multimodal transportation environment of Downtown Sacramento, Sacramento Commons will ensure all modes of access are safe and support a pedestrian-friendly community environment.

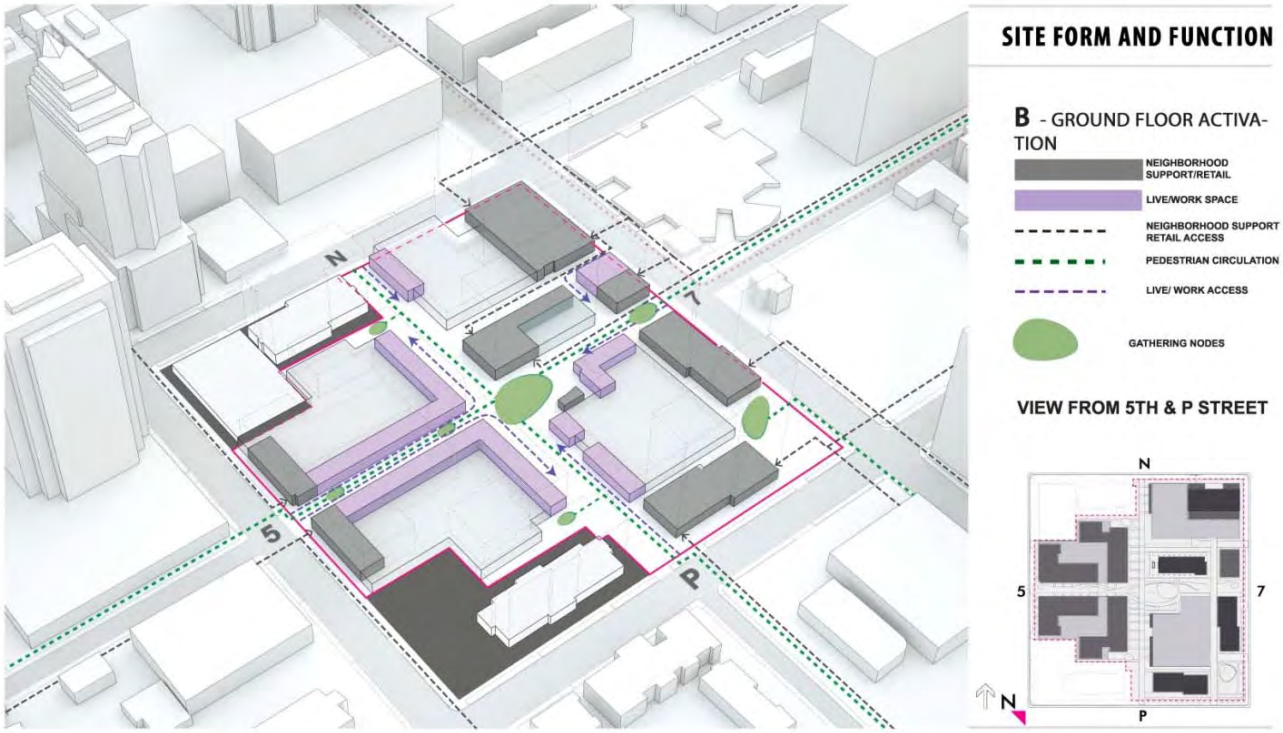
Figure 3.1: Circulation Concept



B- Ground Floor Activation

To support the primary pedestrian movements along the city's grid, Sacramento Commons will be designed with architectural and landscape features that ensure a lively and active ground floor experience. Each of the residential or mixed-use development products in the community include neighborhood retail or support uses (as indicated by the grey building masses) that line each of the street frontages around the property. The existing ground level retail uses in the Capitol Towers building is also indicated and would continue to remain as part of the Sacramento Commons project. Internal East-West and North-South Promenades, accessed by the community, are lined with live-work spaces (shown in purple) and landscaped open space that is interspersed with gathering or activity nodes (shown by the shaded green masses).

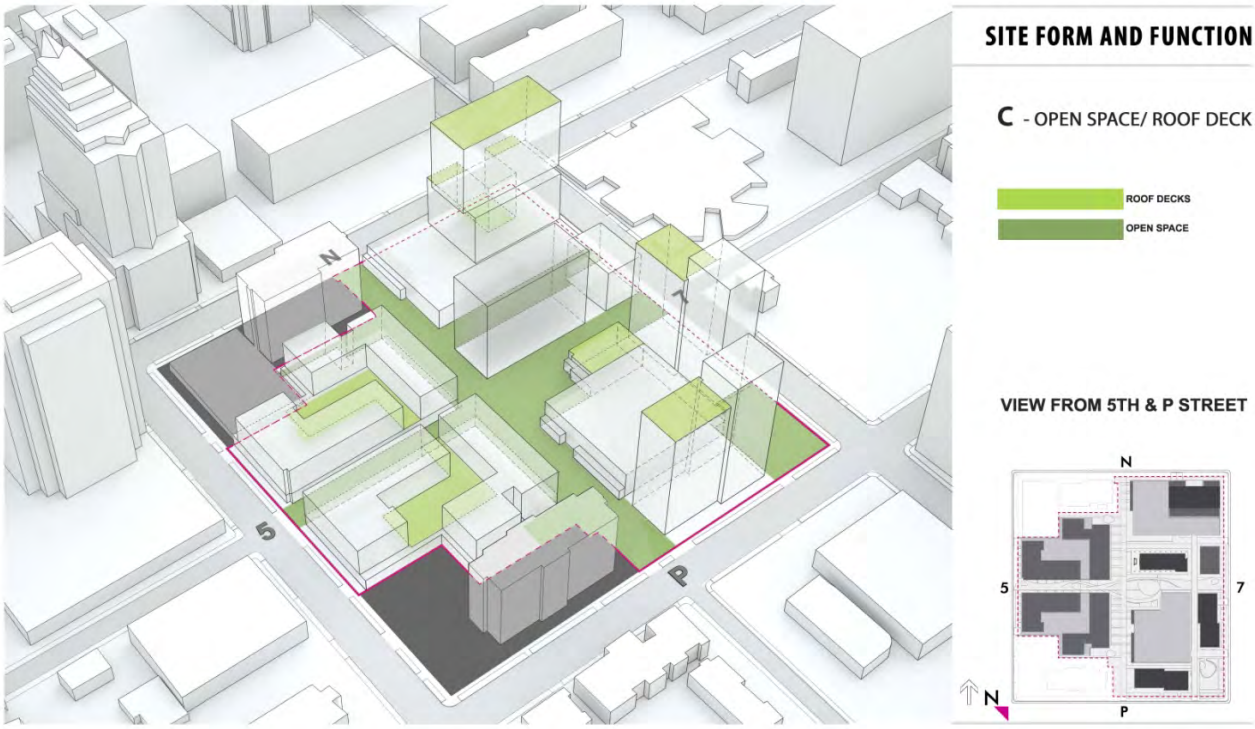
Figure 3.2: Ground Floor Activation Concept



C- Open Space

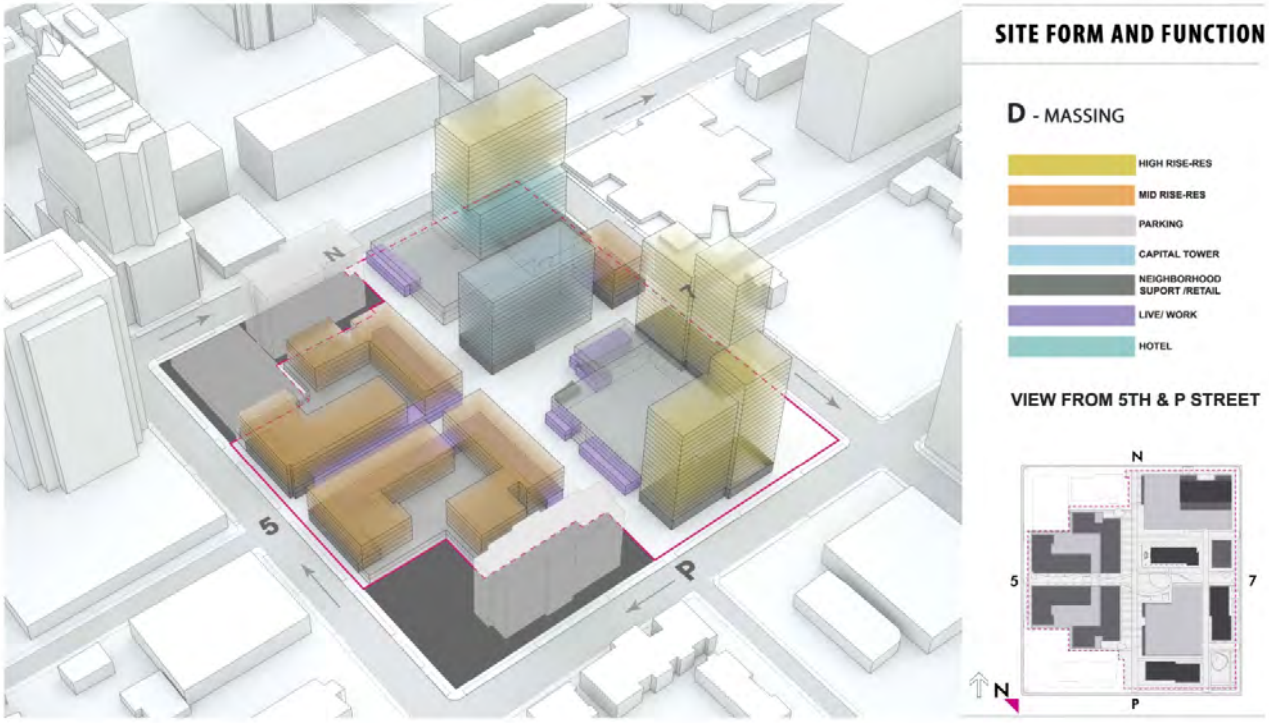
Sacramento Commons includes a landscaped garden setting, organized by two landscaped promenades, as well as podium and rooftop decks that establish the open space system for Sacramento Commons and serve as the major community amenity.

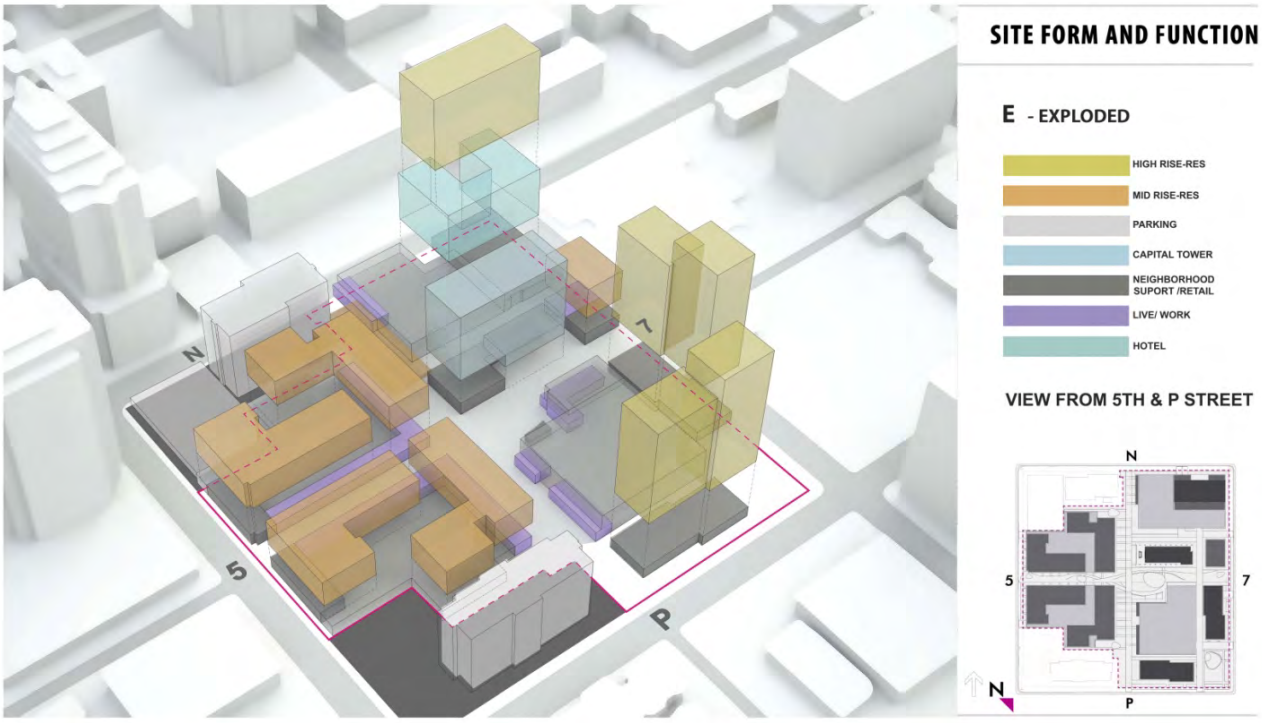
Figure 3.3: Open Space Concept



D- Land Use and Massing

Sacramento Commons has been designed as an active residential mixed-use community that has been carefully integrated into the Downtown urban grid to enhance the mix of land uses in the community and fit into the context and character of the surrounding Downtown area. Through careful site planning and design of the building architecture and massing, the project will support active pedestrian spaces and a pedestrian-, bike-, and transit-friendly community environment.





These features, as a whole, establish the unique community design context for Sacramento Commons and serve as a basis for the development standards and design guidelines that follow in this chapter.

3.1 SITE, STREETSCAPE, AND LANDSCAPE DESIGN

Site design standards and guidelines for Sacramento Commons are intended to complement the development character of the existing neighborhood; integrate with the existing circulation network; and promote high-quality building development and landscape design.

3.1.1 SITING AND ORIENTATION

Intent

Siting and orientation standards and guidelines for Sacramento Commons are intended to provide design criteria for the placement of buildings in response to existing site and building conditions, the local climate, land use activities, and design themes in the community.

Siting and orientation of development respects and responds to existing site, building conditions, and land uses.

Guidelines for siting and orientation are addressed in Chapter 4: Private Realm, sections 4.B.1 through 4.B.4 of the Central Core Design Guidelines, which addresses:

- Setbacks and build-to-lines
- Building setbacks from trees
- Lot coverage
- Open space

Sacramento Commons should conform to the design guidelines in Sections 4.B.1 through 4.B.4 of the Central Core Design Guidelines and the following additional design standards and guidelines.

Design Standards

Orientation

- While placing buildings on the site, sufficient distance between adjacent towers, as required by the minimum setback standards in Chapter 2 of the PUD Guidelines and shown in the design concept to the right, shall be maintained to allow individual tower units, ground level uses, and rooftop terraces access to sunlight and natural ventilation.

Buildings on the site shall be provided a sufficient distance from adjacent residential towers to allow units, ground level uses, and patios access to sunlight and natural ventilation.

Design Guidelines

Setbacks

- New buildings fronting an existing street should have setbacks, generally consistent with setbacks of existing buildings on the street and respond to existing features in the setback areas, including preserving existing street trees and quality landscape features within the street and other setback areas. Refer to Table 2.3 for setback requirements for Sacramento Commons.
- Placement and design of new buildings should reinforce the site design and landscape concepts of the project, with landscape features, community amenities, and gathering nodes that help foster opportunities for social interaction.

New buildings should generally be consistent with setbacks of existing buildings on street.

Orientation

- Residential buildings should be oriented to the street or common open space areas to allow units access to natural light and ventilation, as well as, street or promenade views.
- Street-level or upper level units, visible from the streets and common open space, or from another unit, should be designed to ensure privacy, where desired in each unit for private spaces such as bedrooms and bathrooms, and allow eyes-on-the-street for semi-private areas such as, living rooms, kitchens, patios, and balconies.

Units should be oriented to the street or internal courtyard areas to take advantage of access to passive solar and natural ventilation.

3.1.2 PUBLIC REALM DESIGN

Intent

The public realm design guidelines that follow address the zone between the building and the street and their relationships.

Specific design guidelines applicable to Sacramento Commons are addressed in Chapter 3: Public Realm, Sections B.1, B.3, C.1, and C.2 of the Central Core Design Guidelines, which cover the following topics:

- Street types (within Sacramento Commons, N Street, P Street, and 5th Street are described as “corridor streets” while 7th Street is defined as a “transit street”)
- Intersections
- Sidewalks
- Functional zones

Sacramento Commons should conform to these design guidelines and the following new or modified design guidelines (see italicized text for modified guidelines and reference to the corresponding Central Core Design Guidelines).

Design Guidelines

Circulation and Multimodal Access

- *Surrounded by one-way streets on all sides and organized by central promenades, the project requires vehicular ingress and egress points along all street frontages, but should be designed to do so in a manner that ensures efficient vehicular access for the project and minimizes curb cuts and conflicts with the safety of pedestrians, bicyclists, and transit users [modification to Chapter 4, Section B.7 of the Central Core Design Guidelines].*

Coordination with Existing Streetscape

- Design the community plaza at the intersection of 7th and P Streets as an entry statement, with design elements that are compatible with the character of the plaza space, south of P Street at the State Central Plant.
- In enhancing pedestrian and transit facilities on-site, improve the existing mid-block crosswalk from Sacramento Commons to the light rail station on O Street, with enhancements that improve the visibility of the crosswalk.
- When feasible, preserve, enhance, and maintain sidewalk landscaping and street trees on all streets surrounding the PUD area.

Consider paving treatment that enhances the existing mid-block crosswalk from Sacramento Commons to the light rail station on O Street.

Site Access

- Provide necessary internal vehicular ways, with adequate driveway widths and turning radii to serve on-site parking areas and fire and service access for Sacramento Commons' residents, visitors, and other users expected to uses these areas.
- Plan pedestrian and bicycle connections on-site to connect and integrate into the City's existing multimodal transportation network.
- Design and improve the landscaped promenades and walkways with signage, street furniture, and landscaping to serve both residents and other site users.

Design and improve landscaped promenades and walkways to serve needs of residents and other site users.

3.1.4 PARKING, LOADING, AND SERVICE AREAS

Intent

The intent of parking, loading, and service area guidelines are to minimize the visual impact of these uses in public areas, while maintaining their efficient function. Most of the parking provided for Sacramento Commons will be in parking structures or podium garages beneath residential development, wrapped with live-work uses. Therefore, it will be important to ensure that circulation to and from parking garages is safe and visible for drivers, pedestrians, and bicyclists.

Ensure safe access to parking, loading, and service areas that minimize conflicts with pedestrian, bicyclists, and other site users.

The design guidelines provided below are based on Chapter 4: Private Realm, Sections B.7, E.1, and E.2 of the Central Core Design Guidelines, which address the following topics:

- Site access, service areas, and utilities
- Location and configuration of structured and surface parking
- Bicycle parking

Sacramento Commons should conform to these design guidelines and the following additional design guidelines.

Design Guidelines

Off-Street Parking and Parking Structures

- On-site parking should be provided in parking structures to maximize use of floor space for residential, commercial, open space, and other active uses to ensure a pedestrian-friendly community.
- Provide safe and convenient pedestrian connections, including defined walkways from uses on site to parking areas.
- Parking structure or garage facades along the promenades should be wrapped by active ground floor uses or creatively screened with landscaping to minimize the visual impact of the parking structure.

Parking structure or garage facades are planned to be wrapped with ground floor live-work uses along the major pedestrian ways of the community.

- Light fixtures provided in the ceiling of parking structures or garages should not be visible from adjacent walkways or streets.
- Landscaped screening or short walls shall be applied on the sides of the parking structure or garage to shield headlights of parked cars from ground floor uses.

- Bicycle parking should be provided within parking garages or in convenient locations, preferably close to building entries, providing good visibility.

Loading, Services, and Utility Areas

- The number and design of loading areas will be addressed during the Site Plan and Design Review process, during the submittal of each development phase.
- Loading and services areas for non-residential uses on the site should be designed to minimize visibility from the adjoining streets.
- Loading, trash, and recycling areas should be accessible from the side or rear of buildings in secondary alleys or driveways (off primary streets) or in pull-out areas or bays, screened from public view, when possible; and shall allow adequate space and turning radii for truck movement and access and pick-up, without impeding walkways.
- Mechanical equipment that produces noise, exhaust, or visual blight should be located away from public walkways or screened from public view in a manner consistent with the character of the building.

Loading and service areas should be located away from public walkways and/or screened from public view.

3.1.5 LANDSCAPE DESIGN

Intent

Landscape design guidelines for Sacramento Commons ensure existing trees on-site are preserved, to the extent possible, and maintain and enhance the natural charm, quality of place, and pedestrian-friendly character of the community.

The Guidelines provided below are based on Chapter 3: Public Realm, sections C.3, D.1 through D.3, and Chapter 4: Private Realm, sections B.5 and D.4.j of the Central Core Design Guidelines, which cover the following topics:

- Street furnishings and amenities
- General landscaping guidelines
- Street tree guidelines
- Tree planting guidelines
- Landscaping as part of site planning
- Lighting

Site landscaping should enhance the pedestrian experience, complement existing development, and enhance the quality of the community.

Sacramento Commons should conform to these design guidelines and the following additional design guidelines.

Design Guidelines

General

- Landscaping in Sacramento Commons should help to enhance the pedestrian experience, complement on-site development, and improve the appeal and identity of the community.
- Landscape design should focus on preserving existing trees, to the extent practicable, particularly Heritage Trees and Street Trees, and should replace trees removed at the earliest possible development phase, especially along the promenades.
- The landscape palette, including planting and hardscape materials, should be chosen in a manner to reduce stormwater runoff and urban heat island effect.
- Trees should be planted where the available space between structures is equal to or greater than the footprint of a tree's expected mature canopy in order to achieve adequate soil volume. As the project is designed, the spaces between the buildings will be carefully studied and adjusted to ensure the number of trees planted will be equal to or exceed those shown on the conceptual landscape plans.
- In selecting canopy trees for the project site, trees selected should meet the following criteria:
    - Trees should be adapted to the local climate and chosen to be consistent with the existing urban tree canopy found within the Downtown area.
    - Priority should be given to trees that are drought tolerant and have watering needs consistent with understory plantings.
    - Overall, a broadly multi-species tree canopy palette is desired to provide resistance to disease and dieback, more common with monoculture plantings.
- Landscaping or signage located near intersections and site access locations should be maintained to ensure adequate site distances, in accordance with City Code standards.

Landscaping for Sacramento Commons should complement existing uses on the site and help to enhance the pedestrian environment.

Landscaping in the open space should help establish a design theme and a variety of public spaces for Sacramento Commons.

A broad multi-specifies tree palette is recommended to support a healthy tree canopy within Sacramento Commons.

Common Open Space Areas

- Climate appropriate landscaping, including ornamental plants, should be used to accentuate community plazas, promenades, courtyards, and other open space areas.
- Landscaping within the promenades should help establish a site design theme and identity for the common open spaces areas in Sacramento Commons.
- The East-West Promenade, which connects pedestrians and bicyclists to the light rail station, should be designed to enhance the pedestrian experience through the site, with shaded and well-lit pathways and durable seating areas.

Landscaping palettes and materials should be chosen to support/enhance the design themes within the community.

- Landscaping palettes and materials for the community plazas, promenades, and other open space areas should be chosen to help define an identity for the community.
- Landscaping should be placed and maintained to allow for plant growth, without obstructing community walkways or paths.

Street Lighting, Furnishings and Amenities

- A common theme, material, and color specification should be chosen for site lighting and furnishings (such as seating areas, trash receptacles, tree grates, and bollards) to create a unique identity for Sacramento Commons.
- Walks through covered or open space courtyards and entrances to buildings and parking structures should be illuminated with low-level or ambient lighting.
- Pedestrian lighting should provide adequate lighting for safety and navigation and shielded and directed downward to avoid casting glare into adjoining residential units or adjacent properties.
- Site lighting fixtures should complement building fixtures and use low voltage and LED lights.
- Site furniture, including benches and small trash receptacles should be located and placed in highly visible pedestrian areas.
- Tables and chairs in outdoor seating areas should be compatible in design aesthetics, material quality, and color to the site furnishings on-site to maintain an overall uniform design theme throughout the community.

A common theme, material, and color specification should be chosen for site lighting and furnishings.

Street furnishings should support landscape themes and maintain an overall uniform look.

3.1.6 SIGNAGE AND PUBLIC ART

Intent

Signage and public art design guidelines are intended to promote attractive, well-proportioned, and carefully located signs and public art that enhance the overall character of Sacramento Commons; provide information, direction, and wayfinding; and help to establish the identity of Sacramento Commons.

The design guidelines provided below are based on Chapter 3: Public Realm, Sections C.3.e, F. and Chapter 4: Private Realm, sections D.4.k and D.8 of the Central Core Design Guidelines, which cover the following topics:

- Furnishings and amenities
- Public art
- Signage on façades

Sacramento Commons should conform to these design guidelines, the signage standards in Section 2.3.3 of these PUD Guidelines, and the following additional design guidelines.

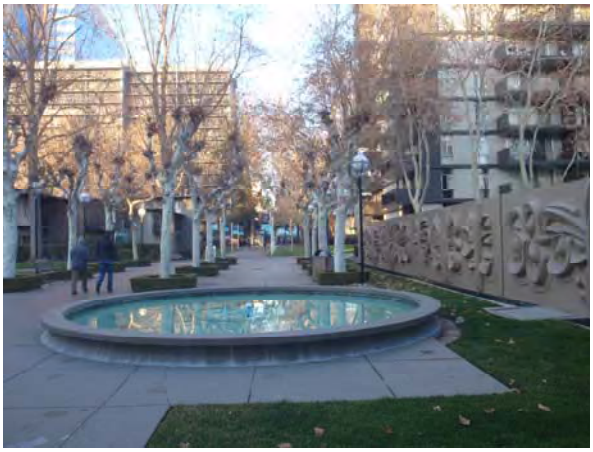
Design Guidelines

- A uniform system of signs should be provided for Sacramento Commons, consisting of: community signs (project identity and wayfinding signs) and tenant signs.
    - Project identity signs brand Sacramento Commons as a place and distinguish the entrances and areas that make up the community. These signs may consist of monument signs at major entrances to the site, banner signs, or other types of signs within the internal common open space areas of the site.
    - Wayfinding signs identify the locations of destinations or uses on-site or nearby such as, transit or parking locations and designated bicycle paths or connections and should be located in highly visible locations along major promenades or walkways, within the community plazas, in setback areas, or adjacent to building entries.
    - Tenant signs identify the businesses on-site and may consist of attached building signs, landscaped monument signs, awning signs, or projecting signs. Tenant signs should be compatible with the general themes and site design of Sacramento Commons.

Community identity signs

Wayfinding signs

- Signage and public art should be provided in highly visible locations within the internal promenades, walkways, plazas, and other public spaces of the community to activate and add identity to these spaces.
- Landscaping and signage at the N Street, 5th Street, P Street, and 7th Street promenade entries to Sacramento Commons should provide wayfinding information to support pedestrian use.
- Bicycle paths through the community should be clearly designated with signage to support the City's existing multimodal transportation network.
- Public art within Sacramento Commons may be integrated into the site furnishings such as, seating areas or bicycle racks.
- Site lighting and building façade lighting may be used tastefully to create public art displays within Sacramento Commons.



Public art should be used to activate and bring identity to community spaces.

Public art should be integrated into the site furnishings such as, seating areas or bicycle racks within the community.

3.2 ARCHITECTURE AND BUILDING FORM

Architecture and building form standards and guidelines are intended to create a distinct, memorable, and sustainable project, drawing from the unique architecture and climate of Downtown Sacramento. Buildings in Sacramento Commons should take into consideration the unique climate, in particular the cooling summer Delta breezes in the design of future buildings. The architecture and building form shall be designed with consideration of the long historical context of Sacramento. Buildings shall be designed to contribute to the high level of design in the Central Core. Future buildings should use the existing patterns and forms of the city as the basis of their designs while creating something unique to Sacramento Commons.

Building design and form should support the streetscape environment and uses on the site.

3.2.1 STREET FRONTAGE/GROUND LEVEL USES/FAÇADE TREATMENT

Intent

Street frontage and façade treatment design guidelines are intended to ensure an attractive pedestrian and streetscape environment for Sacramento Commons.

The Guidelines provided below are based on Chapter 3: Public Realm, sections C.2. and Chapter 4: Private Realm, sections D.2. and D.4.a. through D.4.h. of the Central Core Design Guidelines, which cover the following topics:

- Functional zones, including pedestrian, public amenity, and frontage zones
- Street wall and building base heights
- Façades, including the subtopics of ground level uses, transparency, articulation of street-wall, building corners, fenestration, entrances, canopies/awnings, and projecting elements

Building frontage and façade treatment along streets and common areas should create an active and attractive pedestrian environment.

Sacramento Commons should conform to the design guidelines in the sections noted above and the following additional design guidelines.

Design Guidelines

- Special emphasis should be given to place active uses such as, retail spaces along the street (especially the potential specialty market along 7th Street, due to its proximity to light rail and its gateway location) and on the promenades.

- Façade treatment along the street should focus on creating an interesting and comfortable pedestrian experience, providing shade, articulating the building base, middle, and roof line, and incorporating distinct storefronts, doors, windows, and other architectural elements.
- Curtain wall systems, particularly at the ground level, are encouraged to achieve a high level of transparency. The architect shall design the curtain wall system to convey lightness, transparency, and texture to achieve beautiful building elevations that consider both the near views of adjacent neighbors and distant views from within the City.

Façade treatment along the street should articulate the base, middle, and roof line.

- Above the street-level, façade articulation may include private balconies, decks, and rooftop design features.

3.2.2 MASSING AND DESIGN DETAILS

Intent

The intent of these design standards and guidelines is to ensure buildings within Sacramento Commons are designed to respond to Sacramento's climate and use high quality design and material details that draw from and respect the surrounding Downtown cityscape.

The Guidelines provided below are based on Chapter 4: Private Realm, sections B.1 and D.3, and D.4.i. of the Central Core Design Guidelines, which cover the following topics:

- Setbacks and build-to-lines
- Bulk controls for residential and non-residential buildings (refer also to Chapter 2.3 for additional information on bulk control standards)
- Façade materials

Buildings in Sacramento Commons should be designed with high quality materials that respect the local Downtown context.

Sacramento Commons should conform to the design guidelines in the sections noted above and the following additional design standards and guidelines.

Design Standards

To ensure the quality of new development, the following additional standards for the use of high quality materials and design details shall apply to Sacramento Commons.

Materials and Material Quality

- New buildings shall be made of durable and high quality materials that have a proven longevity.
- Materials and color shall be used to reinforce variations in the building massing such as, in locations where the building form changes or where materials wrap around the building, so that form and material are cohesively integrated.
- Materials shall vary in the vertical plane. Buildings shall exhibit greater detail and higher quality materials at the lower levels, where viewed by pedestrians, and contribute substantially to the streetscape.
- Materials shall vary in tandem with the massing in the horizontal plane, with changes in the materials used to emphasize entrance lobbies and massing changes or differentiate uses or tenants.
- Buildings shall have a simple color palette that reinforces the building massing and is not independent of the building structural form.
- Finish material textures and colors shall be compatible with the materials used in the project and shall be consistent with the overall architectural approach.
- Balconies shall have glass or metal guardrail system and windscreens, where needed.

Materials and color should reinforce variations in the building massing.

Materials shall vary in tandem with massing to differentiate uses or tenants.

- Doors and windows shall have glass or curtain wall systems.
- Building materials shall be selected to minimize the impacts of glare on surrounding development.

Design Details

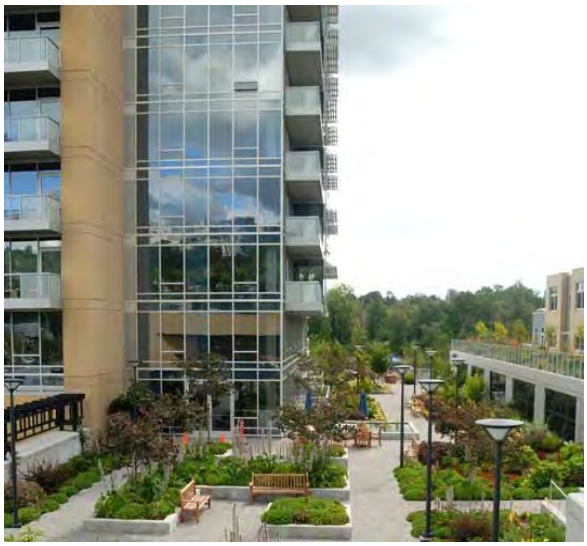
- The architect shall study the interplay of solid and transparent forms and how materials meet and are read at the scale of the pedestrian or distant viewer.
- Construction details shall be authentic and applied with consistency and brevity.
- The architect shall develop a design approach for towers that considers the building texture, shadows, and details that are true to the proposed material palette.

Design Guidelines

Towers

- Towers should be designed to capitalize on natural breezes and views.

- For the towers at the intersection of 7th and P Streets (for the south, east, and west sides of the building[s]), special consideration should be given to the following standards:
  - Orientation/siting of the towers shall take into consideration Sacramento's climate conditions.
  - Building facades shall be modulated through the use of setbacks, projections, cut outs, balconies, terraces, and curved elements; a low base or arcade shall be provided along the pedestrian walkways; and, tower elements shall be tapered.
- Towers should have an overall design concept that translates from the overall massing down to the details of the exterior skin. Details execute the overall design at the most refined scale.
- Towers should embody simplicity and be graceful in form - they should appear slender and sculpted. Details should be designed to reinforce the tall, slender massing for towers.
- Towers should taper as they ascend to meet the sky or have a clear design for the top floors of the building.
- Towers should appear transparent by maximizing the use of glass, curtain wall systems, and glass balcony railings.
- Materials used in towers should be designed to the following guidelines:
  - Acceptable materials include architectural concrete or precast panels, stone, stainless steel, curtain wall, and heavy gage metal panels with factory finish. Being the most prominent building type seen for miles, high quality design, material, and details are required. Use of stucco or poor quality, and high maintenance materials are discouraged.
  - Materials and glass textures that clad tower façades should be carefully chosen to reduce glare and reflectivity. The use of highly reflective glass is discouraged, including very dark or black glass curtain wall systems or fenestrations, but if incorporated shall comply with the 2035 GP policy, ER 7.1.4, which limits the extent and location of reflective glass, black glass, metal building materials, and exposed concrete and prohibits the use of mirrored glass.
  - Brick is permitted on the lower levels if consistent with the architectural style.



Towers should appear transparent by maximizing the use of glass, curtain wall systems, and balcony railings.

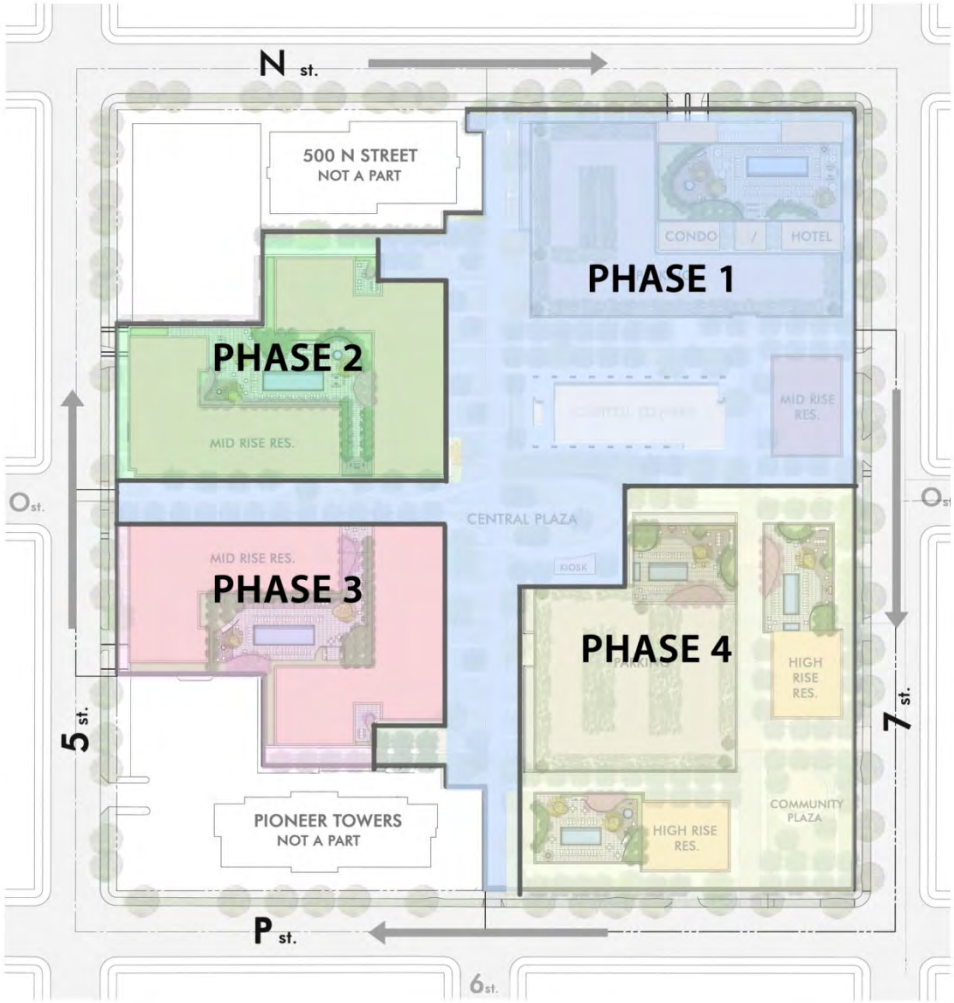
High quality materials and design should be used for towers above the street wall.

IV. ADMINISTRATION AND IMPLEMENTATION

4.1 PHASING

Development of Sacramento Commons is expected to occur in four phases to enable the project to respond to market demand and ensure infrastructure is adequate to support the project. The Phasing Plan in Figure 4.1, below, represents an estimate of the order in which areas will develop, although it should be noted that project phases may overlap. Construction of off-site and on-site infrastructure (including water, sewer, and storm drainage facilities) will be necessary in the early phases of development. The actual sequence of phasing may vary depending on economic and market conditions.

Figure 4.1: Phasing Sequence Diagram



Source: Van Tilburg, Banvard & Soderbergh, AECOM, 2014

As illustrated in the Phasing Plan in Figure 4.1, the promenades are proposed for construction as part of Phase 1. It should be noted, however, some portions of the proposed promenades may not be developed until later phases. For example, the existing Capitol Towers pool may not be redeveloped until a later phase to provide continued pool access for residents of the project site during development of the project. Additionally, the following measures will be implemented to ensure public access during construction activities:

- Coordinate with Regional Transit on the light rail line along 7th Street to understand the timing of trains and minimize their interaction with construction traffic.
- Notify Bridgeway Towers, Pioneer Towers, and Capitol Towers on access provisions during construction.
- Install wayfinding signs advising residents and pedestrians of construction-related detours.
- Install construction fencing around the work area perimeter.
- Install public sidewalk detour/protection, as required by the City of Sacramento.

Following completion of construction, fencing and sidewalk protection and detour signs shall be removed.

4.2 FUTURE DEVELOPMENT APPLICATIONS

4.2.1 DEVELOPMENT PERMITTING PROCESS

The PUD standards and guidelines provided herein, once approved, apply to all future development applications within Sacramento Commons and will be reviewed to determine consistency with the vision and regulations of this document and other regulatory documents. The approval process for future development applications, described in this section, is intended to facilitate streamlined application processing for proposals, consistent with the Sacramento Commons PUD and all applicable General Plan and Code regulations. The appropriate hearing body shall exercise its discretion to determine whether development proposals are consistent with the intent, standards, objectives, and other provisions of the Sacramento Commons PUD Guidelines; comply with the Environmental Impact Report (EIR) once certified; and other applicable regulations.

Back to Report Table of Contents

RESOLUTION NO. 2015-

Adopted by the Sacramento City Council

APPROVING THE WATER SUPPLY ASSESSMENT REPORT FOR THE SACRAMENTO COMMONS PROJECT (P14-021)

BACKGROUND

A. State law requires a water supply and demand analysis (Water Supply Assessment) for development projects of a certain size or type, which would include the Sacramento Commons project, based on the City's Urban Water Management Plan.

B. The Water Supply Assessment evaluates projected water supplies, determined to be available by the City for the project during normal, single dry and multiple dry years over a 20 year period. The City prepared the Water Supply Assessment for the Sacramento Commons Project in November of 2014, which was set out as Appendix I of the Sacramento Commons Draft Environmental Impact Report dated March of 2015.

C. On May 28, 2015, the City Planning and Design Commission held a noticed public hearing on the Sacramento Commons Project in accordance with Government Code Section 65353 and 65453, received and considered evidence, and forwarded to the City Council a recommendation to approve the Sacramento Commons Project.

D. On July 14, 2015, the City Council conducted a noticed public hearing in accordance with Government Code Sections 65355 and 65453, and received and considered evidence concerning the Sacramento Commons Project.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The Environmental Impact Report and Mitigation Monitoring Program for the Sacramento Commons Project, which includes all of the impacts associated with the approval of the proposed project, have been adopted by resolution as of the same date set out above.

Section 2. Based on the verbal and documentary evidence received at the hearings on the Sacramento Commons project and the Environmental Impact Report, the City Council approves the Water Supply Assessment Report for the Sacramento Commons Project and approves the SB 610/SB 221 Water Supply Assessment and Certification Form attached as Exhibit A.

Section 3. Exhibit A is a part of this Resolution.

Exhibit A –Sacramento Commons Project Water Supply Assessment and Certification Form

City of Sacramento
SB 610/SB 221 Water Supply Assessment and Certification Form

This form may be used to complete water supply assessments for projects located in an area covered by the City's most recent Urban Water Management Plan.

Note: Please do not use this form if the projected water demand for your project area was not included in the City's latest Urban Water Management Plan. To review the City's Urban Water Management Plan, please visit: http://www.cityofsacramento.org/utilities/urbanwater/index.html

Project: **Sacramento Commons**

Date: November 13, 2014

Project Applicant (Name of Company): **Kennedy Wilson**

Applicant Contact (Name of Individual): **Dave Eadie**

Phone Number: **(949) 864-8425**

E-mail: **deadie@kennedywilson.com**

Address: **18401 Von Karmen Avenue, Suite 350, Irvine, CA 9723**

Project Applicant to fill in the following:

1. Does the project include:

Type of Development	Yes	No
A proposed residential development of 500 or more dwelling units	X	
A shopping Center employing more than 1,000 persons or having more than 500,000 square feet?		X
A Commercial Office building employing more than 1,000 persons or having more than 250,000 square feet?		X
A proposed hotel or motel, or both, having more than 500 rooms		X
A proposed industrial, manufacturing, or processing plant or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area		X
A mixed use project that includes one or more of the projects specified above	X	
A project that would demand an amount of water equivalent to, or greater than, the water required by a 500 dwelling unit project	X	

If the answer is no to all of the above, a water supply assessment is not required for the project.

2. Is the projected water demand for the project location included in the City's 2010 Urban Water Management Plan, adopted October 18, 2011?

Yes:__X____ No:_____

If the answer is no, you cannot use this form. Please refer to the requirements of SB 610 for preparing a water supply assessment.

3. Please fill in the project demands below:

Type of Development	Land Use Category	Demand Factor		Proposed Development			Current Zoning		
		Residential Water Use Factor, afy/dwelling unit	Non-Residential Water Use Factor, afy/employee	Number Dwelling Units	Number Employees	Total Demand	Number Dwelling Units	Number Employees	Total Demand
Residential - Low	Rural Residential (RR)	.61	.09						
	Suburban Neighborhood Low Density (SNLD)								
	Traditional Neighborhood Low Density (TLDR)								
Residential - Medium	Suburban Neighborhood Medium Density (SMDR)	.39	.09						
	Urban Neighborhood Low Density (ULDR)								
Residential - High	Suburban Neighborhood High Density (SHDR)	.12	.04						
	Traditional Neighborhood Medium Density (TMDR)								
	Urban Neighborhood Medium Density (UMDR)								
	Traditional Neighborhood High Density (THDR)								
Mixed Use	Employment Center Mid Rise (ECMR)	.19	.09						
	Suburban Center (SCnt)								
	Suburban Corridor (Scor)								
	Traditional Center (TCnt)								

Mixed Use - Higher Density	Urban Center High (UCntHigh)	.15	.04						
	Urban Center Low (UcntLow)								
	Urban Corridor High (UCorHigh)								
	Urban Corridor Low (UCorLow)								
Central Business District	Central Business District (CBD)	.15	.02	1,374 1,470	176 141	210 223	409	10.0	61.55
	Urban Neighborhood High Density (UHDR)								
Commercial	Regional Commercial (RC)	.15	.09						
	Employment Center Low Rise (ECLR)								
Industrial	Industrial (IND)		.14						
Public	Public/Quasi-Public (PUB)	.37	.17						
Park	Parks and Recreation (PRK)	.37	.17						
Open Space	Open Space (OS)	0	0						
Other	Hotel	0.25	--	300 rooms		75			
Other	Landscape Irrigation					6.6			
Other									
Total Demand (AFY)						229.9-291.2			61.55

4. Required Elements of Water Supply Assessment (Water Code § 10910)

A. Water supply entitlements, water rights or water service contracts (Water Code § 10910(d)):

The City's water supply entitlements, water rights and water service contract are identified and discussed in the Urban Water Management Plan, Chapters 4, and 5.

All infrastructure necessary to deliver a water supply to the project is in place, excepting any distribution facilities required to be constructed and financed by the project applicant: Yes: X_____ No: _____

B. Identification of other sources of water supply if no water has been received under City's existing entitlements, water rights or water service contracts (Water Code § 10910(e)):

Not applicable.

C. Information and analysis pertaining to groundwater supply (Water Code § 10910(f)):

Addressed by Urban Water Management Plan, Chapters 2, 4 and 5.

Verification of Water Supply
(for residential development of more than 500 dwelling units)

Based on the City's most recent Urban Water Management Plan, are there sufficient water supplies for the project during normal, single dry and multiple dry years over a 20 year period?

Yes: X_____ No:_____

Brett Ewart, PE

Digitally signed by Brett Ewart, PE
DN: cn=Brett Ewart, PE, o=DOU, ou=Water Resources and Engineering, email=bewart@cityofsacramento.org, c=US
Date: 2014.11.17 16:16:00 -08'00'

By: Brett Ewart

Title: Senior Engineer

Date: 11/17/2014

This box to be filled in by the City

Distribution:

Applicant
Development Services Department (Org: 4913) – Assigned Planner:_____
Utilities Department (Org: 3334) - Development Review (Tony Bertrand)
Utilities Department (Org: 3332) - Capital Improvements (Brett Ewart)

Back to Report Table of Contents

Draft Project Resolution

RESOLUTION NO. 2015

Adopted by the Sacramento City Council

ADOPTING FINDINGS OF FACT AND APPROVING THE SACRAMENTO COMMONS PROJECT (P14-012)

BACKGROUND

A. On April 15, 2015, after conducting a public hearing, the City Preservation Commission forwarded to the Planning and Design Commission a recommendation to deny the Sacramento Commons Project (P14-012), concerning the demolition of all structures on the site with the exception of the Capitol Towers Highrise and the Overhoff wall, and the approval of two build-out master plan scenarios.

B. On May 28, 2015, after conducting a public hearing, the City Planning and Design Commission forwarded to the City Council a recommendation to approve the Sacramento Commons Project (P14-012), concerning the demolition of all structures on the site with the exception of the Capitol Towers Highrise and the Overhoff wall, and the approval of two build-out master plan scenarios (the "**Project**").

B. On July 14, 2015, after giving notice as required by Sacramento City Code section 17.812.010 (2)(b), the City Council conducted a public hearing on the Project, receiving and considering evidence concerning it.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. Based on the verbal and documentary evidence received at the hearing on the Sacramento Commons project, the City Council approves the Project entitlements based on the findings of fact and subject to the conditions of approval as set forth below.

Section 2. The City Council approves the Project entitlements based on the following findings of fact:

A&B. Environmental Determination: The Environmental Impact Report and Mitigation Monitoring Reporting Plan for the Project have been adopted by Resolution No. 2015-_.

G. Tentative Map. The Tentative Map to subdivide 10.13± net acres into 6 lots is approved based on the following findings of fact:

1. None of the conditions described in Government Code Section 66474, subsection (a) through (g), inclusive, exist with respect to the proposed subdivision as follows:

    a. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the City's General Plan, all applicable community and specific plans, and Title 16 of the City Code, which is a specific plan of the City;
    b. The site is physically suitable for the type of development proposed and suited for the proposed density;
    c. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife their habitat;
    d. The design of the subdivision and the type of improvements are not likely to cause serious public health problems;
    e. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use, of, property within the proposed subdivision.

2. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the City General Plan and Title 16 Subdivisions of the City Code, which is a specific plan of the City (Gov. Code §66473.5).

3. The discharge of waste from the proposed subdivision into the existing community sewer system will not result in a violation of the applicable waste discharge requirements prescribed by the California Regional Water Quality Board, Central Valley Region, in that existing treatment plants have a design capacity adequate to service the proposed subdivision (Gov. code §66474.6).

4. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Gov. Code §66473.1).

5. The Planning & Design Commission has considered the effect of the approval of this tentative subdivision map on the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Gov. Code §66412.3).

H. Site Plan Design Review. The Site Plan and Design Review to demolish the site, with the exception of the Capitol Tower Highrise and the relocation of the Overhoff Wall is approved based on the following findings of fact:

1. The design, layout, and physical characteristics of the proposed development are consistent with the general plan in that the project maintains and improves the north/south and east/west promenades aligning with the downtown grid and proposes residential densities consistent with the Central Business District; and
2. The design, layout, and physical characteristics of proposed development are consistent with all applicable design guidelines and development standards in that the project establishes a Planned Unit Development to ensure a harmonious infill development; and
3. All streets and other public access ways and facilities, parking facilities, and utility infrastructure are adequate to serve the proposed development and comply with all applicable design guidelines and development standards; and
4. The design, layout, and physical characteristics of the proposed development are visually and functionally compatible with the surrounding neighborhood in that the vertical form of the highrises and midrises outlined in the Sacramento Commons PUD are consistent with the Central Business District and surrounding neighborhood; and
5. The design, layout, and physical characteristics of the proposed development ensure energy consumption is minimized and use of renewable energy sources is encouraged; and
6. The design, layout, and physical characteristics of the proposed development are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance in that the PUD establishes the standards to allow a harmonious development and future review is required for all future development to ensure compliance with these standards.
7. Although the city ordinance provides time limits for the completion of demolition, this project will be constructed in phases, and therefore additional time is necessary and warranted to complete demolition for all phases of the project.
8. Demolition of all structures on the project site with the exception of the Capitol Tower Highrise and the Overhoff wall is necessary to proceed with a project consistent with and supportive of identified goals and policies of the general plan by increasing density in the downtown area and in close proximity to light rail and employment uses, and the demolition of the buildings will not have a significant effect on the achievement of the purposes of this chapter or the potential effect is outweighed by benefits

of the new project which includes replacing low density garden apartments with a more vertical and dense urban form as envisioned in the Central Business District.

Conditions of Approval

NOTE: These conditions shall supersede any contradictory information shown on the Tentative Map or any contradictory provisions in the PUD guidelines approved for this project (P14-012). The design of any improvement not covered by these conditions or the PUD Guidelines shall be to City standard.

The applicant shall satisfy each of the following conditions prior to filing the Final Map unless a different time for compliance is specifically stated in these conditions. Any condition requiring an improvement that has already been designed and secured under a City Approved improvement agreement may be considered satisfied at the discretion of the Department of Public Works.

The City strongly encourages the applicant to thoroughly discuss the conditions of approval for the project with their Engineer/Land Surveyor consultants prior to City Planning Commission approval. The improvements required of a Tentative Map can be costly and are completely dependent upon the condition of the existing improvements. Careful evaluation of the potential cost of the improvements required by the City will enable the applicant to ask questions of the City prior to project approval and will result in a smoother plan check process after project approval:

A. **Tentative Map.** The Tentative Map to subdivide 10.13± net acres into 6 lots is approved subject to the following conditions of approval:

GENERAL: All Projects

G1. Pay off existing assessments, or file the necessary segregation requests and fees to segregate existing assessments.

G2. Pursuant to City Code Section 16.40.190, indicate easements on the Final Map to allow for the placement of centralized mail delivery units. The specific locations for such easements shall be subject to review and approval of the Department of Public Works after consultation with the U.S. Postal Service.

G3. Private reciprocal ingress, egress, maneuvering and parking easements are required for future development of the area covered by this Tentative Map. The applicant shall enter into and record an Agreement For Conveyance of Easements with the City stating that a private reciprocal ingress/egress, maneuvering, and parking easement shall be conveyed to

and reserved from Parcels 1, 2A, 2B, 3, 4A and 4B, at no cost, at the time of sale or other conveyance of either parcel.

G4. Comply with requirements included in the Mitigation Monitoring Plan developed by, and kept on file in, the Planning Division Office (P14-012).

G5. Meet all conditions of the PUD (P14-012) unless the condition is superseded by a Tentative Map condition.

G6. Show all continuing and proposed/required easements on the Final Map.

G7. Multiple Final Maps may be recorded. Prior to recordation of any Final Map all infrastructure/improvements necessary for the respective Final Map must be in place to the satisfaction of the Departments of Utilities, and Department of Public Works.

Department of Public Works: Streets (Anis Ghobril, Department of Public Works, 808-5367)

G8. Construct standard subdivision improvements as noted in these conditions pursuant to section 16.48.110 of the City Code. All improvements shall be designed and constructed to the satisfaction of the Department of Public Works. Improvements required shall be determined by the city. The City shall determine improvements required for each phase prior to recordation of each phase. Any public improvement not specifically noted in these conditions or on the Tentative Map shall be designed and constructed to City standards. This shall include street lighting and the repair or replacement/reconstruction of any existing deteriorated curb, gutter and sidewalk fronting the property along “N” Street (existing wide sidewalks to remain on N street), “P” Street, “5th” Street and “7th” Street per City standards and to the satisfaction of the Department of Public Works.

G9. The applicant may install bulb outs/curb extensions where there is on-street parking in the central City area or as directed by the Department of Public Works. Locations of bulb outs must be reviewed and approved by the City Traffic Engineer.

G10. The design and placement of walls, fences, signs and Landscaping near intersections and driveways shall allow stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back 3' behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited 3.5' in height. The area of exclusion shall be determined by the Department of Public Works.

G11. Pursuant to City Code Section 17.700.060, the applicant shall be required to submit a Transportation System Management Plan and pay all required fees prior to issuance of the building permit. The Transportation System Management Plan shall be subject to review and approval of the City, Department of Public Works.

G12. The applicant shall comply with all conditions related to the proposed abandonments prior to recordation of the Final Map.

G13. Construct traffic signals at the following intersections when required by the Department of Public Works (please refer to the Development Agreement for additional details and construction timing):

a. 6th Street and P Street

NOTE: When required, signals shall be constructed as part of the public improvements for the Final Map. Signal design and construction shall be to the satisfaction of the Department of Public Works. The applicant shall provide all on-site easements and right-of-way needed for turn lanes, signal facilities and related appurtenances. The applicant shall install CCTV cameras and all necessary appurtenances if deemed necessary by and to the satisfaction of the Department Public Works.

G14. The applicant shall submit a signal design concept report (SCDR) per section 15.18 of the Cities Design and Procedures Manual to the Department of Public Works for review and approval prior to the submittal of any improvement plans involving traffic signal work. The SCDR provides crucial geometric information for signal design and should be started as early as possible to avoid delays during the plan check process.

G15. All right-of-way and street improvement transitions that result from changing the right-of-way of any street shall be located, designed and constructed to the satisfaction of the Department of Public Works. The center lines of such streets shall be aligned.

G16. Construct A.D.A. compliant curb ramps or reconstruct any existing non-ADA compliant curb ramps at the following intersections:

1 South-West corner of N Street and 7th Street.
2 North-East corner of P Street and 7th Street.
3 South-East corner of N Street and 5th Street.
4 North-East corner of P Street and 5th Street.
5 Mid-Block crosswalks along 5th Street and 7th Street.

G17. The applicant shall make provisions for bus stops, shelters, transit centers, etc. to the satisfaction of Regional Transit.

Department of Public Works: Private Streets

G18. Design drive aisles to meet the City standards. Private drives shall be inspected to the satisfaction of the Department of Public Works.

G19. Provide a standard driveway at the entrance to the private drives.

PUBLIC/PRIVATE UTILITIES (Ron Lehman, SMUD, 732-6967)

G20. Developing this property may require the payment of sewer impact fees. Applicant should contact the Fee Quote Desk at 876-6100 for sewer impact fee information. (SRCSD)

G21. Dedicate a 12.5-foot or 10-foot public utility easement for overhead/underground facilities and appurtenances adjacent to all public streets where deemed necessary by SMUD design and planning.

G22. Future SMUD facilities located on the customer's property may require a dedicated SMUD easement. This will be determined prior to SMUD performing work on the customer's property.

G23. Maintain existing underground 21KV route along 5th Street.

G24. Maintain existing underground 12KV route network (Grid), manholes, transformer vaults and conduit duct banks throughout the middle of the development.

G25. Maintain existing 115KV route on the west side 5th Street.

G26. Dedicate any private drive, ingress and egress easement or Irrevocable offer of Dedication (and 10 foot adjacent thereto) as a Public Utility easement for overhead and underground facilities and appurtenances.

G27. Maintain existing underground 21KV on the south end of the development.

CITY UTILITIES (Inthira Mendoza, Department of Utilities, 808-1473)

G28. There is existing water and combined sanitary sewer main and a 46' Utility Easement running north and south of 6th Street in between N Street and P Street. Per City code section 13.04.230, no permanent structure (including without limitation fountains, trees, decorative paving, concrete slabs and similar structures) shall be constructed on top of water, sewer or drainage pipelines or anywhere within the associated utility easements, unless approved by the director upon execution of a hold harmless agreement approved by the City Attorney. (Note: The applicant shall provide personnel and vehicular access to the Utilities Department at all

times to properly maintain the existing water and combined sanitary sewer main located in 6th Street.)

G29. A note stating the following shall be placed on the Final Map: "Where necessary private reciprocal easement for ingress/egress, utilities, drainage, water and sanitary sewer facilities, and surface storm drainage, shall be granted and reserved, as necessary and at no cost, at the time of sale or conveyance of any parcel shown in this map."

G30. With the exception of the existing water and combined sanitary sewer main described in condition 27, the onsite water, sewer and storm drain systems shall be private facilities maintained by the property owner.

G31. Per City Code 13.04.070, except for separate irrigation service connections and fire service connections, each lot or parcel shall only have one (1) metered domestic water service. Requests for multiple domestic water service connections to a single parcel may be approved on a case-by-case basis by the DOU. Excess services shall be abandoned to the satisfaction of the DOU. (Note: No connection is allowed to the 18-inch water transmission.)

G32. Prior to the submittal or concurrent with the improvement plans, the applicant shall prepare a project specific water study for review and approval by the DOU. The water distribution system shall be designed to satisfy the more critical of the two following conditions: (1) at maximum day peak hour demand, the operating or "residual" pressure at all water service connections shall be at least 30 pounds per square inch, (2) at average maximum day demand plus fire flow, the operating or "residual" pressure in the area of the fire shall not be less than 20 pounds per square inch. The water study shall determine if the existing and proposed water distribution system is adequate to supply fire flow demands for the project. A water supply test may be required for this project. Please contact Utilities Department Water Section at 916-808-1400 for water pressure boundary conditions to be used in the water study.

G33. This project is served by the Combined Sewer System (CSS). Therefore, the developer/property owner will be required to pay the Combined Sewer System Development Fee prior to the issuance of building permit. The fee will be used for improvements to the CSS.

G34. The existing City drainage system that fronts this project is severely undersized with a history of localized street flooding. Therefore, the development of this site must comply with the DOU's "Do No Harm" policy per section 11 (Storm Drainage Design Standards) of the City's Design and Procedures Manual. To meet this requirement 5000 cubic feet of detention must be provided per each additional acre of impervious area.

This required detention volume can be reduced by incorporating Low Impact Development (LID) measures into the project design, such as porous pavement, green roofs, disconnected down spouts, etc. The DOU will evaluate any selected LID measures and determine an adjusted required detention volume.

G35. All new onsite drainage and sewer systems shall be a separated system. Any new grading or modified drainage shed shall flow into a separated public drainage main.

G36. An on-site surface drainage system is required and shall be connected to the street drainage system by means of a storm drain service tap. All on-site systems shall be designed to the standard for private storm drainage systems (per the latest edition of: Frontage and On-Site Improvement Procedures Manual, which may be obtained from the City's Community Development Department at 300 Richards Blvd., 3rd floor).

G37. A grading plan showing existing and proposed elevations is required. Adjacent off-site topography shall also be shown to the extent necessary to determine impacts to existing surface drainage paths. No grading shall occur until the grading plan has been reviewed and approved by the DOU.

G38. Finished floor elevation shall be a minimum of 1.5 feet above the local controlling overland release elevation or as approved by the Department of Utilities.

G39. The applicant, however, must comply with the City of Sacramento's Grading, Erosion and Sediment Control Ordinance. This ordinance requires the applicant to show erosion and sediment control methods on the subdivision improvement plans. These plans shall also show the methods to control urban runoff pollution from the project site during construction.

G40. Post construction, stormwater quality control measures shall be incorporated into the development to minimize the increase of urban runoff pollution caused by development of the area. Since the project is not served by an existing regional water quality control facility, both source control and on-site treatment control measures (e.g., stormwater planters, detention basin, infiltration basin and/or trench, media filters (Austin Sand Filter), multi-functional drainage corridors, vegetated filter strips and/or swales, and proprietary devices) are required. A maintenance agreement is required for all on-site treatment control measures. Contact DOU for a list of accepted proprietary devices if considered for treatment control. Improvement plans must include the source controls and on-site treatment control measures selected for the site. Refer to the latest edition of the "Stormwater Quality Design Manual for the Sacramento and South Placer

Regions (May 2007)" for appropriate source control measures.

SPECIAL DISTRICTS: Assessment Districts (Mark Griffin, Finance, 808-8788)

G41. Applicant shall participate in the Downtown development impact fee district and pay all applicable fees. Contact the Public Improvement Finance Division of the Finance Department, for a determination of fees.

FIRE: (King Tunson, Fire Department, 808-1358)

G42. All turning radii for fire access shall be designed as 35' inside and 55' outside. CFC 503.2.4

G43. Roads used for Fire Department access shall have an unobstructed width of not less than 20' and unobstructed vertical clearance of 13'6" or more. CFC 503.2.1 *Applicant shall provide paved north to south Emergency Vehicle access from N St to P St, 150' of Emergency Vehicle access points on 5th and 7th at O St, P St. at Civic Plaza, adjacent to proposed high rise and off 7th Street adjacent to proposed high rise.*

G44. Roads used for Fire Department access that are less than 28 feet in width shall be marked "No Parking Fire Lane" on both sides; roads less than 36 feet in width shall be marked on one side. *This shall apply to Emergency Vehicle Access.*

G45. Fire Apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. CFC 503.2.3 *This shall apply to Emergency Vehicle Access.*

G46. Provide the required fire hydrants in accordance with CFC 507 and Appendix C, Section C105.

G47. Fire service mains shall not cross property lines unless a reciprocal easement agreement is provided.

G48. A reciprocal ingress egress agreement shall be provided for review by City Attorney for all shared driveways being used for Fire Department access.

PPDS: Parks (Mary de Beauvieres, Parks, 808-8722)

G49. **Payment of In-lieu Park Fee**: The applicant shall pay to City a fee in lieu of parkland dedication in an amount determined by City and pursuant to City Code Chapter 16.64.

G50. **Maintenance District**: The applicant shall initiate and complete the

formation of a parks maintenance district (assessment or Mello-Roos special tax district), or annex the project into an existing parks maintenance district. The applicant shall pay all city fees for formation of or annexation to a parks maintenance district. (Contact Diane Morrison at 808-7535, Special Districts Project Manager).

G51. **Private Facility Credits:** The City may grant partial parkland dedication credit for privately owned and maintained open space or local recreation facilities, or both. Such credit shall be applied to the project upon approval and recordation of an Agreement to Construct and Maintain Private Recreation Facilities, pursuant to City Code Chapter 16.64.

MISCELLANEOUS

G52. Meet all conditions of the development agreement;

G53. Form a Homeowner's Association/ Business Association. CC&R's shall be approved by the City and recorded assuring maintenance of private drives. The Homeowner's Association shall maintain all private drives, common areas and common landscaping;

ADVISORY NOTES:

The following advisory notes are informational in nature and are not a requirement of this Tentative Map:

Adv1. If unusual amounts of bone, stone, or artifacts are uncovered, work within 50 meters of the area will cease immediately and a qualified archaeologist shall be consulted to develop, if necessary, further mitigation measures to reduce any archaeological impact to a less than significant effect before construction resumes. A note shall be placed on the final improvement plans referencing this condition;

Adv2. The proposed project is located in the Flood zone designated as Shaded X zone on the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Maps (FIRMs). Within the Shaded X zone, there are no requirements to elevate or flood proof.

H. Site Plan Design Review. The Site Plan and Design Review to demolish the site, with the exception of the Capitol Tower Highrise and the relocation of the Overhoff Wall is approved subject to the following conditions of approval:

H1. The conceptual landscape plan as shown in the Sacramento Commons Planned Unit Development Guidelines shall be implemented with the concepts shown: replacement trees and plazas with shade structures. A final landscape plan shall be reviewed and approved by the Urban Design Manager before the construction of any initial phase of construction on the

site.

Environmental

H2. Coordinate with Regional Transit on the light rail line along 7th Street to understand the timing of trains and minimize their interaction with construction traffic.

H3. Residents of Bridgeway Towers, Pioneer Towers, and Capitol Towers will be notified in advance of construction or demolition activities that could affect access through the proposed project site and alternative access ways will be described for the benefit of residents.

H4. Notify Bridgeway Towers, Pioneer Towers, and Capitol Towers on access provisions during construction.

H5. Install wayfinding signs advising residents and pedestrians of construction-related detours.

H6. Install construction fencing around the work area perimeter.

H7. Install public sidewalk detour/protection, as required by the City of Sacramento.

H8. Following completion of construction, fencing and sidewalk protection and detour signs shall be removed.

Public Works

H9. Construct standard public improvements as noted in these conditions pursuant to section 18 of the City Code. Improvements shall be designed to City Standards and assured as set forth in Section 18.04.130 of the City Code. All improvements shall be designed and constructed to the satisfaction of the Department of Public Works. Any public improvement not specifically noted in these conditions or on the Tentative Map shall be designed and constructed to City standards. This shall include street lighting and the repair or replacement/reconstruction of any existing deteriorated curb, gutter and sidewalk fronting the property along "N" Street (existing wide sidewalks to remain on N street), "P" Street, "5th" Street and "7th" Street per City standards and to the satisfaction of the Department of Public Works.

H10. Design and install street lighting adjacent to the subject property (if needed) per Section 14 of the City's Design and Procedure Manual to the satisfaction of the Department of Public Works.

H11. The applicant may install bulb outs/curb extensions where there is on-street parking in the central City area or as directed by the Department of

Public Works. Locations of bulb outs must be reviewed and approved by the City Traffic Engineer.

H12. Comply with requirements included in the Mitigation Monitoring Plan developed by, and kept on file in, the Planning Division Office (P14-012).

H13. Conform to the Sacramento Commons PUD (P14-012).

H14. All right-of-way and street improvement transitions that result from changing the right-of-way of any street shall be located, designed and constructed to the satisfaction of the Department of Public Works. The center lines of such streets shall be aligned.

H15. Construct traffic signals at the following intersections when required by the Department of Public Works (please refer to the Development Agreement for additional details and construction timing): 6th and P Street.

NOTE: When required, signals shall be constructed as part of the public improvements for the Final Map. Signal design and construction shall be to the satisfaction of the Department of Public Works. The applicant shall provide all on-site easements and right-of-way needed for turn lanes, signal facilities and related appurtenances. The applicant shall install CCTV cameras and all necessary appurtenances if deemed necessary by and to the satisfaction of the Department Public Works.

H16. The applicant shall submit a signal design concept report to the Department of Public Works for review and approval prior to the submittal of any improvement plans involving traffic signal work.

H17. All new and existing driveways shall be designed and constructed to City Standards to the satisfaction of the Department of Public Works.

H18. Design drive aisles to meet the City standards. Private drives shall be inspected to the satisfaction of the Department of Public Works.

H19. Provide a standard driveway at the entrance to the private drives.

H20. Reciprocal access easements are required for shared use of the driveways w/ the adjacent parcels, if not already in place.

H21. The applicant shall be responsible to monitor the daily operations of the hotel so that traffic does not queue back to any public streets. In the case there is vehicular queuing onto any City streets as a result of on-site circulation associated with the project site, subject to a request of the City Traffic Engineer, the applicant shall be responsible to incorporate and implement additional measures to improve on-site circulation as to not back up onto City streets to the satisfaction of the Department of Public

Works.

H22. The minimum throat distance for all site driveways shall be consistent with the findings noted in the Sacramento Commons Draft EIR dated March, 2015.

H23. The site plan shall conform to A.D.A. requirements in all respects. Construct A.D.A. compliant curb ramps or reconstruct any existing non-ADA compliant curb ramps at the following intersections:

- South-West corner of N Street and 7th Street.
- North-East corner of P Street and 7th Street.
- South-East corner of N Street and 5th Street.
- North-East corner of P Street and 5th Street.
- Mid-Block crosswalks along 5th Street and 7th Street

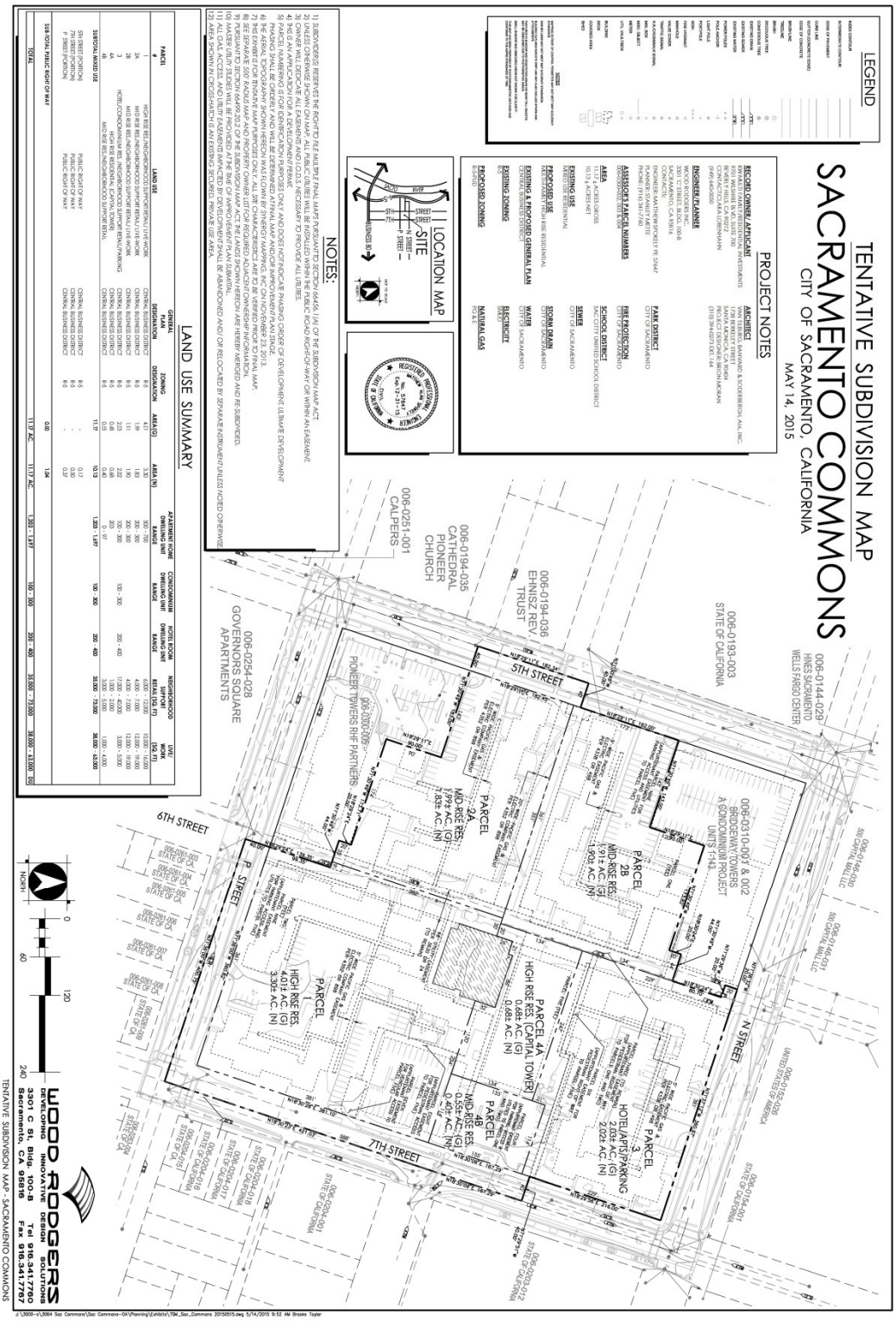
H24. The applicant shall record the Final Map(s), which creates the lot pattern shown on the proposed site plan prior to obtaining any Building Permits.

H25. The site plan shall conform to the parking requirements set forth in City Code 17.608.040.

H26. The design of walls fences and signage near intersections and driveways shall allow stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back 3' behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited 3.5' in height at maturity. The area of exclusion shall be determined by the Department of Public Works.

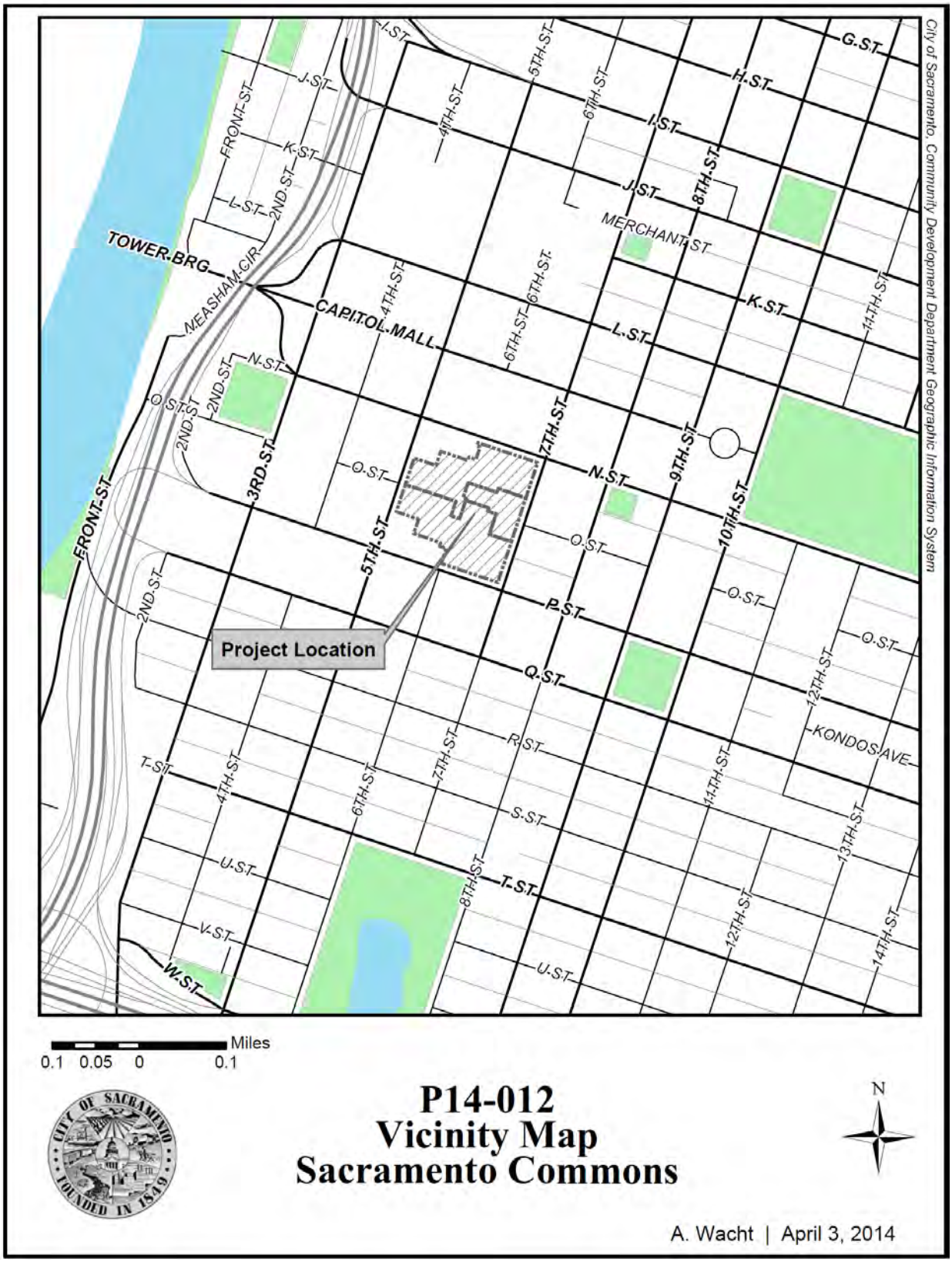
Table of Contents

Exhibits A: Tentative Map

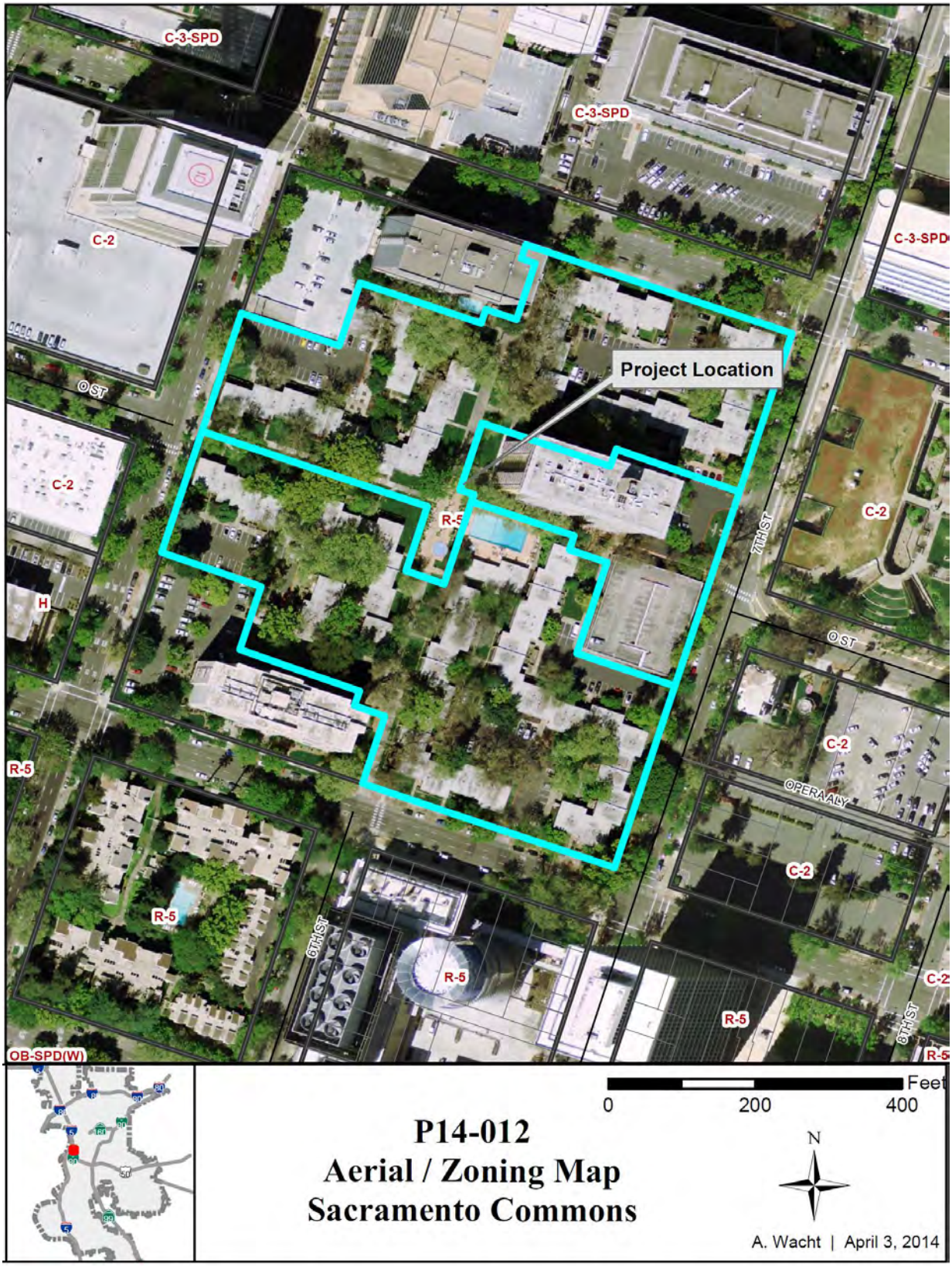

TENTATIVE SUBDIVISION MAP
SACRAMENTO COMMONS
CITY OF SACRAMENTO, CALIFORNIA
MAY 14, 2015
PROJECT NOTES
RECORD OWNER / APPLICANT
ARCHITECT
ENGINEER / PLANNER
ASSESSOR'S PARCEL NUMBERS
AREA
EXISTING USE
PROPOSED USE
EXISTING & PROPOSED GENERAL PLAN
EXISTING ZONING
PROPOSED ZONING
PARK DISTRICT
FIRE PROTECTION
SCHOOL DISTRICT
SEWER
STORM DRAIN
WATER
ELECTRICITY
NATURAL GAS
LOCATION MAP
SITE
NOTES:
LAND USE SUMMARY
LEGEND
5TH STREET
6TH STREET
7TH STREET
N STREET
P STREET
PARCEL 1
PARCEL 2A
PARCEL 2B
PARCEL 3
PARCEL 4A
PARCEL 4B
006-0193-003
STATE OF CALIFORNIA
006-0144-029
HINES SACRAMENTO
WELLS FARGO CENTER
006-0310-001 & 002
BROADWAY TOWERS
A CONDOMINIUM PROJECT
UNITS 1-143
006-0194-036
EHNISZ REV.
TRUST
006-0194-035
CATHEDRAL
PIONEER
CHURCH
006-0251-001
CALPERS
006-0200-009
PIONEER TOWERS RHF PARTNERS
006-0254-028
GOVERNORS SQUARE
APARTMENTS
WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS
3301 C St, Bldg. 100-B
Sacramento, CA 95816
Tel 916.341.7760
Fax 916.341.7767
TENTATIVE SUBDIVISION MAP - SACRAMENTO COMMONS

Back to Report Table of Contents

Vicinity Map



Aerial Map


C-3-SPD
C-3-SPD
C-3-SPD
C-2
C-2
C-2
C-2
C-2
C-2
H
R-5
R-5
R-5
R-5
R-5
R-5
OB-SPD(W)
O ST
O ST
7TH ST
6TH ST
6TH ST
OPERA ALY
Project Location
Feet
0
200
400
N
P14-012
Aerial / Zoning Map
Sacramento Commons
A. Wacht | April 3, 2014

Back to Report Table of Contents

SACRAMENTO COMMONS: MEETINGS WITH COMMUNITY GROUPS / INTERESTED PARTIES

As of 5/29/15

MEETING	DATE
Meeting with Sacramento Area Council of Governments – SACOG	11/7/13
Meeting with Sacramento Air Quality Management District – SMAQMD	11/7/13
First community meeting	12/16/13
Meeting with Walk Sacramento and SABA	12/17/13
Second community meeting	2/18/14
Meeting with Walk Sacramento and SABA	4/24/14
Meeting with Downtown Sacramento Partnership	4/24/14
Meeting with Capitol Area Development Authority – CADA	4/25/14
Meeting with Downtown Sacramento Partnership	5/28/14
Meeting with Sacramento Regional Transit District	6/11/14
Third community meeting	6/11/14
Meeting with SACOG and Caltrans and City staff	7/16/14
Meeting with 500 North property owners	8/20/14
Meeting with 500 North resident	8/20/14
Meeting with Residential Housing Foundation (owners of Pioneer Tower)	8/25/14
Meeting with Neighbors	10/7/14
Meeting with Central Valley AIA Board of Directors	10/7/14
Meeting with Walk Sacramento and SABA	11/6/14
Meeting with neighbor	12/18/14
Meeting with Sacramento Tree Foundation	1/6/15
Meeting with ECOS	3/9/15
Meeting with SACOG and Caltrans and City Staff	4/16/15
Meeting with Downtown Sacramento Partnership	4/29/15
Meeting with Residential Housing Foundation (owners of Pioneer Tower)	4/29/15
Meeting with Residential Housing Foundation (owners of Pioneer Tower)	5/28/15
Meeting with Downtown Sacramento Partnership	5/29/15

Back to Report Table of Contents

Letter from Govenor's Office of Planning and Research

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

May 5, 2015

Via Electronic Mail

Scott Johnson, Associate Planner
City of Sacramento, Community Development Department
Environmental Planning Services
300 Richards Boulevard, Third Floor
Sacramento, CA 95811

Re: Sacramento Commons Project (SCH # 2014042032)

Dear Mr. Johnson,

It has come to our attention that certain comments have been raised in connection with the Sacramento Commons Project regarding the applicability of Section 21094.5 of the Public Resources Code. Specifically, a comment from the National Trust for Historic Preservation, dated April 24, 2015, asserts that the City's environmental impact report should have analyzed an alternative that would reduce impacts to historic resources to a less than significant level. The comment cites CEQA Guidelines Section 15126.6(c) to support its assertion. We write because our office recently developed updates to the CEQA Guidelines implementing Section 21094.5, and we have been following use of that provision at the local level.

Subdivision (b) of Section 21094.5 states: "If an infill project would result in significant effects that are specific to the project or the project site … an environmental impact report prepared for the project analyzing those effects shall be limited as follows: … Alternative locations, densities, and building intensities to the project need not be considered."

Similarly, Section 15183.3 of the CEQA Guidelines states: "The analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities." (CEQA Guidelines § 15183.3(e).)

Both of those sections limit the analysis of alternatives that CEQA might otherwise require. Indeed, both provisions are intended to streamline the normal CEQA process to benefit infill projects. (Pub. Resources Code § 21094.5(a)(1) ("…the application of this division to the approval of an infill project shall be limited…").) To the extent the comment suggests that Section 21094.5 and Section 15183.3 conflict with the general rules governing alternatives described in Section 15126.6, we note "a general rule of statutory interpretation that, in the event of statutory conflict, a specific provision will control over a general provision." (*Arbuckle-College City Fire Protection Dist. v. County of Colusa* (2003) 105 Cal. App. 4th 1155, 1166.)

Because the limitations in Section 21094.5 and Section 15183.3 are more specific than the general rules regarding alternatives described in Section 15126.6, and because those limitations on alternatives are intended to streamline the CEQA process for infill projects, the City should give those provisions their intended effect.

Sincerely,

Ken Alex
Director

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 322-2318 FAX (916) 324-9936 www.opr.ca.gov

Back to Report Table of Contents

To be delivered in July 2015.

Back to Report Table of Contents

City of SACRAMENTO
Community Development
300 Richards Boulevard, Sacramento, CA 95811

RECORD OF ACTION/RECOMMENDATION
TO THE
PLANNING & DESIGN COMMISSION
FROM THE
PRESERVATION COMMISSION

PRESERVATION DEVELOPMENT PROJECT
SITE PLAN & DESIGN REVIEW

FILE NUMBER:	P14-012
PROJECT NAME:	**Sacramento Commons**
PROJECT ADDRESS:	Located within the area between 5th Street, N Street, 7th Street, and P Street.
PROJECT APNs:	006-0300-002, 003, and 004
ZONING:	High-Rise Residential (R-5) (General Plan Designation – Central Business District)
HISTORIC STATUS:	Determined Eligible for Listing in the National Register of Historic Places; Listed in the California Register of Historical Resources; Nominated for listing in the Sacramento Register of Historic & Cultural Resources
DESIGN REVIEW DISTRICT:	Central Core Design Review District
PARKING DISTRICT:	Central Business and Arts & Entertainment District
APPLICANT:	Dave Eadie, KW Captowers, LLC, 18401 Von Karman, Suite 350, Irvine, CA 92612

REQUEST: Preservation Development Project Site Plan and Design Review for a proposed project, Sacramento Commons (P14-012), located between 5th Street, N Street, 7th Street, and P Street in the High-Rise Residential (R-5) zone and located in the Central Core Design Review District and nominated for listing in the Sacramento Register of Historic & Cultural Resources (Capitol Towers Historic District and Contributing Resources.) The site is currently developed with 409 multi-unit dwellings and 4, 122 square-feet of commercial, including related parking facilities, on 10.13± net acres. (This project site does not include 500 N Street or Pioneer Towers.) The proposed project has two build-out scenarios: a) 300-room hotel and a total of 1,374 dwelling units and 74,122 square feet of commercial; or, b) 1,470 dwelling units and 56,122 square feet of commercial; both scenarios propose new

parking structures. The project scope includes demolition of the structures on the property and much of the site, with the exception of the Capitol Tower highrise and the Overhoff Sculptural Wall.

ENVIRONMENTAL: Draft Environmental Impact Report

BACKGROUND:

The Preservation Commission review is required since the property's nomination for listing in the Sacramento Register of Historic & Cultural Resources is in process, per Title 17 of the City Code, Section 17.604.400, ***Review of Development Projects Involving Nominated Resources***, which states that,

> *"For purposes of this chapter, resources nominated as landmarks and contributing resources under section 17.604.220 shall be treated as if they are landmarks and contributing resources on the Sacramento register, and development projects involving these resources shall be subject to staff review under the general direction of the preservation director, a preservation director hearing or a preservation commission hearing pursuant to section 17.808.100 et seq."*

Therefore, the project preservation development project site plan and design review proposal was submitted to the Preservation Commission for hearing April 15, 2015. Noting that, per City Code Title 17, Section 17.808.130 (B,) since, in addition to the preservation development project site plan and design review, the project requests entitlements and actions which also requires action/recommendation from the Planning & Design Commission to the City Council, the Preservation Commission's action is considered a Recommendation to the Planning & Design Commission, instead of a final action.

ACTION OF THE PRESERVATION COMMISSION: At its' public hearing, held April 15, 2015, the Preservation Commission reviewed the proposed project's Draft EIR, proposed mitigations and alternatives, and the following Preservation Development Project Site Plan & Design Review items for Recommendation to the Planning & Design Commission:

A. The preservation development project component of the proposed project which proposes demolition of all nominated structures and contributing resources on the project site with the exception of the Capitol Tower highrise and the Overhoff sculptural wall, which wall is proposed to be relocated;

B. The site plan and design review component of the project for the construction of two build-out scenarios on 10.13± net acres in the High-Rise Residential (R-5) zone and located in the Central Core Design Review District.

After reviewing the project and the Draft EIR for the project, and taking public testimony, the Preservation Commission unanimously approved motions to:

City of
SACRAMENTO
Community Development
300 Richards Boulevard, Sacramento, CA 95811

1. forward a letter to the Planning & Design Commission on the DRAFT EIR *(attached;) and*
2. forward recommendations to the Planning & Design Commission to:
    a. deny the preservation development project proposal to demolish all of the nominated contributing resources within the nominated historic district on the project site, noting that the demolition proposal does not include the Capitol Tower highrise and the Overhoff sculptural wall; and
    b. deny the site plan and design review proposal, and request that revised alternatives be presented.

RECOMMENDED FINDINGS OF FACT:

1. The site of the proposed project has been formally nominated for listing in the Sacramento Register of Historic & Cultural Resources as a historic district with contributing resources, and the Preservation Commission has passed a motion recommending the City Council adopt an ordinance adding the Capitol Towers Historic District and Contributing Resources to the Sacramento Register of Historic & Cultural Resources;
2. There appear to be feasible compromises/alternatives that could limit the scale of the proposed demolition, could retain a substantial amount of historic resources, lessen impacts to historical resources, and still achieve both the project goals and the goals and policies found within the adopted 2035 General Plan Historic & Cultural Resources Element.

ACTION BY: **Preservation Commission**

DATE OF ACTION: April 15, 2015.

Roberta Deering, Preservation Director/
Secretary to the Preservation Commission

ATTACHMENT

City of
SACRAMENTO
Community Development

April 28, 2015

Chair Nybo and Members
City of Sacramento Planning & Design Commission
c/o Community Development Department
Attn: Evan Compton, Senior Planner, Current Planning

RE: **Sacramento Commons Draft Environmental Impact Report**

Dear Chair Nybo and Members of the Planning & Design Commission,

At its duly noticed public meeting held April 15, 2015, the City of Sacramento's Preservation Commission reviewed, took public comments, and passed a motion (moved by Commissioner Moffett; seconded by Commissioner Forrest: approved 7:0:0) to send a letter under Chair Fuller's signature to the Planning & Design Commission listing the Preservation Commission's comments on the Draft Environmental Impact Report (DEIR) for the Sacramento Commons project, including proposed Mitigations and proposed Alternatives:

Cultural Resources Chapter 4.4

General Plan goals and policies: Balancing the City's General Plan policies to allow demolition of historical resources needs more analysis than just what CEQA requires for the EIR for this project. HCR 2.1.14 in City's General Plan allows demolition of historical resources as a last resort and if public benefits outweigh the loss of the historic resource. If increased density in the downtown area is the public benefit, there is not sufficient rationale for the proposed public benefit at this site, vs. other sites, to allow the demolition of this site's significant historical resources. Alternative sites nearby are available. Off-site alternative analysis is recommended.

Historical resource determination: Clarify throughout the DEIR documents that the project site is a historical resource for CEQA purposes.

Archaeological resources: Section 4.4-4 Archaeological sensitivity analysis may require additional information and may be inadequate relative to analysis of potential for impacts to archaeological resources. It is likely that the proposed project would involve work below the ten (10) foot depth, which would require more robust analysis or mitigation.

Mitigation 4.4-2 (a) Documentation. Provide formal Level 1 (one) Historic American Building Survey (HABS) and Historic American Landscape Survey (HALS) documentation for National Park Service submission, and require preparation by qualified professional. The resources are of such significance that this level is needed.

Mitigation 4.4-2(b) Interpretation. Require oversight and preparation of interpretive materials/exhibits by a qualified Museum professional.

300 Richards Blvd., 3rd Floor
Sacramento, CA 95811

Help Line: 916-264-5011
CityofSacramento.org/dsd

Explore mitigation measures beyond documentation, recordation, interpretation, including:

1. Mitigation measure that would require demolition be allowed only upon securing financing of each phase;

2. Mitigation measure to establish a Preservation Fund.

Chapter 5- Alternatives:

1. Alternatives analysis requires additional information:
    a. Evaluate feasible alternatives that meet most of the project objectives and lessen the impacts to historical resources, per CEQA guidelines relative to alternatives analysis.
    b. Evaluate other on-site alternatives that would involve lower-density than the proposed project or the alternatives provided.

2. Evaluate off-site alternatives,
    a. Emphasizing importance of potential lost features of the historic landscape and the buildings that could be maintained if off-site alternatives are considered;
    b. Alternative sites available, even nearby.
    c. Analyze possible transfer-of-development-rights to an alternative site.

3. Modify Alternative 2 or 3: Develop modifications that could meet project objectives, or most objectives, and substantially lessen effects, possibly reduce impacts to less than significant level relative to historical resources:
    a. Evaluate modifications that would preserve more historical resources and add density on existing parking lots or at existing parking garage.
    b. Evaluate modifications, including alternatives to the location of:
        i. Proposed Tower B, evaluate avoiding demolition of resources by turning tower to east/west orientation and move south;
        ii. Proposed parking garages, evaluate consolidating with proposed towers to minimize footprint.

Other:

Project description and related sections/documents: Clarify timing of demolition in proposed project/proposed phases.

Chapter 6.6.3 Environmental Effects – Quantify energy savings. Analysis needed in discussion about replacement of older buildings with newer buildings' energy savings needs, especially relative to studies that have shown an approximate 80-year payback period for new construction. Also, compare with energy expended from demolition and construction activities.

Appendix N – Planned Unit Development (PUD) Guidelines: Recommend replace the draft proposed PUD guidelines with the Secretary of the Interior's Standards for the Treatment of Historic Properties, particularly the Rehabilitation Standards, noting that standards 9 and 10 address new construction involving historical properties.

Sincerely,

Eric Fuller, SE, Chair
Preservation Commission

Cc: David Kwong, Planning Director
Lezlie Ewigleben, Environmental Planning Manager
Bruce Monighan, Urban Design Manager
Roberta Deering, Preservation Director

Back to Report Table of Contents

T|L|G Thomas Law Group

TINA A. THOMAS
ASHLE T. CROCKER
AMY R. HIGUERA
MEGHAN M. DUNNAGAN
CHRISTOPHER J. BUTCHER
ANGELA C. MCINTIRE
HOLLY A. MCMANNES

455 CAPITOL MALL, SUITE 801
SACRAMENTO, CA 95814

ONE KAISER PLAZA, SUITE 875
OAKLAND, CA 94612

Telephone: (916) 287-9292 Facsimile: (916) 737-5858
www.thomaslaw.com

NICHOLAS S. AVDIS
TODD W. SMITH
Of Counsel

May 7, 2015

Alan LoFaso, Vice Chair
Planning and Design Commission
City of Sacramento
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95811
E-mail: ALofaso@sbcglobal.net

Re: Sacramento Commons and the 2030 General Plan Update

Dear Vice Chair LoFaso:

During the April 30, 2015 Planning Commission Meeting, you asked whether the General Plan designation of the Sacramento Commons project site was considered on a regional-level, or was granular to the project site. In the case of Sacramento Commons, as part of the City's 2030 General Plan process the land use designation for the project site was considered on a site-specific basis. As demonstrated below, the land use designation of the Sacramento Commons site was only revised after substantial debate during the 2030 General Plan Update process.

Planning Commission Meeting, October 16, 2008

On October 16, 2008, the City of Sacramento Planning Commission reviewed the Draft 2030 General Plan. (Exhibit A.) After a presentation from city staff, the Planning Commission opened the floor for public comment. Residents from the area bounded by 5th, 7th, N and P Streets requested the Central Business District not be expanded to include the Capitol Towers superblock, as proposed in the Draft 2030 General Plan, citing concerns that the existing residential area, and its landscaping and open space, would be replaced by higher density housing or office use. (See Exhibit B.) Recognizing the concerns of the residents, the Planning Commission recommended city staff to limit the extension of the Central Business District to the area east of 7th Street thereby excluding the Capitol Towers superblock from the Central Business District designation.

City Council Meeting, November 18, 2008

On November 18, 2008, the City of Sacramento city staff prepared a staff report for the City Council. In response to a recommendation from the Planning Commission, staff proposed to limit the extension of the Central Business District to the area east of 7th Street. The area west of

7th Street to Interstate 5 would be designated Urban Residential High, except for the Public/Public Quasi and Park designations proposed for the Crocker Art museum and adjacent park. (See Exhibit C.) To address residents' concerns, staff also recommended the following policy be added to the Draft 2030 General Plan to address the issue of replacing existing residential units in the Central Business District:

> **Retention of Existing Downtown Residential Character.** The City shall support a mixed use, vibrant Central Business District by encouraging retention of existing residential units *and ensuring replacement of residential units lost to demolition through residential construction in the immediate area.*

(Emphasis added.)

City staff provided an oral presentation to the City Council, recommending the Council proceed with review and comment. Following a public comment period, the City Council expressed its support of the staff's proposed policy, but directed staff to consider a recommendation from Councilmember Tretheway, then District One Councilmember, to maintain the Central Business District boundary as originally proposed and to revise the policy language to recognize the City's commitment to sustainability:

> The City shall support a mixed use, vibrant Central Business District by encouraging innovative mixed-use development resulting in development consistent with the SACOG Blueprint and Sacramento's commitment to environmental sustainability. (Exhibit D)

The City Council requested staff to return on December 2, 2008 for council consideration.

City Council Meeting, December 2, 2008

On December 2, 2008, the City Council considered the Draft 2030 General Plan. City staff voiced their support for a Central Business District designation for the Capitol Towers superblock. The City Council opened a public hearing to discuss the Draft 2030 General Plan, during which members of the community spoke for and against changes to the designation of the subject property. Responding to the concerns raised by the public, Councilmember Tretheway recognized that one of the City's goals is to make the central city be as "vibrant and economically vital as possible." Accordingly it would be inappropriate "to carve out for downtown Sacramento for four blocks to remain as-is when in fact [the City's] sustainability policy and master plan" require planning consistent with a Central Business District designation.

City Council Meeting, March 3, 2009

The City Council held a public hearing for adoption of the 2030 General Plan. Following the events of December 2, 2008, city staff revised their recommendation for the Central Business District. (Exhibit E.) The General Plan would be revised to expand the Central Business District

from "N" Street to "Q" Street, and Interstate 5 to 15th Street. The Council supported retaining the proposed boundaries for the Central Business District and added the following policy to address residents' concerns that the Central Business District Designation would put existing residential areas at risk of being replaced by office or higher density residential uses:

> The City shall support a mixed use, vibrant Central Business District by encouraging innovative mixed-use development resulting in development consistent with the SACOG Blueprint and Sacramento's commitment to environmental sustainability.

Upon conclusion of the public hearing, a motion passed adopting Resolution No. 2009-130 certifying the Master Environmental Impact Report and adopting the mitigation monitoring program for the Sacramento 2030 General Plan. The City Council also adopted Resolution No. 2009-131 as amended adopting and implementing the Sacramento 2030 General Plan and repealing the 1988 General Plan and all previously adopted community plans. (Exhibit F.)

Neighbor opposition to the Central Business District designation focused on the concern that it would lead to new development on the superblock. As discussed above, notwithstanding those concerns, the City Council adopted the change in designation. The neighbors, although opposed to the change, did not challenge the 2030 General Plan Update in court and the 2035 General Plan Update identifies the same designation. The Sacramento Commons project proposes changes to the site that are consistent with its Central Business District designation.

We hope this resolves any outstanding questions you may have regarding the land use decisions on the Sacramento Commons site during the 2030 General Plan Update process. Please feel free to contact me with further questions or concerns you may have regarding the course of events summarized in this letter.

Very truly yours,

Tina A. Thomas

Cc: Chair David Nybo
City of Sacramento Planning and Design Commissioners
Ryan DeVore, Interim Director of Community Development, City of Sacramento
Fran Halbakken, Assistant to the City Manager, City of Sacramento
David Kwong, Planning Director, City of Sacramento
Evan Compton, Senior Planner, City of Sacramento
Lindsay Alagozian, Senior Planner, City of Sacramento

Enclosures:
Exhibit A – Minutes of City of Sacramento Planning Commission, October 16, 2008

Exhibit B – Excerpt from Staff Report to City Council, November 18, 2008 (Residents' Comments)
Exhibit C – Excerpt from Staff Report to City Council, November 18, 2008 (Staff Recommendation and Proposed General Plan Map Revisions)
Exhibit D - Excerpt from Staff Report to City Council, December 2, 2008 (Summary of Issues from November 18, 2008 Council Meeting)
Exhibit E - Excerpt from Staff Report to City Council, March 3, 2009 (Staff Recommendation)
Exhibit F – Excerpt from Minutes of City of Sacramento City Council, March 3, 2009

Minutes
City of Sacramento
Planning Commission

COMMISSION MEMBERS:

Joseph Contreraz
Joseph Yee, AIA
Michael Notestine, Vice Chair
Darrel Woo, Chair
Jodi Samuels
Michael Mendez, MCP
Barry Wasserman
Chris Givens
Panama Bartholomy

CITY STAFF:

Tom Pace, Long Range Planning Manager
Sabina Gilbert, Senior Deputy City Attorney
James Horton, Program Analyst

Historic City Hall
915 I Street, 2nd Floor – Hearing Room

October 16, 2008 – 5:30 P.M.

The City Planning Commission was created by the City Council. Its powers and duties include: to develop and maintain the General Plan; to make recommendations to the City Council on amendments to the General Plan and the City's zoning code and on zoning changes; to act upon applications for tentative subdivision maps, special permits and variances; and to make environmental determinations associated with these actions.

NOTICE TO THE PUBLIC

You are welcomed and encouraged to participate in this meeting. Public comment is taken (3 minutes maximum) on items listed on the agenda when they are called. Public Comment on items not listed on the agenda will be heard at the end of the meeting as noted on the agenda. Comments on controversial items may be limited and large groups are encouraged to select 3-5 speakers to represent the opinion of the group.

Notice to Lobbyists: When addressing the Commission you must identify yourself as a lobbyist and announce the client/business/organization you are representing (City Code 2.15.160).

Speaker slips are located in the lobby of the hearing room and should be completed and submitted to the Commission Secretary.

Government Code 54950 (The Brown Act) requires that a brief description of each item to be transacted or discussed be posted at least 72 hours prior to a regular meeting. The City posts Agendas at City Hall as well as offsite meeting locations.

The order of agenda items is for reference; agenda items may be taken in any order deemed appropriate by the Commission. The agenda provides a general description and staff recommendations; however, the Commission may take action other than what is recommended. The agenda is available for public review on the Friday prior to the meeting. Hard copies of the agenda, synopsis, and staff reports are available from the Development Services Department at 300 Richards Blvd, 3rd Floor (.25 cents per page) , during regular business hours or can be downloaded at www.cityofsacramento.org/dsd.

Meeting facilities are accessible to persons with disabilities. If you require special assistance to participate in the meeting, notify the Development Services Department at (916) 808-5908 at least 48 hours prior to the meeting.

CALL 311 我們講中文 · Hablamos Español · Мы говорим по-русски · ลวนมีพนักงานลาวพูดได้ · Peb hais lus Hmoob · Chúng tôi nói tiếng Việt

(916) 808-5656

Staff reports include oral presentations including those recommending receive and file.

3. **Draft 2030 General Plan – Public Review Comments and the 65th Street/University Village Focused Opportunity Area**
Location: Citywide
Recommendation: Review and Comment

Contact: Teresa Haenggi, Associate Planner, 808-7554; Jim McDonald, AICP, Senior Planner, 808-5723

Action: Public comment provided by R. Fuentez, C. Wilson, J. Pachl, J. Lamare, B. DeBlonk, J. Horne, and Mel Billingsley. Commission reviewed and provided comments.

4. **Natomas Joint Vision Progress Report – Broad Visioning**
Location: Unincorporated portion of the Natomas Basin within Sacramento County adjacent to Council District 1
Recommendation: Review and Comment

Contact: Helen Selph, Associate Planner, 808-7582; Scot Mende, New Growth Manager, 808-4756

Action: No public comment. Commission reviewed and provided comments.

5. **City Response to Climate Change and Related State Legislation**
Location: Citywide
Recommendation: Receive and file

Contact: Helen Selph, Associate Planner, 808-7582

Action: No public comment. Accepted and filed.

6. **Planning Commission Administrative Policies and Procedures: Planning Commission Rules of Procedures** (Continued from 9/25/08) **[To Be Delivered]**
Location: Citywide
Recommendation: Adopt Rules of Procedures

Contact: Sabina D. Gilbert, Senior Deputy City Attorney, 808-5346

Action: Comment provided by B. Holloway, Development Oversight Commission. No public comment. Moved, seconded, carried (Notestine/Bartholomy 7:0:0) to adopt the Planning Commission Rules of Procedures as presented. The subcommittee on Administrative Policies and Procedures will be reconvened to consider the recommendations provided by the DOC.

#	Date	Type	Source	Comment	Page	Staff Comments Recommendation
				4. There should be no building over 2 stories next to 64th Street or Elvas Ave. 5. There should not be an extension of 4th Ave under UP Rail; there is already too much traffic and there are too many tunnels that could allow flooding from the American River.		
13	10/16/2008	Mod	Craig Wilson (Public Comment)	Referring to the Florin-Perkins Waste Transfer Station: Would like property to be designated Industrial for the following reasons: 1. The existing use is for a waste processing/ recycling facility; 2. The existing use and allowed use is compatible with surrounding planned uses; and 3. If the site is not designated Industrial, the transfer station could become a nonconforming use in the future.	2-31	**Not Recommended.** See Comment/Response # 148 in the Public Comments Matrix.
14	10/16/2008	Mod	Jim Paschal (Public Comment)	Referring to the Central Business District (CBD) areas between N and Q Streets: There is a lot of existing multi-family housing that is currently correctly designated as residential. The proposed CBD designation would allow residential, commercial, or office that would increase the potential for existing multi-family housing and historic housing (e.g., Victorians) to be converted to other uses. It would cause urban design (e.g., height) conflicts. Requests that the City not change the designation in this area from residential to CBD. If the City is going to change the area to CBD would like to be shown a figure of what impacts will occur to existing residents.	2-31	See response to Comment #10 above.
15	10/16/2008	Mod	Commissioner Samuels	Referring to Jim Paschal's comment above (Comment #14 in this matrix): How and why	2-31	See response to Comment #10 above.

Edit: Modification to existing policy or text that will not change intent; Mod: Modification to existing policy or text that will change intent; New: Addition of a new goal, policy, or implementation program; Delete: Removal of a goal, policy, or implementation program; Other: miscellaneous comments, questions, or changes

#	Date	Type	Source	Comment	Page	Staff Comments Recommendation
				was the expansion of the Central Business District (CBD) between N & Q Streets chosen by City staff? Suggests that City staff take another look at this area to make sure it shouldn't remain a residential designation.		
16	10/16/2008	Mod	Judy LeMar (Public Comment)	Suggests the City reconsider the proposed Central Business District (CBD) land use designation for the area between N and Q Streets and focus the expansion of the Downtown/CBD onto the Railyards or the River District. (At hearing, distributed maps of existing residential development in the area between N and Q Streets that is proposed to be CBD.)	2-31	See response to Comment #10 above.
17	10/16/2008	Mod	Brian LeBlanc (Public Comment)	Referring to 717 and 719 F Street/7th Street in Alkali Flat: This area was previously part of the Railyards Master Plan, and the property owners were going to develop the site consistent with that plan. The City completed preliminary planning work that was accepted by the Alkali Flat neighborhood. Then, the property was removed from the Railyards Master Plan area and down-zoned. Would like the property rezoned to a higher intensity, consistent with what was shown in the Railyards Master Plan.	2-31	**Recommended.** Change the land use designation of this area in the 7th Street corridor from Traditional Neighborhood Medium to Urban Corridor Low. This recommendation is supported by the Alkali & Mansion Flats Historic Neighborhood Association per a letter dated October 29, 2008 (attached to the staff report).
18	10/16/2008	Mod	John Holmes, McKinley/East Sacramento Neighborhood Association (Public Comment)	Referring to Mobility Comment #496 in the Public Comments Matrix: Does not agree with City staff's "Comment Noted" response. The City needs to address existing and future traffic on residential streets. Hopes to see a livability index for residential street livability. Examples of such indices exist in Portland and San Mateo. Hopes that the M2 section of the Draft General		Comment Noted.

Edit: Modification to existing policy or text that will not change intent; Mod: Modification to existing policy or text that will change intent; New: Addition of a new goal, policy, or implementation program; Delete: Removal of a goal, policy, or implementation program; Other: miscellaneous comments, questions, or changes

Exhibit C - Excerpt from Staff Report to City Council, November 18, 2008
(Staff Recommendation and Proposed General Plan Map Revisions)

PLANNING DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

915 I STREET
NCH, 3rd FLOOR
SACRAMENTO, CA
95814

MEMORANDUM

Date: November 17, 2008

To: Mayor Heather Fargo
Councilmember Ray Tretheway
Councilmember Sandy Sheedy
Councilmember Steve Cohn
Councilmember Rob Fong
Councilmember Lauren Hammond
Councilmember Kevin McCarty
Councilmember Robbie Waters
Councilmember Bonnie Pannell

From: Teresa Haenggi, Associate Planner

SUBJECT: 2030 General Plan – Planning Commission Comments

On November 13, 2008, the Planning Commission took action to forward to the City Council a recommendation to adopt the Sacramento 2030 General Plan and certify its Master Environmental Impact Report (MEIR). This direction was accompanied by three changes to staff's recommendations:

1) Removal of Hazardous Materials Policy. Staff had originally recommended the following policy be added to the 2030 General Plan to address hazardous materials facilities:

> "The City shall review proposed facilities that would produce or store hazardous materials, gas, natural gas, or other fuels to identify, and provide feasible mitigation, for any risks. The review shall consider, at a minimum, the following: presence of seismic or geologic hazards; presence of hazardous materials; proximity to residential development and areas in which substantial concentrations of people would occur; and nature and level of risk and hazards associated with the proposed project."

The Planning Commission felt that the proposed language is similar to policies that already exists in city and state regulations, and therefore, is redundant and poses the risk of being misinterpreted as an additional layer of review. Therefore, the proposed language was removed from the public comment matrix.

2) Central Business District Boundaries. The 2030 General Plan includes the Central Business District (CBD) that was expanded from "N" Street to "Q" Street, and Interstate 5 to 15th Street. Several residents who live within the proposed expansion area expressed concern that the CBD designation puts existing residential areas at risk of being replaced by office or higher density residential uses. In response to a recommendation from the Planning Commission, staff proposes limiting the extension of the CBD to the area east of 7th Street. The area west of 7th Street to Interstate 5 would be designated Urban Residential High except for the Public/Public Quasi and Park designations proposed for the Crocker Art Museum and adjacent park. The map of the new proposed boundaries is attached.

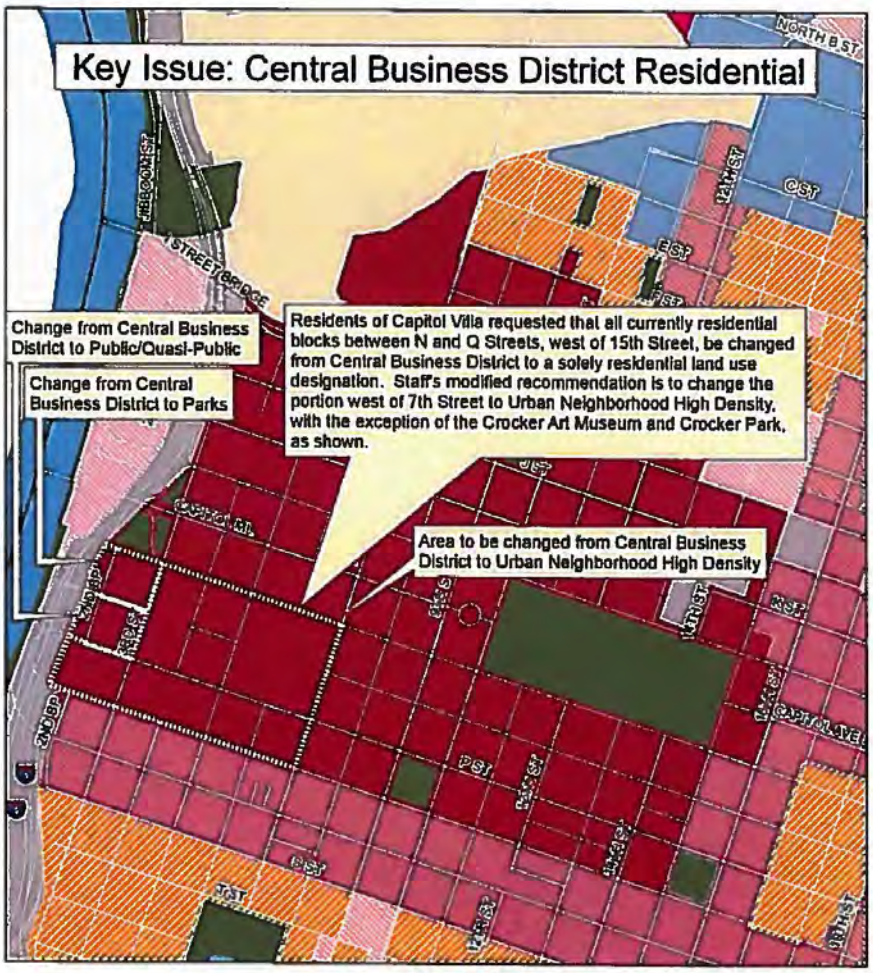
Staff is also proposing the addition of the following policy:

> **"Retention of Existing Downtown Residential Character.** The City shall support a mixed use, vibrant Central Business District by encouraging retention of existing residential units and ensuring replacement of residential units lost to demolition through residential construction in the immediate area."

3) Climate Change. Several comments made at the Commission meeting asserted the policies addressing climate change did not fully obligate the City to meet its climate change goals. Staff has developed language for the General Plan that is more binding, and therefore, demonstrates the City's commitment to addressing climate change, as shown below.

"The Climate Action Plan, once adopted, shall be incorporated into the General Plan."

If you have any questions or need more information, please contact me at (916) 808-7554 or thaenggi@cityofsacramento.org.



DRAFT

Land Use Designations

Rural
- Rural Neighborhood

Suburban
- Suburban Neighborhood Low
- Suburban Neighborhood Medium
- Suburban Neighborhood High

Traditional
- Traditional Neighborhood Low
- Traditional Neighborhood Medium
- Traditional Neighborhood High

Urban
- Urban Neighborhood Low
- Urban Neighborhood Medium
- Urban Neighborhood High

Centers
- Suburban Center
- Traditional Center
- Regional Commercial
- Urban Center Low
- Urban Center High
- Central Business District

Corridors
- Suburban Corridor
- Urban Corridor Low
- Urban Corridor High

Other Districts
- Employment Center (Low Rise)
- Employment Center (Mid Rise)
- Industrial
- Special Study Areas
- Planned Development
- Public
- Parks
- Open Space

ATTACHMENT 2

Issues from November 18, 2008 Council Meeting

Council directed staff to address issues that were discussed, but not resolved, at the November 18th Council Meeting. A summary of the issues is provided below. **Staff will submit supplemental material that provides an update to these issues.**

1. Hazardous Materials Policy. In response to public input, staff recommended the following policy be added to the 2030 General Plan to address hazardous materials facilities:

> "**Removal of Hazardous Materials.** The City shall review proposed facilities that would produce or store hazardous materials, gas, natural gas, or other fuels to identify, and provide feasible mitigation, for any risks. The review shall consider, at a minimum, the following: presence of seismic or geologic hazards; presence of hazardous materials; proximity to residential development and areas in which substantial concentrations of people would occur; and nature and level of risk and hazards associated with the proposed project."

On November 13, 2008, the Planning Commission recommended removing the policy because codes and policies already exists in local and state regulations to address hazardous materials facilities, and therefore, is redundant and poses the risk of being misinterpreted as an additional layer of review.

Council directed staff to revisit this issue and explore alternate language to address local review of hazardous materials facilities.

2. Central Business District Boundaries. To address concerns about the Central Business District designation's impact on existing residential uses, staff proposed adding the following policy to the General Plan:

> "**Retention of Existing Downtown Residential Character.** The City shall support a mixed use, vibrant Central Business District by encouraging retention of existing residential units and ensuring replacement of residential units lost to demolition through residential construction in the immediate area."

Council was supportive of the concept this policy represents, but directed staff to consider a Councilmember's recommendation to maintain the Central Business District boundary as originally proposed, and to revise the policy language to recognize the City's commitment to sustainability as shown below:

"The City shall support a mixed use, vibrant Central Business District by encouraging innovative mixed-use development resulting in development consistent with the SACOG Blueprint and Sacramento's commitment to environmental sustainability."

3. Climate Change. Staff reported that the analysis for the Draft Master Environmental Impact Report for the 2030 General Plan found the evidence of the Plan's impact on green house gas emissions to be too speculative at this time, and that no determination of significance could be made. Staff also reported that the State Attorney General's Office was supportive of many of the General Plan's policies and implementation measures, but does believe there is enough evidence to determine that the General Plan has a significant impact.

Council directed staff to work with the State Attorney General's office to come up with options to address the issues raised by the State Attorney General's office.

Examples provided include the following: superior architectural design; projects that offer a diverse mix of uses and not a single purpose use; public spaces such as parks or plazas; space for performing art, museums, libraries, community centers, and other public facilities; and environmental benefits such as LEED certification.

- Storage of Hazardous Materials. Several public members expressed concern about the policy that addressed the storage of hazardous materials. One concern was that the policy would result in additional review of projects that is duplicative of existing state requirements. Others, however, supported the proposed policy because it would allow the City to request additional information if deemed necessary. Staff offered revised policy language which was supported by both the public and Council:

  > "**Risks from Hazardous Materials Facilities.** When appropriate in light of the City's responsibilities regarding permitting, the City shall review proposed facilities that would produce or store hazardous materials, gas, natural gas, or other fuels to identify, and provide feasible mitigation for, any significant risks. The review shall consider, at a minimum, the following: presence of seismic or geologic hazards; presence of hazardous materials; proximity to residential development and areas in which substantial concentrations of people would occur; and nature and level of risk and hazard associated with the proposed project."

- Central Business District. The 2030 General Plan proposes the Central Business District (CBD) be expanded from "N" Street to "Q" Street, and Interstate 5 to 15th Street. Residents living within this proposed expansion area expressed concern that the CBD designation puts existing residential areas at risk of being replaced by office or higher density residential uses. Council supported retaining the proposed boundaries for the Central Business District and added the following policy:

  > "The City shall support a mixed use, vibrant Central Business District by encouraging innovative mixed-use development resulting in development consistent with Sacramento's commitment to environmental sustainability."

- Climate Change. In November 2008, staff reported that the analysis for the Draft Master Environmental Impact Report (EIR) for the 2030 General Plan found evidence of the Plan's impact on climate change to be too speculative at this time, and that no determination of significance could be made. Staff also reported that the State Attorney General's Office, although supportive of many of the General Plan policies and implementation measures, argued that there is enough evidence to determine that the General Plan has a significant impact on climate change due to the anticipated growth. Council directed staff to work with the State Attorney General's office to develop options to address the issues raised by the State Attorney General's office.

Closed Session

City Council

a. **Pursuant to Government Code section 54957.6** to discuss matters pertaining to negotiations with recognized employee organizations: Stationary Engineers, Local 39; Sacramento Area Fire Fighters, Local 522; Sacramento Police Officers Association; International Association of Machinists, & Aerospace Workers (IAMAW); Auto, Marine & Specialty Painters, Local 1176; Sacramento-Sierra Building and Construction Trades Council; Plumbers & Pipefitters, Local 447; Western Council of Engineers. The purpose is to confer with the city's chief negotiator, Dee Contreras.

Recessed to Closed Session -4:56 p.m.

Reconvene – 6:00 p.m.

Roll Call- A regular meeting of the Sacramento City Council was reconvened by Mayor Johnson at 6:02 p.m. Tuesday, March 3, 2009 at the Sacramento City Hall Council Chamber.

Members Present: Members Steve Cohn, Robert King Fong, Lauren Hammond, Kevin McCarty, Bonnie Pannell, Sandy Sheedy, Ray Tretheway, Robbie Waters and Mayor Kevin Johnson.

Pledge of Allegiance-led by Vice-Mayor Lauren Hammond.

Closed Session Report- None.

Public Hearings (Item 19)

Public hearings may be reordered by the Mayor at the discretion of the legislative bodies.

19. **2030 General Plan Adoption [2/3 Vote Required]** (Continued from 12-2-08 ;1-20-09 Noticed on 11-18-08)
Location: (Citywide)

Action: Moved/Seconded: Member Steve Cohn/Member Kevin McCarty

Yes: Members Steve Cohn, Robert King Fong, Lauren Hammond, Kevin McCarty, Bonnie Pannell, Sandy Sheedy, Ray Tretheway, Robbie Waters and Mayor Kevin Johnson

Conducted a public hearing with public comment heard from Rick Bettis, Michael Alcalay, Karen Klinger, Brian Holloway, Michael Grace, Joel Archer, Larry Greene, Lisa Trankley, Michael Seaman, Don Schatzel, Jim Pachl, Judith Lamare, Mark Bachli, Valerie Ries-Lerman, Bruce Starkweather, Joseph Yee and upon conclusion a motion **passed** 1) adopting **Resolution No. 2009-129** overruling the Airport Land Use Commission's Findings of Inconsistency relating to the approval of the Sacramento 2030 General Plan (2/3 vote required); 2) adopting **Resolution No. 2009-130** certifying the Master Environmental Impact Report and adopting the mitigation monitoring program for the Sacramento 2030 General Plan; and 3) adopting **Resolution No. 2009-131 as amended** adopting and implementing the Sacramento

2030 General Plan and repealing the 1988 General Plan and all previously adopted Community Plans.

Contact: Tom Pace, Long Range Planning Manager, (916) 808-6848, Planning Department.

Staff Reports (Item 20)

20. **Capital Region Compact for Children and Youth [To Be Delivered]**
Location: (Citywide)

Action: Moved/Seconded: Member Lauren Hammond/Member Bonnie Pannell

Yes: Members Steve Cohn, Robert King Fong, Lauren Hammond, Kevin McCarty, Bonnie Pannell, Sandy Sheedy, Ray Tretheway, Robbie Waters and Mayor Kevin Johnson

Public comment heard from Nick Rojas, Brandon Fermer, Elijah Thompson, Kate Bishop, Heyman Matlock, Zenae Scott, Julie Rhoten, Christine Welsch,Pastor Dave Lindner, Jay Shenirer, Frances Santillan, and a motion **passed to adopt Resolution No. 2009-132** 1) Approving the compact; and 2) authorizing the City Manager or his designee to sign the compact on behalf of the City.

Contact: Lyn Corbett, Director of Office of Youth Development, (916) 808-8050

Public Comments-Matters Not on the Agenda

None.

Council Comments-Ideas, Questions and Meeting/Conference Reports

1. Report Backs
   a. Member McCarty --Diaper changing room requirement policy for major remodels and new construction
2. Board and Commission Appointments
   None.

Adjourned at 8:20 p.m.