

Resolution No. 2009-51

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA ADOPTING THE STATEMENT OF FINDINGS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING THE COASTAL DEVELOPMENT PERMIT FOR PHASE 1 OF THE MARINA CENTER PROJECT

WHEREAS, on March 6, 2006, CUE VI, LLC applied to the City of Eureka for entitlements to develop the Marina Center Project ("Project"), a mixed-use development on a 43-acre brownfield site in Eureka, located on all or portions of APNs 001-014-002; 003-021-009; 003-031-003; 003-031-008; 003-031-012; 003-031-013; 003-041-005; 003-041-006; 003-041-007; and 003-051-001;

WHEREAS, the Project is proposed to occur in phases with Phase 1 being interim remediation of contamination occurring from past uses of the site, as well as construction of an 11.89-acre wetland reserve surrounding the remnant of Clark Slough, all on APNs 001-014-002, 003-021-009, 003-031-008, 003-041-005, 003-041-006, 003-041-007, and 003-051-001. The future phase(s) would include a mixed-use development containing retail, office, restaurant, museum, light industrial, and multi-family residential uses;

WHEREAS, CUE VI, LLC is seeking a Coastal Development Permit for Phase 1 only;

WHEREAS, the City determined that the Marina Center Project is a "project" under the California Environmental Quality Act ("CEQA") and that an Environmental Impact Report ("EIR") would be prepared to discuss and evaluate the Project's environmental effects;

WHEREAS, a Draft EIR on the Marina Center project was prepared (SCH# 2006012024) pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the Guidelines for Implementation of the California Environmental Quality Act (14 California Administrative Code Section 15000 et seq.);

WHEREAS, the City prepared a Final EIR (SCH# 2006012024) that includes, but is not limited to, the Draft EIR, technical appendices accompanying the Draft EIR, the comments and recommendations received on the Draft EIR, the responses of the City to the comments and recommendations received in the review and consultation process, and the Mitigation Monitoring and Reporting Program ("MMRP");

WHEREAS, after due consideration, on October 27, 2009, the City Council certified the Marina Center EIR (SCH# 2006012024) in accordance with the requirements of CEQA;

WHEREAS, soil samples have been taken from the project site over the years which revealed that there is petroleum, lead, copper, and arsenic in the shallow soils on the site, which are a detriment to the public welfare. In addition, overgrown vegetation, which creates a health and fire threat to neighboring properties, continues to be a problem on the site. Vegetation overgrowth on the site has been exacerbated by the

trash and rubbish that is scattered throughout the site which make regular mowing and weed abatement difficult if not impossible. To address these violations of the Eureka Municipal Code, the City has previously issued notices and orders to the landowner requiring the landowner to abate public nuisances. The notices and orders were issued on the following dates including but not limited to: September 6, 200; January 3, 2001; September 4, 2002; December 5, 2002; May 28, 2003; November 14, 2006; October 20, 2006; April 23, 2007; June 11, 2007; October 22, 2007; February 21, 2008; May 29, 2008; and May 30, 2008. The North Coast Regional Water Quality Control Board ("Regional Board") has approved a Supplemental Interim Remediation Action Plan ("SIRAP") in keeping with the Regional Board's Cleanup and Abatement Order for the project site (No. R1-2001-26) ("CAO"). The SIRAP includes a plan for general site clearing and debris removal, a focused soil remediation of areas with contaminated soil, a restoration of the wetlands area, and a grading of the overall site;

WHEREAS, the State Lands Commission has expressed a strong desire to have outstanding title and boundary issues relating to trust lands on the subject property resolved before the project commences;

WHEREAS, the City Council has reviewed and considered all of the environmental and other documentation prepared to evaluate the proposed Project, including but not limited to the Staff report and all elements of the EIR;

WHEREAS, Section 21081 of CEQA and Section 15091 of the CEQA Guidelines require that prior to approval of the Project for which the EIR was certified, the City Council must make one or more findings for each significant effect identified in the EIR, along with a brief explanation of the rationale for each finding. The Statement of Findings as required by CEQA is attached hereto as Exhibit "A";

WHEREAS, if and when CUE VI, LLC later seeks entitlements for subsequent phases of the Marina Center Project, a separate set of findings and an MMRP applicable to those phases, including any statement of overriding considerations that may be necessary for impacts associated with those later phases that cannot be mitigated to a level of less than significant, would be considered for adoption by the City at that time;

WHEREAS, in accepting this permit, CUE VI, LLC acknowledges and understands that any subsequent permits or approvals for later phases of the project as described in the Final EIR are subject to independent and separate discretionary approvals that may or may not be granted, and that no rights are created to any subsequent approvals by the performance of the site remediation or other work authorized by this permit.

NOW, THEREFORE BE IT RESOLVED that the City Council makes the findings contained in the Statement of Findings with respect to significant effects identified in the EIR and finds that each fact in support of the findings is true and is based upon substantial evidence in the record, including the EIR. The Statement of Findings is attached hereto as Exhibit "A" and is incorporated herein by this reference.

BE IT FURTHER RESOLVED that the City Council finds that the EIR has identified all significant environmental effects of the proposed Project and that there are no known potential environmental effects not addressed in the EIR.

BE IT FURTHER RESOLVED that the City Council makes the following findings and determinations regarding Phase 1 of the Marina Center project:

1. The supplemental interim remedial measures and proposed wetland reserve which constitute Phase 1 of the Marina Center Project conform to and are consistent with the City's certified Local Coastal Program. In summary:
 - a. The Phase 1 site remediation activities are not "uses" which are controlled by the district regulations or for which compliance with the general plan land use designations is strictly required. Phase 1 is necessary to remediate pre-existing contaminated soils resulting from past railroad and industrial activities on the property in order to facilitate development of the type and intensity contemplated in the general plan and zoning regulations. Therefore, Phase 1 is consistent with the general plan land use designations and the coastal zoning regulations.
 - b. The proposed wetland reserve surrounding Clark Slough would be located in the southwest corner of the property on lands designated PQP. Because the proposed wetland reserve would be permanent, a general plan consistency finding must be made. In addition it is subject to the district regulations of the coastal zoning regulations.
 - c. Clark Slough, which drains to Humboldt Bay, is part of the municipal storm drain system collecting water from the commercial and industrial areas upstream of the slough. The manmade channelization of Clark Slough on the property has reduced the ability of the slough to carry stormwater often resulting in on-site and off-site flooding during times of peak flow. The creation of the wetland reserve would improve the ability of Clark Slough to drain municipal storm water to Humboldt Bay and would reduce on- and off-site flooding. Because Clark Slough is part of the municipal storm drain system and the creation of the wetland reserve would improve stormwater flow and reduce flooding, the wetland reserve is a public civic service facility consistent with the purposes of the PQP and the uses allowed in the P zone.
 - d. Because the project site is not located on Humboldt Bay, nor is it between the first public road and the Bay, coastal public access would not be required, nor affected by the project.
 - e. According to the California Wetlands Conservation Policy, there would be no net loss of wetlands; rather there would be at least a 1:1 replacement of wetland acreage on the site, improvement of wetland quality, and

creation of a buffer zone surrounding that wetland. The buffer would be adequate to avoid or minimize effects on wetland and slough resources from direct and indirect disturbances such as entry of sediment, oil, or grease into the preserve; trampling of vegetation; and movement, light, or noise impacts that might interfere with habitat values or wildlife use of the slough and marsh. The buffer would consist of earthen berms sloped toward any road or other source of runoff pollution, fencing, symbolic fencing (split rails), native vegetation such as blackberries that act as a barrier, and signs warning against intrusion. Therefore, the project would be consistent with the land use policies protecting biological resources and the implementation plan Environmental Resource Standards.

- f. Due to the seismic activity and the composition of underlying soils, the project site is susceptible to liquefaction, and soil consolidation and settlement under static and dynamic conditions. The liquefaction potential was found to be highest west of Clark Slough, and this area may be subject to excessive settlement under dynamic loading. The area west of Clark Slough would be rehabilitated as a wetland reserve with no buildings being constructed in this area. Therefore, the natural hazard risks of the project to life and property are minimal.
 - g. There are no officially designated California Scenic Highway segments in Humboldt County; therefore, the project would not substantially damage scenic resources within a State scenic highway.
 - h. There are two suspected Wiyot village sites on or near the project site which could be impacted by soils excavations into native soils; the project site was historically covered by fill material and the village sites, if they exist, would be in native soils below the fill material. Phase 1 would involve soils excavation, the depth of which is not fully known but could be below the fill material. Approval of the coastal development permit is conditioned upon compliance with mitigation measures identified in the certified EIR for protection of archaeological resources consistent with the policies of the Land Use Plan and the Development Standards of Implementation Plan.
- 2. A public hearing was held on November 3, 2009, for the coastal development permit as required in section 10-5.29306 (section 156.102) of the Eureka Municipal Code; and
 - 3. The RWQCB issued Cleanup and Abatement Order No. R1-2001-26 ("CAO") ordering that the land owner of the Balloon Track "cleanup and abate the discharges and threatened discharges" from the site to protect water quality. Pursuant to its authority under sections 13267 and 13304 of the California Water Code, the RWQCB obligated CUE VI, LLC to implement the Supplemental Interim Remedial Action Plan (Appendix S of the EIR) to comply with the CAO

and address identified stormwater quality issues. By these actions, the RWQCB has made a determination relating to water quality within the meaning of section 30412 of the Coastal Act; and

4. The conditions on the site, including the soils contaminated with metals, debris, and other refuse, are a threat to the public welfare and have created and continue to threaten to create a public nuisance under the Eureka Municipal Code sections 94.17, 150.163(B), 150.163(E), 150.163(J), and 150.163(K). Further, the Regional Board has issued a cleanup and abatement order requiring CUE VI, LLC to cleanup and abate a "condition of pollution or nuisance." Exercising its power to declare and abate nuisances in keeping with section 30005 of the Coastal Act, the City hereby orders CUE VI, LLC to abate the nuisance by implementing the supplemental interim remedial measures approved by the RWQCB under its CAO; and
5. Because the site is not located between the existing first public road and Humboldt Bay, Phase 1 of the Marina Center project will not block or interfere with public access to or along the shoreline.

BE IT FURTHER RESOLVED that the coastal development permit for Phase 1 of the Marina Center project, is hereby approved, subject to the Conditions of Approval and Mitigation Monitoring and Reporting Program listed in Exhibit "B", attached hereto.

BE IT FURTHER RESOLVED that approval of the coastal development permit for Phase 1 of the Marina Center project does not vest any rights or entitlements to the property owner for construction of the future phase(s) of the Marina Center project that are not otherwise due the property owner under law.

BE IT FURTHER RESOLVED that before the Phase 1 may commence, CUE VI, LLC must obtain approval of a Grading Permit and an Erosion Control Permit, ministerial permits, from the City Building Department.

BE IT FURTHER RESOLVED that before the project may commence, CUE VI, LLC must resolve, to the City's satisfaction, the outstanding title and boundary issues with the City of Eureka and the State of California State Lands Commission.

BE IT FURTHER RESOLVED that if the title and boundary issues are not resolved by April 1, 2010, a report shall be made to the City Council in a regularly scheduled public meeting for further consideration.

BE IT FURTHER RESOLVED pursuant to Eureka Municipal Code section 10-5.29319 (section 156.116) the coastal development permit shall lapse and become void if construction or implementation of the permit has not commenced within two years from the date of final approval of the application for a coastal development permit. Upon written request received prior to the expiration of the permit, a one-year extension may be granted by the approving authority.

BE IT FURTHER RESOLVED that the Coastal Development Permit shall not become effective until after the applicable appeal period has expired in accordance with Eureka Municipal Code section 10-5.29314 (section 156.112(B)).

BE IT FURTHER RESOLVED that the Clerk of the City of Eureka is hereby directed to file a Notice of Determination ("NOD") in accordance with CEQA Guidelines section 15094 with the Humboldt County Clerk and with the State Clearinghouse.

BE IT FURTHER RESOLVED that the documents and material constituting the record of this proceeding are located at the City of Eureka, 531 K Street, Eureka, California 95501 and the custodian of said records is the Clerk of the City of Eureka.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka, County of Humboldt, State of California, on the 3rd day of November 2009, by the following vote:

AYES: COUNCIL MEMBERS: ATKINS, LEONARD, JAGER, JONES

NOES: COUNCIL MEMBERS: GLASS

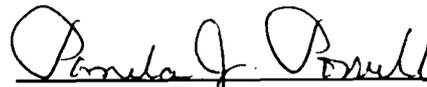
ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

ATTEST:



Virginia Bass
Mayor



Pamela J. Powell
City Clerk

APPROVED AS TO ADMINISTRATION:

APPROVED AS TO FORM:



David W. Tyson
City Manager



Sheryl Schaffner
City Attorney

EXHIBIT "A"

STATEMENT OF FINDINGS

Section 1

Introduction

A Statutory Requirements for Findings

The California Environmental Quality Act (CEQA), Public Resources Code Section 21081, and the *CEQA Guidelines* (14 Cal. Code of Regs. Section 15091) require that a public agency consider the environmental impacts of a project before a project is approved, and make specific findings. *CEQA Guidelines* Section 15091 and Public Resources Code, Section 21081, provide that:

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

- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

B Record of Proceedings

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City Council's decision on the proposed project consists of: (1) matters of common knowledge to the City Council, including but not limited to federal, state, and local laws and regulations; and (2) the following documents that are in the custody of the City of Eureka (City):

- Notice of Preparation, Notice of Availability, and Notice of Completion, which were issued by the City in conjunction with the proposed project.
- The Final EIR (dated October 2009), which includes all written comments submitted by agencies or members of the public during the public comment period on the Draft EIR (dated December 2008) and responses to those comments and all of the documents referenced therein.
- The Mitigation Monitoring and Reporting Program (MMRP).
- All findings and resolutions adopted by the City in connection with the proposed project, and all documents cited or referred to therein.
- All final reports, studies, memorandums, maps, correspondence, and all planning documents prepared by the City, or the consultants or responsible or trustee agencies, with respect to: (1) the City's compliance with CEQA; (2) development of the project site; or (3) the City's action on the proposed project.
- All documents submitted to the City by the applicant, by agencies, and by members of the public in connection with development of the proposed project.
- All documents compiled by the City in connection with the study of the proposed project and the alternatives.

- The testimony and evidence presented at the public scoping meetings on April 13, 2006, the Eureka City Council public study session on October 6, 2009, and the Eureka City Council meeting on October 20, 2009.
- The record of proceeding.

The Final EIR, and the administrative record concerning the project, provides additional facts in support of the findings herein. The mitigation measures set forth in the Phase 1 MMRP (Attachment 1) are incorporated by reference in these findings, and the findings in Sections 3.0 and 4.0 refer to individual mitigation measures as appropriate.

In accordance with *CEQA Guidelines* Section 15091(d), the City hereby adopts the Phase 1 MMRP to report on and/or monitor the mitigation measures and project design features incorporated to avoid or substantially lessen significant environmental effects associated with Phase 1. Some mitigation measures provide mitigation for more than one environmental effect, but the text of each mitigation measure is included only once after the effect with which it is directly associated. After other effects, the mitigation measures are referenced by alphanumerical designation.

The location and custodian of the documents and other materials, which constitute the record of proceedings, is the City of Eureka, Community Development Department, 531 K Street, Eureka, CA 95501.

C. Organization/Format of Findings

Section 2.0 of these findings contains a summary description of the proposed project (the Marina Center Mixed Use Development project), sets forth the objectives of the proposed project, and provides related background facts. Section 3.0 identifies the potentially significant effects of Phase 1 of the proposed project that will be mitigated to a less than significant level. All mitigation measures referenced in this document can be found in the Final EIR and Errata. Section 4.0 states the finding that there are no significant impacts associated with Phase 1 of the proposed project that cannot be mitigated to a less than significant level. Section 5.0 discusses the range of alternatives analyzed in the EIR. Section 6.0 includes general findings.

Section 2

Marina Center Mixed Use Development Project

A. Project Objectives

If ultimately approved through subsequent permitting activities, the larger proposed project as evaluated in the EIR would result in the redevelopment of a brownfield site and operation of a mixed-use retail, housing, and open space complex that includes 313,500 square feet of retail space, 104,000 sq. ft. of office space, 72,000 sq. ft. of multi-family residential housing (54 dwelling units), 70,000 sq. ft. of light industrial space, 14,000 sq. ft. of restaurant space, 12,500 sq. ft. of museum space, 1,590 parking spaces, and an 11.89-acre wetland reserve. This development would take place on a vacant 43-acre development parcel, which approximately is bounded by Waterfront Drive to the west and north, Washington Street to the south, Broadway to the east, 2nd Street to the south, and A Street to the east.

The City of Eureka's basic objectives of the proposed project are below; the City of Eureka's objectives for Phase 1 are identified by **bold underline**:

- Strengthen Eureka as the retail and employment center of Humboldt County.
- Develop an economically viable mixed use project (e.g., retail, office, residential, industrial).
- **Facilitate brownfield redevelopment and urban infill development of property in the redevelopment area in the City of Eureka.**

The Project Applicant's objectives of the proposed project are below; the Project Applicant's objectives for Phase 1 are identified by **bold underline**:

- To maintain Eureka's status as the "hub" of employment, retail commerce and tourism in Humboldt County.
 - Complement the existing Downtown and Old Town uses.
 - Develop an economically viable mixed-use project to include the following components:
 - Destination retail (home improvement, sporting goods, apparel, home electronics and import, for example)
 - Service retail (pharmacy, banking and financial, hair care, etc.)
 - Lifestyle retail (fashion, entertainment, jewelry, housewares, books, domestics, footwear, etc.)

- Offices
- Restaurants
- Children's Educational Museum
- Residential/multi-family to create both lifestyle and live-work opportunities
- Compatible light industrial
- Implement the goals, policies, and objectives of the Redevelopment Plan.
- **To restore the Balloon Track to productive use.**
 - **Remediate contaminated soil to safe levels for project uses.**
 - **Restore and enhance habitat through long-term protection activities in and adjacent to the slough.**
 - **Eliminate unauthorized or illegal activities within the Balloon Track, which are detrimental to public safety and a drain on public resources.**
 - **Implement earth and environmentally friendly design, construction and operational measures, including:**
 - **Recycling of demolished structures**
 - Use of "green" building materials: recycled; local; renewable
 - Energy-efficient HVAC and lighting and control systems
 - Use of natural ventilation and day-lighting
 - Use of efficient plumbing fixtures
 - Promote energy-efficient and environmentally friendly practices during project operation.
- To develop an economically viable mixed-use project.
 - Increase jobs and tax revenues.
 - Maximize development density to the extent economically feasible.
 - Provide a greater variety of goods and services in Humboldt County.

- Create a full mix of uses to maintain Eureka's status as the "hub" of employment, retail and tourism in Humboldt County.
- Connect the site into the urban street grid to the extent possible, given the limitations of maintaining the railroad right-of-way and ownership of land for possible street extensions.
- Improve vehicular circulation to and through the Balloon Track.
- Encourage pedestrian and bicycle interaction with the existing Downtown/Old Town and waterfront.
- Discourage sprawl by promoting an infill development project.
- Create effective links between the Wharfinger Building, Small Boat Basin, and Old Town areas.

This Statement of Findings only applies to Phase 1 of the proposed project, which would include brownfield remediation and wetland restoration. Separate Findings will be prepared for other future phases of the proposed project when they are subject to decision by the City Council.

B. Project Description

Project Location and Site Characteristics

The project site is located within the incorporated City of Eureka, in Humboldt County on the north coast of California approximately 300 miles north of San Francisco and 100 miles south of the Oregon border (latitude 40°48'00"N, longitude 124°10'40"W). The City of Eureka is the county seat and the center of government and commerce for Humboldt County. Humboldt County is bordered on the west by the Pacific Ocean, on the north by Del Norte County, on the east by Siskiyou and Trinity counties, and on the south by Mendocino County. Humboldt County encompasses 2.3 million acres, 80 percent of which is rural forested area. The City of Eureka is situated on Humboldt Bay in the central west portion of the County; it has an estimated population of 26,380 and occupies approximately 10,500 acres. Eureka is the largest city along the 400 miles of highway between Santa Rosa, CA and Medford, OR.

Humboldt Bay is one of California's larger coastal estuaries and the only deep water port between San Francisco and Coos Bay, Oregon. It is about 14 miles long and 4.5 miles wide at its widest point. Humboldt Bay is separated from the Pacific Ocean by long sand spits to the north and south of the entrance to the Bay. The City of Eureka sits on the eastern shore of Humboldt Bay at about its midway point. The Bay wraps around the City with the western and northern Eureka city limits extending into the Bay. The City's eastern and southern boundaries border the unincorporated Humboldt County.

The main north-south highway serving the north coast is U.S. Highway 101 (U.S. 101). At the south end of Eureka, U.S. 101 is a four-lane major arterial running north-south and is known as Broadway. Just to the east of the project site, Broadway turns ninety-degrees and splits into two one-way couplets running east-west through the heart of the City. The couplets are known as Fourth Street (southbound U.S. 101) and Fifth Street (northbound U.S. 101) which continue to the Eureka Slough Bridge, beyond which U.S. 101 is a divided four-lane highway. State Route 299 is the major east-west highway serving the north coast; it intersects with U.S. 101 in Arcata approximately 7 miles north of Eureka and connects to Interstate 5 in Redding, CA, approximately 140 miles east of Arcata.

The City of Eureka is set up in a traditional grid street pattern with the numbered streets running east-west and the alphanumeric streets running north-south; First Street parallels Humboldt Bay along the northern waterfront. First Street turns into Waterfront Drive west of "C" Street and bends to the south as it continues to parallel the western waterfront along Humboldt Bay. Waterfront Drive forms the western and northern boundaries of the project site. Broadway, for the most part, forms the eastern boundary of the project site and the south boundary is defined roughly by Washington Street. There are several businesses on the west side of Broadway between Fourth and Sixth Streets that are not a part of the project; and the businesses on the north side of Washington Street between Broadway and Clark Slough are not included in the project.

The project site consists of 11 parcels, four of which make up the tract of land known as the Balloon Track, so-called because locomotives were brought in on a circular track shaped like a balloon. The Balloon Track property was historically used as a railroad switching, maintenance and freight yard from the late 1880s until the closure of the Union Pacific rail lines in the mid-1980s. The project site has been vacant since the late 1980s and rail service to the north coast has been discontinued. On-site structures and most of the railroad tracks associated with past railroad use have been removed, although some foundations of former structures as well as some tracks located along the northwestern portion of the site are still present. The existing transmission tower in the middle of the property would be removed.

Clark Slough bisects the lower southwest corner of the property. Non-native vegetation is present throughout the project site with a number of compacted gravel roadways that provide access throughout the site. The entire 43-acre site is surrounded by a temporary 8-foot-tall chain link fence.

General land uses in the vicinity include coastal dependent industrial to the north and northwest; vacant or underutilized lands to the west; coastal dependent industrial to the southwest; a mixture of industrial and office uses to the south; to the southeast is the Clark District, one of the City's oldest residential neighborhoods; and to the east is a broad mixture of light industrial and commercial uses including Downtown and Old Town Eureka.

Project Characteristics

The Project Applicant, CUE VI, proposes a phased project, with Phase 1 limited to site remediation and wetland restoration, and subsequent phases involving mixed-use development that would include approximately 313,500 sq. ft. of Retail/Service/Furniture, including 28,000 sq. ft. of Nurseries/ Garden; 104,000 sq. ft. of Office; 72,000 sq. ft. of Multi-Family Residential (54 dwelling units); 70,000 sq. ft. of Light Industrial; 14,000 sq. ft. of Restaurant; and 12,500 sq. ft. Museum. The new buildings would be between one and five stories. The project would include approximately 1,590 parking spaces, including about 462 spaces in a four-level parking structure. In addition, the proposed project would include remediation of the brownfield project site to meet federal and state environmental cleanup and water quality standards, including the creation of an 11.89-acre wetland reserve. This area would include landscaped buffers surrounding the slough and restored and enhanced wetlands area providing protection for native plant and wildlife species.

Phase 1 Project Characteristics

Phase 1 of the proposed project entails remediation of the project site to meet federal and state environmental cleanup and water quality standards, including implementing the Supplemental Remediation Action Plan (SIRAP). The SIRAP is included as Appendix S of the Final EIR. The remedial action would include soil excavation in focused "hot spot" areas, supported by supplemental testing to ensure remediation success, site grading and the placement of clean material over the entire site provide to address surface soil contamination and to reduce the risk of exposure for human health and the environment. The remedial action would also include site grading with the effect of altering stormwater drainage patterns on the site to address contaminant migration issues, and wetlands enhancement and restoration.

General Site Clearing and Debris Removal

The preparation of the project site for the proposed remediation action would include removing existing debris piles, old foundations and other structures that remain on site largely as a result of the past use as a railroad maintenance facility. Items and structures slated to be removed include, but are not limited to, concrete foundation, metal and railroad tie debris, an old 650,000-gallon AST Foundation, a former railroad turntable, and a communication tower.

Soil Remediation

Remediation has been identified for five areas, including, the former General Petroleum site, the area near existing well MW-10, and three areas within the eastern and western drainage ditches where elevated levels of dioxins and furans have been detected. These areas would be further remediated through limited excavation and removal of contaminated soils. During the excavation of each area, steps would be taken to ensure the protection of human health, including limited access measures and dust control.

Wetlands Restoration Area/Clark Slough Remediation

Historical information indicates that portions of the site were once marsh wetlands that were filled in, primarily with bay dredge spoils, and subsequently developed. This area includes the southwest corner of the project site on both sides of Clark Slough. During the development of this area, the Channel for Clark Slough that runs through the site was fortified with concrete rip-rap. Ongoing development and use of this area has resulted in impacts to shallow soil and to Clark Slough. Restoration plans for the site include the restoration of some of the filled-in areas to their former wetlands state. The impacted areas would be remediated as part of the restoration process. The remediation of the wetlands restoration area (including Clark Slough) would be accomplished by excavating existing fill material to return the area to the original wetlands condition.

During the excavation process, excavated soils would be field screened and would be visually inspected for the presence of contamination. Any soils identified as potentially contaminated would be segregated and temporarily stored on plastic and covered with plastic for laboratory testing. The stockpiled soil samples would be submitted to an analytical laboratory and analyzed. The soil stockpile analytical results would be used to assess the proper final use or disposal method for the stockpiled soil. Excavated soil that is not identified as potentially contaminated by the field screening methods would be used as fill material within the proposed grading area.

Site Grading

The current layout of the project site results in storm water runoff that discharges into Clark Slough and the run-on of storm water from adjoining properties. The proposed grading plan would alter the flow of storm water on the site to promote natural infiltration of storm water and reduce or eliminate storm water leaving the site. This action would also include a cover that would provide additional protection to human health and the environment through the elimination of potential exposure pathways. The site grading plan would be developed and implemented in accordance with City of Eureka requirements.

C. Project Construction Phasing

The project is expected to be constructed in phases which would also result in implementation of mitigation measures in phases. Phase 1, which is the subject of this Findings Statement, would span 12 months and would include wetland restoration and site remediation. The Project Applicant has not identified the actual construction phasing for the project beyond Phase 1, and is therefore currently only seeking entitlements and approvals for Phase 1.

D. Approvals

The Project approval requires the City of Eureka, as lead agency, as well as certain "responsible agencies" to take certain regulatory actions to approve Phase 1 of the Marina Center Project. Described below are the land-use entitlements and regulatory

actions necessary to fully implement Phase 1 – Supplemental Interim Remedial Action Plan and Wetland Reserve.

In addition to certifying the Final EIR and adopting these Findings, the following entitlements are requested from the City:

- Approval of a Coastal Development Permit by the City Council, City of Eureka; and
- Approval of a Grading Permit and an Erosion Control Permit by the Building Official, City of Eureka.

Other approvals that must be granted by responsible agencies include or may include the following:

- Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB);
- Streambed Alteration Agreement from the California Department of Fish and Game (CDFG);
- NPDES construction stormwater permit (notice of intent to proceed under general construction permit) from the RWQCB and/or SWRCB.

If and when the Project Applicant pursues future entitlements from the City, those entitlements and permits may include a Local Coastal Program/General Plan Amendment, a second Coastal Development Permit, Design Review, Development Agreement(s), and a second Grading Permit and an Erosion Control Permit. Those separate approvals would require their own findings and perhaps a statement of overriding considerations.

E. Mitigation, Monitoring and Reporting Program

A Mitigation Monitoring and Reporting Program for Phase 1 of the Marina Center Project (Phase 1 MMRP) has been prepared for the Project, and will be approved by the Eureka City Council by the same Resolution that adopts these findings. The City will use the MMRP to track compliance with Project mitigation measures. The MMRP will remain available for public review during the compliance period. If and when the Project Applicant pursues future entitlements from the City for any subsequent phases of the Marina Center Project, the City will then consider adoption and enforcement of the complete MMRP for the entire Project.

F. Findings

The City is the Lead Agency for the Marina Center Mixed Use Development project. The City has determined that the EIR identifies 23 significant environmental effects of Phase 1 the project, and that changes or alterations have been required in, or incorporated

into, Phase 1 of the project that avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

The complete evaluation of potential environmental effects of the project is contained in Chapter VI of the Draft EIR (2008) combined with those sections of Chapter VI that have been revised and are noted in Chapter 2 of the Final EIR/Response to Comments document (October 2009).

Section 3

Effects Determined to be Mitigated to Less than Significant Levels

The EIR identified certain significant or potentially significant effects that could result from the proposed project. Based upon substantial evidence in the record, the City finds that for each of the significant or potentially significant impacts associated with Phase 1 of the proposed project and identified in this section, Section 3, changes or alterations have been required or incorporated into Phase 1 of the proposed project that avoid or substantially lessen those effects. As a result, adoption of the mitigation measures set forth below (which are repeated in the Mitigation Monitoring and Reporting Program, which is Attachment 1 of this document) will reduce the identified significant or potentially significant effects to a less than significant level.

The following impacts were determined in the EIR to result in less than significant impacts and no mitigation measures were recommended. Those impacts are not discussed further below and include: Impact A-1, A-2, A-3, A-5, B-1, B-2, B-3, B-4, C-5, C-5, D-6, E-1, E-3, F-4, F-5, G-3, G-5, G-6, G-7, G-8, H-2, H-8, H-9, I-1, I-2, I-3, I-4, J-1, J-2, K-5, K-6, L-1, L-2, L-3, L-4, M-3, M-4, M-5, M-6, N-1, N-2, O-2, O-3, O-5, P-1, P-2, Q-1, Q-2, Q-3, Q-4, Q-5, and Q-6.

A. Aesthetics

4. No Impact A-4: The EIR evaluates the impacts of the Marina Center project on light and glare that could affect day or nighttime views in the area of the project site. Because the project site would not include any sources of light or glare once site remediation and wetland restoration in Phase 1 is completed, there would be no change to the amount of light and glare in the project site area. Thus, Phase 1 would have no significant impact on light and glare. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact A-4 would be necessary.

C. Air Quality

1. No Impact C-1: The EIR evaluates the long-term operational impacts of the Marina Center project on individual and cumulative air emissions and potential conflicts with implementation of the North Coast Unified Air Quality Management District's (NCUAQMD's) Attainment Plan for PM10. Because the project site would remain in open space once site remediation and wetland restoration in Phase 1 is completed, there would be no operational emissions of PM10 associated with operations related to Phase 1. Thus, Phase 1 would have no significant impact on operational air quality emissions. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, the City will then consider further findings regarding those phases and Impact C-1.

2. Less-than-Significant Effect C-2: The EIR evaluates the potential of the Marina Center project emissions to conflict with air quality plans. Emissions associated with site remediation and wetland restoration in Phase 1 of the Marina Center project would not exceed minimum thresholds established for individual sources under NCUAQMD's Attainment Plan, and therefore Phase 1 of the proposed project would have a less-than-significant impact related to conflict with or obstruction of an air quality plan. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact C-2 would be necessary.

Finding: Site remediation and wetland restoration for Phase 1 of the Marina Center project would adhere to emission regulations that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: Annual project fugitive dust emissions associated with site remediation and wetland restoration in Phase 1 would not exceed NCUAQMD thresholds of significance for ROG, NO_x, CO, PM₁₀, and PM_{2.5}. In addition, site remediation and wetland restoration would be short-term in duration and would be required to comply with all applicable NCUAQMD Rules and Regulations, such as Rule 430, which requires implementation of fugitive dust emissions control measures (e.g., covering open bodied trucks when used for transporting materials likely to give rise to airborne dust, installing and using hoods, fans, and fabric filters to enclose and vent the handling of dusty materials). Containment methods can be employed during sandblasting and other similar operations) during site remediation and wetland restoration.

3. Less-than-Significant Effect C-3: The EIR evaluates the potential of the Marina Center project emissions to result in non-attainment of a criteria pollutant threshold. Site remediation and wetlands restoration of Phase 1 of the Marina Center Project would result in a less than cumulatively considerable net increase of PM₁₀, for which the North Coast Air Basin is currently designated as a non-attainment area. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact C-3 would be necessary.

Finding: Site remediation and wetland restoration for Phase 1 of the Marina Center project would adhere to emission regulations that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: Annual project fugitive dust and site remediation and wetland restoration emissions estimates would not exceed NCUAQMD thresholds of significance for PM₁₀ (16 tons/year),

which are within the limits authorized in the PM10 attainment plan. In addition, site remediation and wetland restoration would be short-term in duration and would be required to comply with all applicable NCUAQMD Rules and Regulations, such as Rule 430, which requires implementation of fugitive dust emissions control measures during site remediation and wetland restoration. Finally, because construction-related emissions associated with Phase 1 would precede and therefore not coincide with the timing of construction for any possible future phases, those emissions would not be considered in conjunction with emissions expected in subsequent phases, and would not be cumulatively significant.

6. No Impact C-6: The EIR evaluates the long-term impacts of the Marina Center project on greenhouse gas emissions and global climate change. Because the project site would remain in open space once site remediation and wetland restoration in Phase 1 is completed, and because the construction related impacts are temporary there would be no significant emissions of greenhouse gases or global climate change related to Phase 1. Thus, Phase 1 would have no significant impact on greenhouse gas emissions or global climate change. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact C-6 would be necessary.

D. Biological Resources

1. Significant Effect D-1: The EIR evaluates the impact of the Marina Center project on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. Phase 1 of the Marina Center project would have a potentially significant but temporary adverse effect on aquatic species in Humboldt Bay by temporarily increasing sedimentation in the water. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact D-1 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Migrating steelhead trout could pass by the project site in their travels within Humboldt Bay. In addition, migrating juvenile salmonid species are likely present in Humboldt Bay between December 1st and June 30th. The site remediation and wetland

restoration on the site—including excavation, grading, soil stockpiling, and placement of engineered fill—would disturb aquatic species by creating increased sedimentation in the water or by causing vibration effects.

2. Biological Resources Mitigation Measure D-1a set forth in Table 6-1 of the Final EIR is hereby incorporated by reference and described below:

D-1a: The Project Applicant shall install exclusionary fencing material or other barrier to contain dust and grading materials from site remediation and wetland restoration and avoid any discharges to Clark Slough and surrounding waters.

3. Water Quality Mitigation Measure H-3a, which requires implementation of additional erosion, sediment, and dust control measures, and Measure K-2a, which requires implementation of additional noise control measures, are incorporated by reference and described in the applicable section, below. Combined, these measures would reduce sedimentation and associated impacts to species.

2. Significant Effect D-2: The EIR evaluates the impact of the Marina Center project on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations by the California Department of Fish and Game or U.S. Fish and Wildlife Service. Phase 1 of the Marina Center project would have a potentially significant but temporary adverse effect on the riparian habitat along Clark Slough. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact D-2 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Clark Slough provides an existing riparian habitat that would be adversely affected during soil remediation and wetland restoration associated with Phase 1 of the proposed project.
2. Biological Resources Mitigation Measure D-3a through D-3f, below are hereby incorporated by reference and described in the applicable section. Measures D-3a through D-3f require wetland replacement at functions and values equal to or greater than those

existing, habitat restoration, creation of a wetland buffer and low lighting near the wetland, monitoring, and an invasive species control plan. This would be accomplished in Phase 1 by enlarging, restoring, and enhancing the riparian habitat within and along Clark Slough.

3. Significant Effect D-3: The EIR evaluates the impact of the Marina Center project on federally protected wetlands as defined by Section 404 of the Clean Water Act. Phase 1 of the Marina Center project would have a potentially significant adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct filling of palustrine emergent wetlands and estuarine wetlands within the Clark Clough muted tidal drainage, non-tidal drainages, and low-lying areas within the rail yard and industrial areas of the site. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact D-3 may be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. The project proposed to permanently and temporarily fill approximately 5.6 acres of existing palustrine emergent wetlands (as delineated under the Coastal Act). Filling of the wetlands would have a significant effect.
2. Biological Resources Mitigation Measures D-3a through D-3f set forth in Table 6-1 of the Final EIR are hereby incorporated by reference and described below:

D-3a: The Project Applicant shall obtain the requisite 404 permit and 401 certification from the Corps and RWQCB, which shall, at a minimum, require the Project Applicant to ensure that functions and values of replacement wetlands are equal to or greater than the functions and values of the wetlands affected by the project according to one or a combination of the following approaches deemed acceptable to the applicable regulatory agencies (e.g., Corps, RWCQB, and Coastal Commission):

1. Replace or restore the affected wetlands on-site at a minimum 1:1 ratio as necessary to ensure that the

wetland functions and values shall be equal to or greater than the affected wetlands; and/or

2. Provide wetlands replacement off-site but within the same watershed as the affected wetlands at a minimum 1:1 ratio at a location and of a wetland type approved by the Corps and RWQCB; and/or
3. Contribute in-lieu funds for restoration, enhancement, or preservation of off-site wetlands, subject to approval by the Corps and RWQCB.

D-3b: Prior to site grading, the Project Applicant shall prepare a detailed Restoration Plan in accordance with the U.S. Army Corps of Engineers (Corps) *Habitat Mitigation and Monitoring Proposal Guidelines* and Regulatory Guidance letters 02-02 and 06-03; Federal Register, 2008. *Compensatory Mitigation for Losses of Aquatic Resources; Final Rule*. Department of Defense, Department of the Army, Corps of Engineers 33 CFR Parts 325 and 332; and U.S. Environmental Protection Agency 40 CFR Part 230. April 10, 2008; as well as the California Coastal Commission's *Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone: Chapter 2 Enhancement and Restoration*. The plan shall include, at a minimum: details of methods for site selection, preparation, and remediation; exotic plant removal; excavation, grading, and rip-rap removal; establishment of hydrological function; planting materials and methods; establishment of native species; creation of an effective buffer; maintenance and trash removal; monitoring; contingency plans; and plans for long-term funding for wetland monitoring and maintenance.

For 5 years following completion of the restoration project, a qualified biologist hired by the Project Applicant shall monitor the site bi-annually on the first and last month of the growing season to ensure ongoing success. Upon completion of the restoration, a qualified biologist shall confirm the success of the Restoration Plan and recommend contingency measures, if necessary, to meet the no-net-loss performance requirement.

D-3c: The Project Applicant shall create a buffer zone surrounding the restored wetland area. The buffer shall be adequate to avoid or minimize effects on wetland and slough resources from direct and indirect disturbances such as entry of sediment, oil, or grease into the preserve; trampling of

vegetation; and movement, light, or noise impacts that might interfere with habitat values or wildlife use of the slough and marsh. The buffer shall consist of earthen berms sloped toward any road or other source of runoff pollution, fencing, symbolic fencing (split rails), native vegetation such as blackberries that act as a barrier, and signs warning against intrusion.

D-3d: An open space wetland preserve consisting of the restored estuarine wetland and the upland protective buffer area shall be established and protected by a conservation easement in accordance with California Civil Code Sections 815-816, deed restriction, or other means of preservation approved by the City of Eureka, RWQCB, and the Corps. In the event of a conservation easement, the easement holder shall be a public agency or non-profit organization (i) approved by the City of Eureka, RWQCB, and the Corps; and (ii) qualified and authorized to administer conservation lands within the State of California. The conservation easement, deed restriction, or other means of preservation shall protect against land use changes for other than conservation purposes in perpetuity and shall include an endowment for long-term management and protection of the wetland preserve.

D-3e: To minimize the potentially adverse effect of night lighting on habitat use in the restored remnant of Clark Slough, the Project Applicant shall, within 300 feet of the preserve, use low-intensity street lamps, low elevation lighting poles, and internal silvering of the globe or external opaque reflectors to direct light away from the slough and buffer area.

D-3f: The Project Applicant shall implement a non-native invasive species control program for areas disturbed as a result of site remediation and wetland restoration and landscaping activities. Prior to site remediation and wetland restoration, plants considered by the State of California to be exotic pest plants shall be destroyed using environmentally suitable methods, which may include the application of an herbicide approved by the United States Environmental Protection Agency for use near and within aquatic environments. During site remediation and wetland restoration, the Project Applicant shall:

1. Educate construction workers about invasive species and control measures;

2. Ensure construction-related equipment arrives on-site free of mud or seed-bearing material by, for example, requiring wheel washing upon entry;
3. Use native seeds and straw material to the extent feasible;
4. Revegetate with appropriate native species; and
5. Prohibit the use of the following non-native invasive plants for landscaping or other planting purposes:
 - Pampas grass (*Cortaderia jubata*, *C. selloana*)
 - Tree-of-heaven (*Ailanthus altissima*)
 - Giant reed (*Arundo donax*)
 - Bamboo (*Bambusa* spp., *et al*)
 - Cotoneaster (*Cotoneaster pannosa*)
 - French broom (*Genista monspessulana* = *Cytisus monspessulanus*)
 - Scotch broom (*Cytisus scoparius*)
 - Blue gum (*Eucalyptus globulus*)
 - English ivy (*Hedera helix*)
 - Fig-marigold family members (*Conicosia*, *Carpobrotus* and *Mesembryanthemum*)
 - Tall fescue (*Festuca arundinacea*)
 - Mattress vine (*Muehlenbeckia complexa*)
 - Tree tobacco (*Nicotiana glauca*)
 - Fountain grass (*Pennisetum setaceum*)
 - Pyracantha (*Pyracantha angustifolia*)
 - Castor bean (*Ricinus communis*)
 - Black locust (*Robinia pseudoacacia*)
 - German ivy (*Delairia odorata* = *Senecio mikianoides*)
 - Spanish broom (*Spartium junceum*)
 - Tamarisk (*Tamarix* spp.)
 - Gorse (*Ulex europaeus*)
 - Periwinkle (*Vinca major*)
 - Purple fountain grass (*Pennisetum setaceum*)

4. Significant Effect D-4: The EIR evaluates the potential of the Marina Center to interfere with the movement of native resident or migratory fish or wildlife species, or impede the use of native wildlife nursery sites. Phase 1 of the Marina Center project could interfere with the movement of migrating salmonid species. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact D-4 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Site remediation and wetland restoration could adversely affect migrating salmonid species and increase sedimentation of Clark Slough and surrounding waters of Humboldt Bay.
2. Biological Resources Mitigation Measure D-1a, above, which would require the installation of exclusionary fencing material or other barrier to contain dust and grading materials from site remediation and wetland restoration and avoid any discharges to Clark Slough and surrounding waters, is hereby incorporated by reference. The reduction of sedimentation would reduce impacts to migrating salmonid species.
5. Significant Effect D-5: The EIR evaluates the potential of the Marina Center project to conflict with local policies or ordinances protecting biological resources. Phase 1 of the Marina Center project could substantially conflict with Local Coastal Program Policies 6.A.4 and 6.A.7, which protect against significant habitat disruption in the coastal zone. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact D-5 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Phase 1 of the proposed project would fill wetlands, which could be inconsistent with Local Coastal Program policies that protect biological resources in the coastal zone.
2. Biological Resources Mitigation Measures D-1a, and D-3a through D-3f, above, are hereby incorporated by reference and described in the applicable section. Measure D-1a requires installation of a fence or other barrier, which would decrease discharges of sediment into Clark Slough. Measures D-3a through D-3f require wetland replacement at functions and values equal to or greater than those existing, habitat restoration, creation of a wetland buffer and low lighting near the wetland, monitoring, and an invasive species control plan. These measures would further protect biological resources.
7. Significant Effect D-7: The EIR evaluates the potential of the Marina Center to result in an adverse temporary loss of wetland value during construction. During the site remediation and preparation of Phase 1 of the Marina Center project, an adverse temporary loss of wetland value

and function would occur. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact D-7 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. During site remediation and preparation, the limited wetland functions of Clark Slough and the adjacent wetlands would be adversely affected.
2. Biological Resources Mitigation Measure D-7a set forth in Table 6-1 of the Final EIR is hereby incorporated by reference and described below:

D-7a: Phasing of site remediation and wetland restoration shall minimize the amount of time that both the existing degraded wetlands and the wetlands in the southwest corner of the site (slated for restoration) are non-functional. Wetlands restoration work shall begin and shall continue concurrently with the remediation work. Timely completion of the restoration shall be the highest priority and shall be performed, to the extent possible, during the dry season.

3. Biological Resources Mitigation Measures D-3a through D-3f, above, and Water Quality Mitigation Measure H-3a, below, are hereby incorporated by reference and described in the applicable section. Measures D-3a through D-3f require wetland replacement at functions and values equal to or greater than those existing, habitat restoration, creation of a wetland buffer and low lighting near the wetland, monitoring, and an invasive species control plan. Measure H-3a requires implementation of additional erosion, sediment, and dust control measures. These measures would further protect biological resources in the near- and long-term.
8. Significant Effect D-8: The EIR evaluates the potential of the Marina Center project to destroy nests or eggs, or otherwise disturb the reproductive effort of species protected by the Migratory Bird Treaty Act. Soil remediation and associated vegetation removal in Phase 1 of the Marina Center project could destroy nests or eggs, or otherwise disturb the reproductive effort of species protected by the Migratory Bird Treaty Act. If and when the Project Applicant seeks entitlements and regulatory

approvals for subsequent phases of the project, further findings associated with Impact D-8 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Soil remediation and associated vegetation removal in Phase 1 of the Marina Center project could interfere with the use of the site by birds protected under the Migratory Bird Treaty Act.
2. Biological Resources Mitigation Measure D-8a set forth in Table 6-1 of the Final EIR is hereby incorporated by reference and described below:

D-8a: The Project Applicant shall implement one of the following mitigation measures to reduce the potential impact on breeding birds or their nests or eggs:

1. Refrain from performing vegetation clearing/initial grading activities during the avian breeding season (February 1 to August 31); or
 2. Perform pre-construction surveys to locate any nesting birds in the area and establish 100 to 250-foot-wide exclusion zones around any identified active nest, depending on site conditions and nature of the work being performed
9. Significant Effect D-9: The EIR evaluates the impact of the Marina Center project, in combination with other developments in the immediate vicinity, on biological resources. Phase 1 of the Marina Center project, together with other developments in the immediate vicinity, would contribute to potential cumulative impacts on biological resources, particularly wetlands. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact D-9 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. The proposed project would result in the filling of wetlands, which could result in adverse effects that, when combined with other reasonably foreseeable future development in the project vicinity, could contribute to potential cumulative impacts on biological resources.
2. Biological Resources Mitigation Measures D-1a, D-3a through D-3f, D-7a, and D-8a, above, are hereby incorporated by reference and described in the applicable section. Measure D-1a requires installation of a silt fence, which would reduce sedimentation in surrounding waters and reduce impacts to salmonid species. Measures D-3a through D-3f require wetland replacement at functions and values equal to or greater than those existing, habitat restoration, creation of a wetland buffer and low lighting near the wetland, monitoring, and an invasive species control plan. Measure D-7a limits the duration of wetland disturbance, and Measure D-8a requires soil remediation to be scheduled and occur around active nests. Combined, these measures would ensure that the project would not make a considerable contribution to cumulative biological resources impacts.

E. Cultural Resources

2. Significant Effect E-2: The EIR evaluates the impacts of the Marina Center project on the significance of archaeological resources. Given the potential Wiyot village sites in the project area previously unknown significant deposits could be encountered during Phase 1 of the Marina Center project, which may therefore cause a potentially significant adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5 of the *CEQA Guidelines*. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact E-2 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Archaeological deposits of Wiyot villages or historic-era deposits associated with the American settlement of the area beginning in the 1850s, may be found with the project site or vicinity that may be significant under CEQA, and they could be damaged or destroyed during soil remediation, including any subsurface, ground-disturbing activities.

2. Cultural Resources Mitigation Measures E-2a through E-2c set forth in Table 6-1 of the Final EIR are hereby incorporated by reference and described below:

E-2a: The following measures shall be required for each phase of development that involves construction or other ground-disturbing activities to occur to a surface depth below historical fill on the site and in the geographic areas specifically delineated as “highly sensitive” in the reported entitled *A Cultural Resources Investigation of the Proposed Balloon Tract Development* (May, 2006) prepared by Roscoe & Associates:

- (i) Prior to ground-disturbing activities associated with implementation of the project, a qualified archaeological consultant shall prepare and conduct a subsurface archaeological resources investigation in consultation with the appropriate Native American group(s) to determine the presence or absence of archaeological resources in those specific locations predetermined to be culturally sensitive (Roscoe et al., 2006). The investigation shall be conducted based on a subsurface strategy prepared by the archaeological consultant, which shall prescribe the trenching and/or boring locations and expected depths of exploration reasonably necessary to discover significant archaeological resources if present. The subsurface strategy, in turn, should rely on an examination of extant soil boring logs and other data from the project area by a qualified geoarcheologist for an analysis of depths of artificial fill and other information that may be pertinent to the discovery of significant archaeological resources. In Phase 1 of the project (remediation and wetland restoration), this investigation may proceed in conjunction with the soils excavation conducted for the remediation plan. An archaeological consultant shall be present at all times during the subsurface investigation.
- (ii) If archaeological materials are discovered during the subsurface archaeological resources investigation, the archaeologist shall evaluate whether or not the archaeological materials are deemed “historically significant” or “unique” under the criteria set forth under Public Resources Code section 21083.2(g) and CEQA Guidelines sections 15064.5(a) and

15064.5(c)(1)-(3). If the find is determined to be historically significant or unique, a treatment and monitoring plan shall be developed by the professional archeologist and implemented by the Project Applicant to avoid or mitigate any significant adverse affects to the resource. A treatment plan for either unique or historically significant archaeological resources shall include, at a minimum, one or some combination of the following: (a) recovery of the object or feature and the preservation of any data available for scientific study; (b) modification to the land-use plan or construction methods to avoid the object or feature; (c) placement of soil sufficient to protect the integrity of the feature or object; and/or (e) permanent protection of the feature through the conveyance of a conservation easement. The archaeologist shall determine the extent of monitoring based on the findings of the investigation. The treatment and monitoring plan shall also satisfy and be consistent with the treatment parameters set forth in Section 21083.2 of the Public Resources Code or Sections 15064.5(b)(3) or 15126.4(b) of the CEQA Guidelines, as applicable. An archaeological consultant shall monitor implementation of the treatment plan.

- (iii) If no "historically significant" or "unique" archaeological resources are discovered during excavation monitoring or pre-construction investigations, the Project Applicant shall implement Mitigation Measure E-2b for ground-disturbing activities within the areas specifically delineated as "highly sensitive" in the above-referenced Cultural Resources Investigation.

E-2b: Except for monitoring that is required under the treatment and monitoring plan in Mitigation Measure E-2a(ii), the following measures shall be required for each phase of development that involves construction or other ground-disturbing activities to occur to a surface depth below historical fill on the site but outside the geographic areas specifically delineated as "highly sensitive" in the above-referenced Cultural Resources Investigation:

- (i) Workers involved in ground-disturbing activities shall be trained by a professional archaeologist in the recognition of archaeological resources (e.g., historic and prehistoric artifacts typical of the general area),

procedures to report such discoveries, and other appropriate protocols to ensure that construction activities avoid or minimize impacts on potentially significant cultural resources.

- (ii) If archaeological artifacts or other archaeological materials are discovered onsite during construction, all construction activities within 100 feet of the find shall be halted and a qualified archaeologist shall be summoned within 24 hours to conduct an independent review to evaluate whether or not the archaeological materials would be considered "historically significant" or "unique" under the criteria set forth under Public Resources Code section 21083.2(g) and CEQA Guidelines sections 15064.5(a) and 15064.5(c)(1)-(3).
- (iii) If the find is determined to be significant or unique, a treatment or protection plan shall be developed by the professional archeologist in consultation with the appropriate Native American group(s), and the plan shall be implemented by the Project Applicant. A protection plan for either unique or historically significant archaeological resources shall include, at a minimum, one or some combination of the following: removing the object or feature, planning the construction around the object or feature, capping the object or feature with a layer of soil sufficient to protect the integrity of the feature or object, or deeding the site as a permanent conservation easement. The protection plan shall also satisfy and be consistent with the treatment parameters set forth in Section 21083.2 of the Public Resources Code or Sections 15064.5(b)(3) or 15126.4(b) of the CEQA Guidelines, as applicable. An archaeological consultant shall monitor implementation of the treatment and monitoring plan and shall conduct the monitoring specified in that plan.
- (iv) If archaeological materials are discovered and construction activities are halted, those construction activities may resume immediately upon a written determination from the City of Eureka that the archaeological material is not significant or unique or a treatment or protection plan is prepared and the field portion adequately completed.

E-2c: If human remains are discovered during project construction, all work shall cease within 100 feet of the find until the coroner for Humboldt County is informed and determines that no investigation of the cause of death is required and, if the remains are determined to be of Native American origin, the coroner shall notice the California Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall assign the most likely descendant. The most likely descendent shall be consulted and provided the opportunity to make recommendations to the landowner concerning the means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods, all in accordance with Health & Safety Code section 7050.5, CEQA Guidelines section 15064.5(e), and Public Resources Code section 5097.98. If the human remains are determined to be of Native American origin, a qualified archaeologist shall be summoned within 48 hours to conduct an independent review to evaluate whether the remains belong to a single individual or multiple individuals. If the latter, and if there are six or more Native American burials on the site, the site shall be identified as a Native American cemetery and all work on the site within 100 feet of any burial site must cease until recovery or reburial arrangements are made with the descendants of the deceased or, if there are no descendants of the deceased, with the NAHC.

4. Significant Effect E-4: The EIR evaluates the impacts of the Marina Center project related to the disturbance of human remains. Phase 1 of the Marina Center project could disturb archaeological/human remains, including those interred outside of formal cemeteries, associated with Wiyot village deposits in or near the project site. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact E-4 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. A recorded Wiyot village site is located within or near the northeastern boundary of the project site, and demolition or substantial damage to any associated artifacts, or human burials, would be a significant impact on cultural resources.

2. Cultural Resources Mitigation Measures E-2a , E-2b, and E-2c, above, are hereby incorporated by reference and described in the applicable section. Measure E-2a requires a subsurface investigation of highly sensitive areas. Measure E-2b requires construction monitoring of areas not designated as “highly sensitive” in case deposits are unearthed. Mitigation Measure E-2c requires halting of construction, descendent notification, and potential reburial arrangements if human remains are discovered. Combined, these measures would reduce the impact to a less-than-significant level.

5. Significant Effect E-5: The EIR evaluates the impacts of the Marina Center project related to the disturbance of human remains. Phase 1 of the Marina Center project, in conjunction with cumulative development, on cultural resources in the project vicinity. Phase 1 of the Marina Center project, in conjunction with cumulative development, could adversely affect cultural resources in the project vicinity could disturb human remains, including those interred outside of formal cemeteries. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact E-5 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Subsurface ground-disturbing activities of the proposed project could have a significant impact on recorded or unrecorded cultural resources, which could be cumulatively significant.

2. Cultural Resources Mitigation Measures E-2a , E-2b, and E-2c, above, are hereby incorporated by reference and described in the applicable section. Measure E-2a requires a subsurface investigation of highly sensitive areas. Measure E-2b requires construction monitoring of areas not designated as “highly sensitive” in case deposits are unearthed. Mitigation Measure E-2c requires halting of construction, descendent notification, and potential reburial arrangements if human remains are discovered. Combined, these measures would reduce the impact to a less-than-significant level and reduce the contribution to less than cumulatively considerable.

F. Geology, Soils and Seismicity

1. No Impact F-1: The EIR evaluates the impacts of the Marina Center project related to exposure of people or structures to rupture of known earthquake faults, seismic ground shaking, seismic-related ground failure, and landslides. Because the project site would remain in open space once site remediation and wetland restoration in Phase 1 is completed, there would be no new structures built on site as part of Phase 1 that would result in such exposure. Thus, Phase 1 would have no significant impact related to seismic events. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact F-1 would be necessary.
2. Significant Effect F-2: The EIR evaluates the impacts of the Marina Center project related to substantial erosion or loss of topsoil. The excavation and soil stockpiling activities of Phase 1 of the Marina Center project could result in potentially significant erosion or the loss of topsoil. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the Project, further findings associated with Impact F-2 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Most of the original topsoil on the project site has been previously removed, reworked, or buried with a veneer of fill that covers the entire site. Soil remediation and wetland restoration would disturb these materials.
2. Water Quality Mitigation Measure H-3a, which requires implementation of additional erosion, sediment, and dust control measures, is hereby incorporated by reference. The impact of erosion or loss of topsoil would therefore be mitigated to a less-than-significant level.
3. No Impact F-3: The EIR evaluates the impacts of the Marina Center project related to location on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. Because the project site would remain in open space once site remediation and wetland restoration in Phase 1 is completed, there would be no new structures built on site as part of Phase 1 that would result in such exposure. Thus, Phase 1 would have no significant impact related to

location on unstable geologic units or soil. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact F-3 would be necessary.

6. Significant Effect F-6: The EIR evaluates the impacts of the Marina Center project, together with other developments in the community, to contribute to potential cumulative geologic or seismic hazards. Excavation and soil stockpiling actions of Phase 1 of the Marina Center project, together with other developments in the immediate vicinity, would contribute to potential cumulative soil erosion. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact F-6 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Most of the original topsoil on the project site has been previously removed, reworked, or buried with a veneer of fill that covers the entire site. Soil remediation and wetland restoration would disturb these materials.
2. Water Quality Mitigation Measure H-3a, which requires implementation of additional erosion, sediment, and dust control measures, is hereby incorporated by reference. The impact of erosion or loss of topsoil would therefore be mitigated to a less-than-significant level, and the project's cumulative contribution to erosion would not be cumulatively considerable.

G. Hazards and Hazardous Materials

1. Significant Effect G-1: The EIR evaluates the impacts of the Marina Center project through creation of a significant hazard to the public or environment through the routine transport, use, or disposal of hazardous materials. Phase 1 of the Marina Center project could create a significant hazard to the public or the environment through the excavation of contaminated soil or exposure of construction workers to contaminated groundwater. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact G-1 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Remaining and/or previously unidentified contamination may be present on or below ground surface. Encountering contaminated soil, surface water, and groundwater without taking proper precautions during site remediation and wetland restoration could result in the exposure of construction workers to hazardous materials and consequently result in associated significant adverse human health and environmental impacts.

2. The Project Applicant has prepared a Supplemental Interim Remedial Action Plan (SIRAP), and submitted the SIRAP to the RWQCB for approval. The RWQCB on June 18, 2009, concurred in the SIRAP and its identified remedial measures, and has obligated CUE VI to carry out those further cleanup activities described in the SIRAP pursuant to the RWQCB's authority. The SIRAP is Appendix S of the Final EIR and is hereby incorporated by reference. Following is a summary the steps to be implemented in Phase 1:
 - General site clearing and removal of debris consisting of concrete foundations, wooden rail road ties, remnants of rail yard maintenance equipment and fuel storage tanks, and other abandoned industrial materials which shall be dismantled, tested, recycled, and disposed of, as appropriate;
 - Focused soil remediation through limited excavation, field testing, and offsite disposal of soil and sediments in seven specific areas including the former General Petroleum site, areas near existing well MW-10, areas within the eastern and western drainage ditches, and areas within Clark Slough;
 - Excavation of areas around Clark Slough to the northeast and southwest, and placement of excavated material on other areas of the site; and
 - Importing, placing, and grading clean cover material over most of the site.Implementation of the SIRAP, combined with Mitigation Measure G-1a (below), would reduce the potential impact to a less-than-significant level.

3. Hazards and Hazardous Materials Mitigation Measures G-1a through G-1e set forth in Table 6-1 of the Final EIR are hereby incorporated by reference and described below:

G-1a: The Project Applicant shall prepare a health and safety plan that meets the requirements of the Regional Water Quality Control Board (RWQCB) or other overseeing agency and shall comply with all federal and state regulations including Occupational Safety and Health Administration (OSHA) requirements for worker safety. Applicable regulations and methods of compliance shall depend upon the level of contamination discovered.

2. Significant Effect G-2: The EIR evaluates the impacts of the Marina Center project through reasonably foreseeable upset and accident conditions involving release of hazardous materials. Phase 1 of the Marina Center project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident involving the release of hazardous materials—such as gasoline, diesel fuel, hydraulic fluid, solvents or oils—during grading and remediation activities. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact G-2 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Site remediation and grading activities could require limited quantities of hazardous materials that would be stored in 55-gallon drums or other storage tanks. If a spill were to occur in significant quantity the accidental release could pose a hazard to both construction employees as well as the general public.
2. Hazards and Hazardous Materials Mitigation Measures G-2a and G-2b set forth in Table 6-1 of the Final EIR are hereby incorporated by reference and described below:

G-2a: The following measures shall be undertaken to the satisfaction of the RWQCB and the County Department of Environmental Health, HazMat Division. All potentially hazardous or regulated materials that are used at the project site during site remediation and wetland restoration shall be appropriately covered, handled, stored, and secured in accordance with local and state laws. No hazardous wastes shall be disposed of at the project site. Absorbent materials shall be maintained at locations where hazardous materials are used or stored, in order to capture spilled materials in the

event of an accidental release. An emergency response plan shall be developed and implemented for the project site. All jobsite employees shall be trained to respond to any accidental releases.

G-2b: The Project Applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement construction site best management practices in accordance with the guidelines for erosion control and pollution prevention during site remediation and wetland restoration that can be found in the *California Stormwater Best Management Practices Handbooks*. The guidelines recommend techniques for erosion and sediment control, non-storm water management, and waste management and materials pollution control. The Project Applicant shall implement site-appropriate measures from these guidelines.

4. Significant Effect G-4: The EIR evaluates the hazard impacts of the Marina Center project on the public and the environment due to the project's location on a site which is included on a list of hazardous materials sites. Phase 1 of the Marina Center project would be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 because its cleanup is required by the Regional Water Quality Control Board. As a result, it would create a significant hazard to the public or the environment. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact G-4 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. The site is under a Clean Up and Abatement Order of the Regional Water Quality Control Board (RWQCB). A Supplemental Remedial Action Plan has been prepared and is included as Appendix S in the Final EIR. Following is a summary the steps to be implemented in Phase 1:
 - General site clearing and removal of debris consisting of concrete foundations, wooden rail road ties, remnants of rail yard maintenance equipment and fuel storage tanks, and other abandoned industrial materials which shall be

dismantled, tested, recycled, and disposed of, as appropriate;

- Focused soil remediation through limited excavation, field testing, and offsite disposal of soil and sediments in seven specific areas including the former General Petroleum site, areas near existing well MW-10, areas within the eastern and western drainage ditches, and areas within Clark Slough;
- Excavation of areas around Clark Slough to the northeast and southwest, and placement of excavated material on other areas of the site; and
- Importing, placing, and grading clean cover material over most of the site.

2. Hazardous Materials Mitigation Measures G-1a, above, is hereby incorporated by reference. This measure requires the preparation and implementation of a remediation plan and health and safety, which, combined with implementation of the SIRAP, would reduce the impact to a less-than-significant level.

9. Significant Effect G-9: The EIR evaluates the impact of the Marina Center project, in combination with other projects, to contribute to significant cumulative hazards impacts in the project site vicinity. Phase 1 of the Marina Center project, which includes the excavation of contaminated soils, would contribute to significant cumulative hazards impacts in the project site vicinity. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact G-9 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. One of the key components of Phase 1 of the proposed project is the implementation of the SIRAP, which has been approved by the Regional Water Quality Control Board.
2. Hazardous Materials Mitigation Measures G-1a, G-2a, and G-2b, above, are hereby incorporated by reference and described in the applicable section. Measure G-1a requires the implementation of a health and safety plan. Measures G-2a and G-2b require

preparation and adherence to a Stormwater Pollution Prevention Plan and all applicable regulations regarding the handling of hazardous materials. Combined, these measures would reduce the proposed project's impact to hazards to a less-than-cumulatively-considerable level.

H. Hydrology and Water Quality

1. Significant Effect H-1: The EIR evaluates the impact of the Marina Center project related to violation of water quality standards. Phase 1 of the Marina Center project could violate water quality standards. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-1 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Stormwater runoff from the site during site remediation and wetland restoration of Phase 1 of the proposed project could result in pollutants entering the stormwater system and ultimately Humboldt Bay.
2. Hazardous Materials Mitigation Measures H-3a and H-3b, below, are hereby incorporated by reference and described in the applicable section. Measure H-3a requires the implementation of erosion and sediment control measures to reduce the sedimentation of nearby water. Measure H-3b requires the Project Applicant to obtain a Grading Permit and an Erosion Control Permit from the City of Eureka prior to any clearing, grading, excavating or fill within 50 feet from the edge of a delineated wetland, stream, or stream channel or disturbing more than 2,500 square feet. The Grading Permit and an Erosion Control Permit would require specific erosion reduction measures. Combined, these measures would reduce impacts relating to violation of water quality standards to a less-than-significant level.
3. Significant Effect H-3: The EIR evaluates the impact of the Marina Center project related to substantial alteration of drainage patterns in a manner which could result in erosion or siltation on- or off-site. Phase 1 of the Marina Center project would include removal of riprap from the Clark Slough drainage channel and replacement with gentle sloped banks, thereby altering the existing drainage pattern of the site or area in a

manner which would result in potentially significant erosion of siltation on- or off-site. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-3 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Existing vegetation and gravel, which acts to stabilize the soil, would be removed from the project site as part of the remediation process, potentially resulting in construction-related erosion. During site remediation and associated vegetation removal, potential pollutant sources may include petroleum or heavy metal impacted sediments, and construction materials that may be left exposed to rainfall and/or stormwater runoff.
2. Hydrology and Water Quality Mitigation Measures H-3a and H-3b set forth in Table 6-1 of the Final EIR are hereby incorporated by reference and described below:

H-3a: In addition to the required SWPPP, the following BMPs shall be implemented to protect water quality.

1. *Erosion/Sediment Control.* During the Phase 1, prior to site grading, combinations of silt fencing, straw wattles, and/or straw bale sediment transport barriers shall be constructed at specific site locations with the intent of containing all site runoff on the project site. This barrier shall be maintained during the rainy season and until completion of remediation and wetland restoration and shall prevent transport of pollutants, such as excessive sediment, away from the construction area. The barrier shall be constructed so that concentrated surface water flows during heavy rains cannot penetrate it without being dissipated in flow energy, and without the water being filtered through the sediment transport barriers.
2. *Scheduling.* The north coast's dry season is typically between April 15 and October 15. Proper timing of grading and site remediation during the dry season would minimize soil and construction material exposure during the rainy season. Following October

15, areas of disturbed or fill soils more than 6 inches in depth and greater than 100 square feet (10-foot-by-10-foot area) shall be specifically protected from erosion by 1) shaping the ground surface so that concentrated surface flows do not encounter or cross them, or 2) providing localized straw wattles, straw bales and/or silt fencing. During the rainy season, construction materials and equipment shall be stored under cover or in secondary containment areas.

3. *Protection of Water Courses and Drainage Inlets.* Site drainage under existing conditions is toward the bay. General guidelines for water course and drainage inlet protection during the rainy season shall include providing downgradient sediment traps or other BMPs that allow soil particles to settle out before flows are released to receiving waters, storm drains, streets, or adjacent property. Drainage inlet protection BMPs, if required, shall be installed in a manner that does not cause additional erosion or flooding of a roadway.
4. *Soil Stockpiles.* Should it be necessary to stockpile excess soil on-site, the soil shall be placed within a sediment-protected area that is not likely to result in off-site sedimentation. If likely to be subjected to rain or high winds, stockpiles shall be covered with plastic sheeting (Visqueen®, for example) at least 6- to 10-mils thick. Plastic sheeting shall be well-anchored to resist high winds. If stockpiles are to be present through the rainy season, they shall be surrounded with silt or straw bale fencing about 5 feet from the toe of the pile.
5. *Dust Control.* All site remediation and wetland restoration areas shall be treated and maintained as necessary to minimize the generation of dust that may blow off-site. The most common method of dust control during site remediation and wetland restoration is through periodic application of water. However, the application of water for dust control purposes shall be managed to ensure there is no off-site runoff.
6. *Material Delivery, Storage and Use.* Materials used during site remediation and wetland restoration, where appropriate, shall be delivered and stored in appropriate containers and in designated areas, to

prevent the discharge of pollutants to nearby watercourses or storm drain systems. During the rainy season, materials shall be stored in covered areas. Chemicals, paints or bagged materials shall not be stored directly on the ground, but instead shall be placed on a pallet or in a secondary containment system. Materials shall be used according to the manufacturer's instructions and all materials shall be disposed of properly. Any spills shall be cleaned up immediately and an ample supply of spill clean-up materials shall be kept on-site during site remediation and wetland restoration. There shall be no fueling or equipment washing activities conducted on-site.

7. *Monitoring.* During site remediation and wetland restoration, all erosion and pollution control measures shall be periodically inspected throughout the duration of the project by a qualified professional to ensure that the control measures are properly implemented. If the erosion and pollution control measures are not functioning properly, the owner shall immediately make appropriate modifications to ensure that water quality is protected.

H-3b: Prior to any clearing, grading, excavating or fill within 50 feet from the edge of a delineated wetland, stream, or stream channel or disturbing more than 2,500 square feet, the Project Applicant shall obtain a Grading Permit and an Erosion Control Permit from the City of Eureka. The ECP shall require specific erosion/sediment control devices, which shall be maintained in proper working condition for as long as work is being conducted on the property or for as long as an active permit of any nature is issued for the project. Erosion/sediment control devices required by the ECP may include, but are not limited to, silt fences, straw bales, retention ponds, mulch, sod, rip-rap, vegetation barriers, hydro-seeding, erosion blankets and any other measures that would adequately prevent soil from being eroded and transported onto adjoining property. The ECP shall require a stabilized construction site access for any sites where sediment can be tracked onto public roads by construction vehicles. The responsibility of the property owner and its agents shall be joint and severable with the entity performing the work for the maintenance of all erosion control devices. The erosion control devices shall be maintained in a condition so as to prevent soil erosion on the property and transport of sediment off the property.

4. Less-than-Significant Effect H-4: The EIR evaluates the impact of the Marina Center project related to alternation of the existing drainage pattern of the site, resulting in flooding on- or off-site. Phase 1 of the Marina Center project would result in an increase in pervious surfaces, allowing further water filtration. In addition, Phase 1 would include a stormwater pollution prevention plan, retaining water on-site during storm events. Phase 1 of the proposed project would thus have a less-than-significant impact related to on- or off-site flooding. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-4 would be necessary.
5. Less-than-Significant Effect H-5: The EIR evaluates the impact of the Marina Center project related to contribution of runoff water that would exceed the capacity of existing or planning stormwater drainage systems. Phase 1 of the Marina Center project would result in an increase in pervious surfaces, allowing further water filtration. Phase 1 of the proposed project would thus have a less-than-significant impact on runoff water. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-5 would be necessary.
6. Significant Effect H-6: The EIR evaluates the impact of the Marina Center project related to other degradation of water quality. Phase 1 of the Marina Center project would otherwise substantially degrade water quality through the excavation and stockpiling of potentially contaminated soils on the project site. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-6 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Site remediation and wetland restoration of Phase 1 of the proposed project would result in excavation of site soils, destabilizing potential pollutants in the soil.
2. Hydrology and Water Quality Mitigation Measures H-3a and H-3b, described above, are hereby incorporated by reference. These measures require the implementation of erosion and sediment control measures and Best Management Practices to the satisfaction of the City of Eureka, which would reduce the impact to a less-than-significant level.

7. No Impact H-7: The EIR evaluates the impact of the Marina Center project related to placement of housing within the 100-year flood hazard areas. Phase 1 of the Marina Center project includes no housing. Therefore, Phase 1 of the proposed project would have no significant impact related to housing placement within the 100-year flood hazard area. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-7 would be necessary.

10. No Impact H-10: The EIR evaluates the impact of the Marina Center project related to exposure of people or structures to inundation of seiche, tsunami, or mudflow. Phase 1 of the Marina Center project would not result in an increase in the residential, worker, or visitor population on the project site, nor any new structures. Therefore, Phase 1 of the proposed project would have no significant impact related seiche or tsunami. The project site is not located in an area that would be susceptible to mudflow. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-10 would be necessary.

11. Significant Effect H-11: The EIR evaluates the impact of the Marina Center project, together with other developments in the vicinity, to contribute to potential adverse cumulative impacts to hydrology and water quality. Phase 1 of the Marina Center project, together with other developments in the area, would contribute to potential adverse cumulative impacts on hydrology and water quality. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact H-11 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Existing vegetation and gravel, which acts to stabilize the soil, would be removed from the project site as part of the remediation process, potentially resulting in construction-related erosion. During site remediation and wetland restoration, potential pollutant sources may include petroleum or heavy metal impacted sediments, and construction materials that may be left exposed to rainfall and/or stormwater runoff.

2. Hydrology and Water Quality Mitigation Measures H-3a and H-3b, described above, are hereby incorporated by reference. These measures require the implementation of erosion and sediment

control measures and Best Management Practices to the satisfaction of the City of Eureka, which would reduce the project impact to a less-than-significant level and its cumulative contribution to less than considerable.

K. Noise

1. Less-than-Significant Effect K-1: The EIR evaluates the impact of the Marina Center project related to exposure of persons to, or generation of, noise levels in excess of standards established in the noise ordinance or other land use plan. Site remediation and wetland restoration of Phase 1 of the Marina Center project would not include the types of construction equipment that would generate excessive noise. Therefore, Phase 1 of the proposed project would have a less-than-significant impact related to exposure of people to, or generation of, excessive noise. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact K-1 would be necessary.
2. No Impact K-2: The EIR evaluates the impact of the Marina Center project related to generation of excessive ground-borne vibration or ground-borne noise levels. Site remediation and wetland restoration of Phase 1 of the Marina Center project would not include the types of construction equipment that would generate such vibration. Therefore, Phase 1 of the proposed project would have no significant impact related to ground-borne vibration or ground-borne noise levels. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact K-2 would be necessary.
3. No Impact K-3: The EIR evaluates the impact of the Marina Center project related to permanent increase in ambient noise levels of 5 dBA or more. Phase 1 of the Marina Center project is a temporary construction period. Therefore, Phase 1 of the proposed project would have no significant impact on permanent increases in noise levels. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact K-3 would be necessary.
4. Significant Effect K-4: The EIR evaluates the impact of the Marina Center project related to a substantial temporary increase in noise levels. Excavation, grading, and truck movements of Phase 1 of the Marina Center project would result in a potentially significant temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact K-4 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Site remediation and wetland restoration of Phase 1 of the proposed project could generate significant amounts of noise at the project site. In addition, construction-related material haul trips would raise the ambient noise levels along haul routes, depending on the number of haul trips made and the types of vehicles used.
2. Noise Mitigation Measures K-4a and K-4b set forth in Table 6-1 of the Final EIR is hereby incorporated by reference and described below.

K-4a: The Project Applicant shall require construction contractors to limit standard site remediation and wetland restoration to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise-generating activities (greater than 90 dBA) limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise-generating activity permitted between 12:30 p.m. and 1:30 p.m. No site remediation and wetland restoration shall be allowed on weekends. No extreme noise-generating activities shall be allowed on weekends and holidays. Site remediation and wetland restoration outside of these hours and days may be allowed by prior approval from the City.

K-4b: To reduce daytime noise impacts due to site remediation and wetland restoration activities, the Project Applicant shall require construction contractors to implement the following measures:

1. Equipment and trucks used for site remediation and wetland restoration shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds, wherever feasible).
2. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for site remediation and wetland restoration shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically

powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dBA. Quieter procedures, such as use of drills rather than impact tools, shall be used whenever feasible.

3. Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.

7. No Impact K-7: The EIR evaluates the impact of the Marina Center project, in combination with other planned or future development, to result in adverse cumulative noise increases to expose site workers to excessive noise levels generated by nearby airports. Phase 1 of the Marina Center project would not result in a permanent noise increase at the project site, and thus would have no significant impact related to cumulative noise increases. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact K-7 would be necessary.

M. Public Services

1. No Impact M-1: The EIR evaluates the impact of the Marina Center project related to result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection. Phase 1 of the Marina Center project would result in no new structures or population on the project site. Thus, Phase 1 of the project would have no significant impact related to physical impacts from new fire facilities. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact M-1 would be necessary.

2. Significant Effect M-2: The EIR evaluates the impact of the Marina Center project related to result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance

objectives for police protection. Phase 1 of the Marina Center project would involve use of construction equipment that would have to stay on site overnight and during other periods when not in use, resulting in substantial adverse physical impacts associated with the provision of police protection. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact M-2 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Site remediation and wetland restoration of Phase 1 of the proposed project could require security for on-site construction equipment storage, which could require additional police services.
2. Public Services Mitigation Measure M-2a set forth in Table 6-1 of the Final EIR is hereby incorporated by reference and described below.

M-2a: Phase 1 of the Marina Center development shall have an on-site security patrol to handle routine situations that do not require emergency response from the Eureka Police Department.

O. Transportation

1. Significant Effect O-1: The EIR evaluates the traffic impacts of the Marina Center project through causing an increase in traffic, which would be substantial in relation to the existing traffic load and capacity of the street system. Phase 1 of the Marina Center project would cause an increase in construction-related traffic, which is substantial in relation to the existing traffic load and capacity of the street system. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact O-1 would be necessary.

Finding: Changes or alterations have been required in or incorporated into Phase 1 of the project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: The following facts and mitigation measures indicate that the impact will be reduced to less than significant.

1. Although the impact would be temporary, truck movements could have an adverse effect on traffic flow in the project site vicinity.
2. Transportation Mitigation Measure O-1a set forth in Table 6-1 of the Final EIR is hereby incorporated by reference and described below.

O-1a: The Project Applicant and construction contractor(s) shall develop a construction management plan for review and approval by the City's Engineering Department and Caltrans. The plan shall include at least the following items and requirements to reduce traffic congestion during site remediation and wetland restoration:

A set of comprehensive traffic control measures shall be developed, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. Prior to approving plans for mitigation on U.S. 101, Caltrans requires that all site remediation and wetland restoration include an assessment of the potential for traffic congestion. This is accomplished through lane closure analysis showing the times of day and days of the week that lanes can be closed to traffic. Excepting extraordinary circumstances, lane closures are authorized at times of the day and on days of the week where the interruptions, closures, and activity is least likely to cause unacceptable congestion using the same level of service criteria as used for assessing project traffic impacts.

1. If site remediation and wetland restoration result in unacceptable traffic congestion, flaggers shall supplement approved traffic control plans to ensure that traffic moves through the construction zone with minimal delays.
2. The Construction Management Plan shall identify haul routes for movement of construction vehicles that would minimize impacts on motor vehicle, bicycle, and pedestrian traffic, circulation, and safety, and specifically to minimize impacts to the greatest extent possible on streets in the project area. The haul routes shall be approved by the City and Caltrans
3. The Construction Management Plan shall provide for notification procedures for adjacent property owners

and public safety personnel regarding when major deliveries, detours, and lane closures would occur.

4. The Construction Management Plan shall provide for accommodation of bicycle flow, particularly along First Street and Waterfront Drive.

The Construction Management Plan shall provide for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the Project Applicant.

4. No Impact O-4: The EIR evaluates the traffic impacts of the Marina Center project related to increased hazards due to changes in design features or incorporation of incompatible uses. The site remediation and wetland restoration of Phase 1 of the Marina Center project would not result in any changes in design patterns, and the site would remain vacant. Therefore, Phase 1 would have no significant impact related to increased traffic hazards. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact O-4 would be necessary.
6. No Impact O-6: The EIR evaluates the impacts of the Marina Center project on parking capacity. The site remediation and wetland restoration of Phase 1 of the Marina Center project would not result in any increase in permanent worker population or residential population on the project site that would require parking. Therefore, Phase 1 would have no significant impact related to parking capacity. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact O-6 would be necessary.
7. No Impact O-7: The EIR evaluates the impacts of the Marina Center project related to conflict with adopted plans and policies supporting alternative transportation. The site remediation and wetland restoration of Phase 1 of the Marina Center project would not result in permanent worker population or residential population on the project site that would require parking. Therefore, Phase 1 would have no significant impact related to provision of alternative transportation facilities, and it would have no significant impact related to conflict with adopted plans and policies supporting alternative transportation. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact O-7 would be necessary.

8. No Impact O-6: The EIR evaluates the impacts of the Marina Center project, in combination with foreseeable development, of cumulative increases in traffic at local intersections in the project area. The site remediation and wetland restoration of Phase 1 of the Marina Center project would not result in any increase in permanent worker population, and construction-related trips would be temporary. Therefore, Phase 1 would have no significant impact related to cumulative traffic increases at project area intersections. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact O-8 would be necessary.

Q. Utilities and Service Systems

7. Less-than-Significant Effect Q-7: The EIR evaluates the operational impacts of the Marina Center project related to violated of any federal, state, or local statutes and regulations related to operational solid waste. The site remediation and wetland restoration of Phase 1 of the proposed project would not result in operational solid waste. Thus, Phase 1 of the project would have a less-than-significant impact related to violation of statutes related to disposal of operational solid waste. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact Q-7 would be necessary.
8. No Impact Q-8: The EIR evaluates the cumulative adverse effects of the Marina Center project, together with other projects, on availability of utilities and service systems. Phase 1 of the Marina Center project would have no impact on utilities and service systems availability. Thus, Phase 1 of the project, in combination with other development, would not have a significant cumulative impact on utilities and service systems. If and when the Project Applicant seeks entitlements and regulatory approvals for subsequent phases of the project, further findings associated with Impact Q-8 would be necessary.

Section 4

Significant Effects that Cannot be Mitigated to a Less than Significant Level

The City finds for each of the significant or potentially significant impacts identified in this section, Section 4.0, that changes or alterations have been required or incorporated into the proposed project that substantially lessen the significant effects as identified in the Final EIR.

As described above, *CEQA Guidelines* Section 15091 states that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environment effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final environmental impact report.

Finding

The City hereby finds that changes or alterations have been required in, or incorporated into, Phase 1 of the proposed project which avoid or substantially lessen all significant environment effects as identified in the Final EIR. Consequently, there are no significant environmental effects for the Phase 1 project that cannot be mitigated to a less-than-significant level

Section 5

Alternatives

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of potentially feasible alternatives, an alternative may ultimately be deemed by the lead agency to be "infeasible" if it fails to fully promote the lead agency's underlying goals and objectives with respect to the project. For phase 1 of the proposed project, there would be no significant adverse environmental effects that would not be mitigated to a less-than-significant level.

Under CEQA Guidelines section 15126.6, the alternatives to be discussed in detail in an EIR should be able to "feasibly attain most of the basic objectives of the project[.]" For this reason, the Objectives described above provided the framework for defining possible alternatives. Alternatives were chosen to encompass a range of urban development schemes for the project site that would meet the objectives set out both in the EIR. Based on these objectives, the City developed four alternatives that it addressed in detail and another 20 alternatives that were not addressed in detail or were rejected outright as part of the City's early screening. Per CEQA Guidelines section 15126.6 and the Project's Objectives, the following alternatives to the Project were identified:

- No Project Alternative;
- Reduced Project Alternative
- Limited Industrial Zoning Alternative
- Off-Site Shoreline Property Alternative
- Coastal Dependent Industrial Zoning
- Ocean View Cemetery
- Coastal Agriculture Land Between Harper Motors and Indianola
- Schneider Industrial Land
- Sierra Pacific Industrial Property
- Old Flea Market Property
- Schmidbauer Lumber Co Property

- Lieber Coastal Agricultural Property
- Ridgewood Village Property
- Palco Property, Fortuna
- Convention Center
- Tourism Use
- Covered Swimming Pool
- Horticultural Gardens
- No Retail Option
- Public Facilities Option
- Intermodal Bus Terminal
- Wetland Restoration and Public Park
- No Fossil Fuel
- College of the Redwoods

Of these 24 alternatives, the following four alternatives were carried forward for analysis.

No Project Alternative

Under the No Project Alternative, the property would remain zoned and planned predominantly for Public uses. Only those uses consistent with the Public zoning and general plan designation could be put forward (on those portions of the property zoned Public). Although the property is privately owned, the Public zoning would not preclude the owner from developing a use consistent with the Public zoning, and, for example, leasing the completed development to a governmental agency. The smaller portion of the project site zoned Limited Industrial could be developed with uses consistent with the Limited Industrial zoning. Because the property is located in the coastal zone, any development of the property would be subject to the provisions and regulations of the City's adopted Local Coastal Program.

A small portion of the project site is zoned Limited Industrial and would remain so. The RWQCB has stated that, if the Marina Center project is not approved, the RWQCB would likely revise the Clean Up & Abatement Order for the property to require clean-up on a fixed time line. To the extent that the required clean-up impacts existing wetlands on the project site, wetland mitigation would be required as conditions of approval by regulatory agencies (e.g., U.S. Army Corps of Engineers). However, the nature and detail of such mitigation is unknown and could include replacement of the wetlands in-

kind and at their existing locations. Therefore, while the No Project Alternative could be similar to the site remediation and wetland restoration of Phase 1 of the proposed project, the specifics of the wetlands mitigation are unknown and may be less beneficial than that proposed as part of Phase 1 of the proposed Marina Center project.

Objectives

The No Project Alternative would not meet the basic objectives of the project. Presuming the RWQCB issued a revised Clean Up & Abatement Order for the site, the No Project Alternative would result in brownfield remediation, but it would not result in infill development.

Impacts

Presuming under the No Project Alternative that the RWQCB issued a revised Clean Up & Abatement Order and that the site is remediated in accordance with the order, it is probable that the site would be graded to eliminate the remnant drainage ditches and debris piles, and that the on-site wetlands would be substantially reduced or eliminated. However, it is possible that some wetlands would be left to remain in their current state rather than be remediated. It is also possible that any wetlands impacted by remediation activities would be replaced in-kind and at their existing locations, which would be less beneficial than the consolidated wetlands restoration approach under Phase 1 of the proposed project. Therefore, under the No Project Alternative, there would likely be significant biological impacts due to the loss of on-site wetlands, although perhaps to a less degree than for the project. The loss of wetlands could be mitigated through payment into a mitigation bank or restoration offsite.

Marina Center Reduced Footprint Alternative

The Marina Center Reduced Footprint Alternative would provide approximately three quarters of the building space (in square feet) proposed by the Marina Center project. However, the reduction would not be across the board for each use type. The Marina Center Reduced Footprint Alternative would increase office space by about 150 percent and increase industrial space by about 140 percent, but it would reduce restaurant and retail space and eliminate the residential and museum space proposed by the project.

Depending on the site plan of this alternative, the smaller footprint could make it possible to avoid some wetland fill depending on specific site remediation requirements set for them by the RWQCB. Therefore, Phase 1 of the Marina Center Reduced Footprint Alternative could be similar to the site remediation and wetland restoration of Phase 1 of the proposed project.

Objectives

The Reduced Footprint Alternative would meet most of the basic objectives of the project and is feasible.

Impacts

This Alternative would generate approximately 40 percent fewer daily trips on area roadways and would likely substantially lessen significant impacts at one or more study area intersections as compared to the proposed project. As stated above, because of the significantly reduced daily traffic trips, noise levels would be decreased relative to the proposed project. Although the lesser size footprint could be expected to make it possible to avoid some wetland fill, the specific site remediation requirements set by the RWQCB requires clean-up of the entire site, thus having similar impacts to wetlands as the proposed project. Otherwise this Alternative would not avoid or substantially lessen any of the other significant or potentially significant impacts identified.

Limited Industrial Zoning Alternative

The Limited Industrial Zoning Alternative would create a continuous area of Limited Industrial-zoned lands by connecting the existing Limited Industrial-zoned lands south of the project site to the existing Limited Industrial-zoned lands east of the site. The alternative would provide for the extension of Second and Fourth Streets through the project site, along with development of 407,000 square feet of industrial buildings, 626 parking spaces, and loading docks for the larger industrial buildings.

Depending on the site plan of this alternative, a different footprint could make it possible to avoid some wetland fill depending on specific site remediation requirements set for them by the RWQCB. Therefore, Phase 1 of the Limited Industrial Zoning Alternative could be similar to the site remediation and wetland restoration of Phase 1 of the proposed project.

Objectives

The Limited Industrial Zoning Alternative would meet all of the basic project objectives and is feasible.

Impacts

This Alternative would generate approximately 33 percent fewer daily trips on area roadways and would therefore likely substantially lessen significant impacts at one or more study area intersections as compared to the project. Also, because of the significantly reduced daily traffic trips, noise levels would be decreased relative to the proposed project. Although the site design would make it feasible to avoid a greater percentage of wetlands on the property, specific site remediation requirements set by the RWQCB requires clean-up of the entire site, thus having similar impacts to wetlands as the proposed project.

Off-site Shoreline Property Alternative

The site of the Off-Site Shoreline Property Alternative is owned by the Project Applicant. It is approximately 30 acres in size and is, for the most part, zoned and planned for Commercial Waterfront uses with some Natural Resources zoning. The property is located adjacent to Humboldt Bay in the coastal zone and has about 16.5 acres of wetlands primarily around the outside edges of the property. The Off-Site Shoreline

Property Alternative assumes that the same uses proposed by the project would be developed on the Shoreline property.

Phase 1 of the Limited Industrial Zoning Alternative would be similar to the site remediation and wetland restoration of Phase 1 of the proposed project.

Objectives

This Alternative would also meet most of the basic project objectives and is considered feasible. In addition, this Alternative would likely be capable of substantially lessening impacts to wetlands since most of them exist along the site property perimeter and therefore would be easier to avoid and protect.

Impacts

The Off-Site Shoreline Property Alternative would not avoid or substantially lessen any of the significant or potentially significant impacts that would result from the Marina Center project. Many of the environmental issues associated with the project site – including biological resources, cultural resources, and hazards and hazardous materials impacts – would also arise with development on the Shoreline property. The property is located in the coastal zone and would require a local coastal program amendment to change the zoning and general plan designation for at least part of the property. In general, the same, or practically the same, significant impacts that would result from development of the Marina Center project on the project site would result from development of the same project on the Shoreline property.

Environmentally Superior Alternative

For the project as a whole, the environmentally superior alternative is the No Project Alternative. When the No Project Alternative is the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. The environmentally superior alternative among the other alternatives is the Marina Center Reduced Footprint Alternative. Because this alternative would provide 76 percent of the building area proposed by the Marina Center project, it could result in some reduced impacts associated with site remediation and wetland restoration

Finding

The City finds that that a good faith effort was made to evaluate all feasible alternatives in the EIR that are reasonable alternatives to the Marina Center Project and could feasibly obtain the basic objectives of the project, even when the alternatives might impede the attainment of the project's objectives and might be more costly. As a result, the scope of alternatives analyzed in the EIR is not unduly limited or narrow. The City also finds that all reasonable alternatives were reviewed, analyzed, and discussed in the review process of the EIR, Phase 1, and the ultimate decision on the Marina Center Project. The City hereby finds that changes or alterations have been required in, or incorporated into Phase 1 of the proposed project which avoid or substantially lessen all significant environment effects as identified in the Final EIR.

This Statement of Findings only applies to Phase 1 of the proposed project, which would include brownfield remediation and wetland restoration. Separate Findings will be prepared for other future phases of the proposed project when they are subject to decision by the City Council.

Section 6

General Findings

1. The plans for the project have been prepared and analyzed so as to provide for public involvement in the planning and CEQA processes.
2. Comments regarding the Draft EIR received during the public review period have been adequately responded to in written Responses to Comments attached to the Final EIR and Errata.
3. To the degree that any impacts described in the Final EIR are perceived to have a Less-than-Significant Effect on the environment or that such impacts appear ambiguous as to their effect on the environment as discussed in the Draft EIR, the City has responded to key environmental issues and has incorporated mitigation measures to reduce or minimize potential environmental effects of the proposed project to the maximum extent feasible.
4. The documents and material constituting the record of this proceeding are located at the City of Eureka, 531 K Street, Eureka, California 95501 and the custodian of said records is the Clerk of the City of Eureka.

EXHIBIT "B"

CONDITIONS OF APPROVAL AND

MITIGATION MONITORING AND REPORTING PROGRAM

Approval of the coastal development permit is conditioned upon the following terms and requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit. The Conditions of Approval and Mitigation Measures shall be completed to the satisfaction of the City of Eureka or as listed in the Mitigation Monitoring and Reporting Program (MMRP). Compliance shall be determined by the City, and the elimination or replacement of conditions or mitigation measures shall be at the discretion of the City, provided the elimination or replacement of conditions or mitigation measures accomplish the intended purpose of the original condition.

The applicant is solely responsible for complying with any conditions, mitigations or regulations required by any agency other than the City of Eureka.

CONDITIONS OF APPROVAL

1. The applicant shall comply with all mitigation measures listed in the MMRP.
2. A Grading Permit and an Erosion Control Permit shall be obtained from the City of Eureka Building Official for grading performed on the site.
3. Prior to issuance of the grading permit, the applicant shall reimburse the city for all expenses incurred in the preparation and certification of the EIR.

MITIGATION MONITORING AND REPORTING PROGRAM

A. Introduction

When approving projects with Environmental Impact Reports (EIRs) that identify significant impacts, the California Environmental Quality Act (CEQA) requires public agencies to adopt monitoring and reporting programs or conditions of project approval to mitigate or avoid the identified significant effects (Public Resources Code Section 21081.6(a)(1)). A public agency adopting measures to mitigate or avoid the significant impacts of a proposed project is required to ensure that the measures are fully enforceable, through permit conditions, agreements, or other means (Public Resources Code Section 21081.6(b)). The mitigation measures required by a public agency to reduce or avoid significant project impacts not incorporated into the design or program for the project, may be made conditions of project approval as set forth in a Mitigation

Monitoring and Reporting Program (MMRP). The program must be designed to ensure project compliance with mitigation measures during project implementation.

The MMRP includes the mitigation measures identified in the EIR required to address only the significant impacts associated with the project being approved. The required mitigation measures are summarized in this program.

B. Format

The MMRP is organized in a table format (see Attachment 1), keyed to each significant impact and each EIR mitigation measure. Only mitigation measures adopted to address significant impacts for Phase 1 are included in this program. Each mitigation measure is set out in full, followed by a tabular summary of monitoring requirements. The column headings in the tables are defined as follows:

- **Mitigation Measures adopted as Conditions of Approval:** This column presents the mitigation measure identified in the EIR.
- **Phase:** The proposed project would be constructed in phases, and the Project Applicant is only seeking approvals and entitlements for the Phase 1 of the proposed project under these Findings.
- **Implementation Procedures:** This column identifies the procedures associated with implementation of the migration measure.
- **Monitoring Responsibility:** This column contains an assignment of responsibility for the monitoring and reporting tasks.
- **Monitoring and Reporting Action:** This column refers the outcome from implementing the mitigation measure.
- **Mitigation Schedule:** The general schedule for conducting each mitigation task, identifying where appropriate both the timing and the frequency of the action.
- **Verification of Compliance:** This column will be used by the lead agency to document the person who verified the implementation of the mitigation measure and the date on which this verification occurred.

C. Enforcement

If the project is approved, the MMRP would be incorporated as a condition of such approval. Therefore, all mitigation measures for significant impacts must be carried out in order to fulfill the requirements of approval. A number of the mitigation measures would be implemented during the course of the development review process. These measures would be checked on plans, in reports, and in the field prior to construction. Most of the remaining mitigation measures would be implemented during the construction, or project implementation phase.

**EXHIBIT "B"
MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM- PHASE 1**

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
D. Biology						
D-1a: Installation of exclusionary fencing material or other barrier to contain dust and grading materials from construction activities and avoid any discharges to Clark Slough and surrounding waters.	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall construct an exclusionary fence to meet requirements of the mitigation measure	City of Eureka Community Development Department; City of Eureka Building Department	Review the construction plan(s) for the project to ensure the installation of a fence would occur prior to any grading or construction	Both Phase 1 and Future Phases: Prior to approval of grading or building permit(s)	Phase 1 Verified by: _____ Date: _____ Future Phases Verified by: _____ Date: _____
D-3a: Obtain the requisite 404 permit and 401 certification from the Corps and RWQCB, which shall, at a minimum, ensure that functions and values of replacement wetlands are equal to or greater than the functions and values of the wetlands affected by the project according to one or a combination of the following approaches deemed acceptable to the applicable regulatory agencies (e.g., Corps, RWQCB, and Coastal Commission): 1. Replace or restore the affected wetlands onsite at a minimum 1:1 ratio as necessary to ensure that the wetland functions and values shall be equal to or greater than the affected wetlands; and/or 2. Provide wetlands replacement off-site but within the same watershed as the affected wetlands at a minimum 1:1 ratio at a location and of a wetland type approved by the Corps and RWQCB; and/or 3. Contribute in-lieu funds for restoration, enhancement, or preservation of off-site wetlands, subject to approval by the Corps and RWQCB.	Phase 1	Project Applicant and its contractor(s) shall incorporate mitigation requirements into construction plans	City of Eureka Community Development Department; City of Eureka Building Department; Army Corp of Engineers; RWQCB	Review of construction plan to ensure it includes replaced or restored at a minimum 1:1 ratio; if not met payment of in-lieu contribution has been received	Prior to issuance of grading permit	Verified by: _____ Date: _____
D-3b: Prior to site grading, prepare a detailed Restoration Plan in accordance with the U.S. Army Corps of Engineers (Corps) <i>Habitat Mitigation and Monitoring Proposal Guidelines</i> and Regulatory Guidance letters 02-02 and 06-03; Federal Register, 2008; <i>Compensatory Mitigation for Losses of Aquatic Resources</i> ; <i>Final Rule</i> . Department of Defense, Department of the Army, Corps of Engineers 33 CFR Parts 325 and 332; and U.S. Environmental Protection Agency 40 CFR Part 230, April 10, 2008; as well as the California Coastal Commission's <i>Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone</i> The plan shall include, at a minimum: details of methods for site selection, preparation, and remediation; exotic plant removal; excavation, grading, and rip-rap removal; establishment of hydrological function; planting materials and methods; establishment	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall prepare a detailed Restoration Plan that incorporates mitigation requirements Submittal of an annual report from the qualified biologist addressing the status of the restoration plan, a final report from the biologist upon completion of the	City of Eureka Community Development Department; City of Eureka Building Department; Army Corp of Engineers, California Department of Fish and Game; California Coastal Commission	Review and approval of the restoration plan by applicable agencies Receipt of the annual and final report(s) on the status of the restoration plan	Both Phase 1 and Future Phases: Prior to issuance of grading or building permits; prior to construction Future Phases: Ongoing monitoring for 5	Phase 1 Verified by: _____ Date: _____ Future Phases Verified by: _____ Date: _____

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>of native species; creation of an effective buffer, maintenance and trash removal; monitoring; contingency plans; and plans for long-term funding for wetland monitoring and maintenance.</p> <p>For 5 years following completion of the restoration project, a qualified biologist shall monitor the site biannually on the first and last month of the growing season to ensure ongoing success. Upon completion of the restoration, a qualified biologist shall confirm the success of the Restoration Plan and recommend contingency measures, if necessary, to meet the no-net-loss performance requirement.</p>		restoration plan			years after project completion	
<p>D-3c: Create a buffer zone surrounding the restored wetland area. The buffer shall be adequate to avoid or minimize effects on wetland and slough resources from direct and indirect disturbances such as entry of sediment, oil, or grease into the reserve; trampling of vegetation; and movement, light, or noise impacts that might interfere with habitat values or wildlife use of the slough and marsh. The buffer shall consist of earthen berms sloped toward any road or other source of runoff pollution, fencing, symbolic fencing (split rails), native vegetation such as blackberries that act as a barrier, and signs warning against intrusion.</p>	Phase 1 Maintained in Future Phases	Project Applicant and its contractor(s) shall incorporate a buffer zone into the construction plan(s)	City of Eureka Community Development Department; City of Eureka Building Department	Approval of buffer zone size and design	Prior to issuance of grading and building permit(s)	Verified by: Date:
<p>D-3d: An open space wetland reserve consisting of the restored estuarine wetland and the upland protective buffer area shall be established and protected by a conservation easement in accordance with California Civil Code Sections 815-816, deed restriction, or other means of preservation approved by the City of Eureka, RWQCB, and the Corps. In the event of a conservation easement, the easement holder shall be a public agency or non-profit organization (i) approved by the City of Eureka, RWQCB, and the Corps, and (ii) qualified and authorized to administer conservation lands within the State of California. The conservation easement, deed restriction, or other means of preservation shall protect against land use changes for other than conservation purposes in perpetuity and shall include an endowment for long-term management and protection of the wetland reserve.</p>	Phase 1 Maintained in Future Phases	Project Applicant and its contractor(s) shall incorporate a wetland reserve into design plans and property agreements prior to design	City of Eureka Community Development Department; City of Eureka Building Department; Army Corp of Engineers, RWQCB	Approval of the conservation easement, deed restriction, or other means of preservation and recording of that control	Prior to issuance of grading permit	Verified by: Date:
<p>D-3e: To minimize the potentially adverse effect of night lighting on habitat use in the restored remnant of Clark Slough, within 300 feet of the reserve, use low-intensity street lamps, low elevation lighting poles, and internal silvering of the globe or external opaque reflectors to direct light away from the slough and buffer area. See also Mitigation Measure A-4a.</p>	Phase 1 Maintained in Future Phases	Project Applicant and its contractor(s) shall incorporate mitigation measure requirements into construction plans	City of Eureka Community Development Department; City of Eureka Building Department	Review of construction plan to ensure it includes lighting requirements	Prior to approval of the grading or building permit(s)	Verified by: Date:
<p>D-3f: Implementation of a non-native invasive species control program for areas disturbed as a result of construction and landscaping activities. Prior to construction, plants considered by the State of California to be exotic pest plants shall be destroyed using environmentally suitable methods, which may include the application of an herbicide approved by the United States Environmental Protection Agency for use near and within aquatic environments.</p>	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall incorporate a non-native invasive species control program into landscape plan and building permit(s) application(s)	City of Eureka Community Development Department; City of Eureka Building Department	Receive and review plans for non-native invasive species control program Receipt of report on the status of the program's implementation after	Phase 1 Prior to issuance of grading permit Future Phases Prior to issuance	Phase 1 Verified by: Date: Future Phases

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>During construction:</p> <ol style="list-style-type: none"> Educate construction workers about invasive species and control measures; Ensure construction-related equipment arrives onsite free of mud or seed-bearing material by, for example, requiring wheel washing upon entry; Use native seeds and straw material to the extent feasible; Revegetate with appropriate native species; and Prohibit the use of the following non-native invasive plants for landscaping or other planting purposes: <ul style="list-style-type: none"> Pampas grass (<i>Cortaderia jubata</i>, <i>C. selloana</i>) Tree-of-heaven (<i>Ailanthus altissima</i>) Giant reed (<i>Arundo donax</i>) Bamboo (<i>Bambusa</i> spp., et al) Cotoneaster (<i>Cotoneaster pannosa</i>) French broom (<i>Genista monspessulana</i> = <i>Cytisus monspessulanus</i>) Scotch broom (<i>Cytisus scoparius</i>) Blue gum (<i>Eucalyptus globulus</i>) English ivy (<i>Hedera helix</i>) Fig-marigold family members (<i>Conicosia</i>, <i>Carpobrotus</i> and <i>Mesembryanthemum</i>) Tall fescue (<i>Festuca arundinacea</i>) Mattress vine (<i>Muehlenbeckia complexa</i>) Tree tobacco (<i>Nicotiana glauca</i>) Fountain grass (<i>Pennisetum setaceu</i> <i>Pyracantha</i> (<i>Pyracantha angustifolia</i>) Castor bean (<i>Ricinus communis</i>) Black locust (<i>Robinia pseudoacacia</i>) German ivy (<i>Delairia odorata</i> = <i>Senecio mikianoides</i>) Spanish broom (<i>Spartium junceum</i>) Tamarisk (<i>Tamarix</i> spp.) Gorse (<i>Ulex europaeus</i>) Periwinkle (<i>Vinca major</i>) Purple fountain grass (<i>Pennisetum setaceum</i>)m) <p>D-7a: Phasing of project construction shall minimize the amount of time that both the existing degraded wetlands and the wetlands in the</p>	Phase 1	Project Applicant and its contractor(s) shall	City of Eureka Community	Review and approval of the remediation plan	Prior to issuance of grading permit	<p>Verified by:</p> <p>Date:</p>

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>southwest corner of the site (stated for restoration) are non-functional. Wetlands restoration work shall begin and shall continue concurrently with the remediation work. Timely completion of the restoration shall be the highest priority and shall be performed, to the extent possible, during the dry season.</p> <p>See also recommended Mitigation Measures D-3a through D-3f and H-3a.</p> <p>D-8a: Implement one of the following mitigation measures to reduce the potential impact on breeding birds or their nests or eggs:</p> <ol style="list-style-type: none"> 1. Refrain from performing vegetation clearing/initial grading activities during the avian breeding season (February 1 to August 31); or 2. Perform pre-construction surveys to locate nesting birds in the area and establish 100 to 250-foot-wide exclusion zones around any identified active nest, depending on site conditions and nature of the work being performed. 	Phase 1 Maintained in Future Phases	concurrently restore wetland during remediation	Development Department; City of Eureka Building Department; RWCCB; Army Corp of Engineers	that includes wetland restoration		Date:
	Phase 1	Project Applicant and its contractor(s) shall identify measures in the construction plan(s) to reduce impacts to birds and their nests/eggs	City of Eureka Community Development Department	Review and approval of the construction plan that includes bird avoidance	Prior to issuance of grading or building permit	Verified by: Date:
E. Cultural Resources						
<p>E-2a: The following measures shall be required for each phase of development that involves construction or other ground-disturbing activities to occur to a surface depth below historical fill on the site and in the geographic areas specifically delineated as "highly sensitive" in the report entitled <i>A Cultural Resources Investigation of the Proposed Balloon Tract Development</i> (May, 2006) prepared by Roscoe & Associates:</p> <p>(i) Prior to ground-disturbing activities associated with implementation of the project, a qualified archaeological consultant shall prepare and conduct a subsurface archaeological resources investigation in consultation with the appropriate Native American group(s) to determine the presence or absence of archaeological resources in those specific locations predetermined to be culturally sensitive (Roscoe et al., 2006). The investigation shall be conducted based on a subsurface strategy prepared by the archaeological consultant, which shall prescribe the trenching and/or boring locations and expected depths of exploration reasonably necessary to discover significant archaeological resources if present. The subsurface strategy, in turn, should rely on an examination of extant soil boring logs and other data from the project area by a qualified geoarchaeologist for an analysis of depths of artificial fill and other information that may be pertinent to the discovery of significant archaeological resources. In Phase 1 of the project (remediation and wetland restoration), this investigation may proceed in conjunction with the soils excavation conducted for the remediation plan. A qualified archaeologist shall be present at all times during the subsurface investigation.</p>	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall retain archaeologist Archaeologist shall (a) conduct subsurface archaeological investigation and (b) determine components of treatment and monitoring plan, if required	City of Eureka Community Development Department	Both Phase 1 and Future Phases: Review and approve extent and methodology of subsurface archaeological investigation if resources are encountered, verify work is suspended and review and approve of the treatment and monitoring plan if archaeological materials are discovered	Both Phase 1 and Future Phases: Review extent and methodology of subsurface investigations prior to approval of grading permit(s) If resources encountered, review of treatment and monitoring plan prior to continuation of construction	Phase 1 Verified by: Date: Future Phases Verified by: Date:

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>(ii) If archaeological materials are discovered during the subsurface archaeological resources investigation, the archaeologist shall evaluate whether or not the archaeological materials are deemed "historically significant" or "unique" under the criteria set forth under Public Resources Code section 21083.2(g) and CEQA Guidelines sections 15064.5(a) and 15064.5(c)(1)-(3). If the find is determined to be historically significant or unique, a treatment and monitoring plan shall be developed by the professional archaeologist and implemented to avoid or mitigate any significant adverse affects to the resource. A treatment plan for either unique or historically significant archaeological resources shall include, at a minimum, one or some combination of the following: (a) recovery of the object or feature and the preservation of any data available for scientific study; (b) modification to the land-use plan or construction methods to avoid the object or feature; (c) placement of soil sufficient to protect the integrity of the feature or object; and/or (e) permanent protection of the feature through the conveyance of a conservation easement. The archaeologist shall determine the extent of monitoring based on the findings of the investigation. The treatment and monitoring plan shall also satisfy and be consistent with the treatment parameters set forth in Section 21083.2 of the Public Resources Code or Sections 15064.5(b)(3) or 15126.4(b) of the CEQA Guidelines, as applicable. A qualified archaeologist shall monitor implementation of the treatment plan</p> <p>(iii) If no "historically significant" or "unique" archaeological resources are discovered during excavation monitoring or pre-construction investigations, implement Mitigation Measure E-2b for ground-disturbing activities within the areas specifically delineated as "highly sensitive" in the above-referenced Cultural Resources Investigation.</p>	<p>Phase 1 and Future Phases</p>	<p>Project Applicant and its contractor(s) shall train workers and monitor their activities Project Applicant and its contractor(s) shall halt work and notify archaeologist if materials are discovered Archaeologist shall conduct independent review and prepare treatment plan, if necessary</p>	<p>City of Eureka Community Development Department</p>	<p>Both Phase 1 and Future Phases: Review and approve worker training program If resources are encountered, verify work is suspended and review and approve of the treatment and monitoring plan if archaeological materials are discovered</p>	<p>Both Phase 1 and Future Phases: Review and approve worker training program prior to issuance of building permits If resources encountered, review of treatment and monitoring plan prior to continuation of</p>	<p>Phase 1 Verified by: Date: Future Phases Verified by: Date:</p>
<p>E-2b: Except for monitoring that is required under the treatment and monitoring plan in Mitigation Measure E-2a(ii), the following measures shall be required for each phase of development that involves construction or other ground-disturbing activities to occur to a surface depth below historical fill on the site but outside the geographic areas specifically delineated as "highly sensitive" in the above-referenced Cultural Resources Investigation: (i) Workers involved in ground-disturbing activities shall be trained by a professional archaeologist in the recognition of archaeological resources (e.g., historic and prehistoric artifacts typical of the general area), procedures to report such discoveries, and other appropriate protocols to ensure that construction activities avoid or minimize impacts on potentially significant cultural resources. (ii) If archaeological artifacts or other archaeological materials are discovered onsite during construction, all construction activities within 100 feet of the find shall be halted and a qualified</p>	<p>Phase 1 and Future Phases</p>	<p>Project Applicant and its contractor(s) shall train workers and monitor their activities Project Applicant and its contractor(s) shall halt work and notify archaeologist if materials are discovered Archaeologist shall conduct independent review and prepare treatment plan, if necessary</p>	<p>City of Eureka Community Development Department</p>	<p>Both Phase 1 and Future Phases: Review and approve worker training program If resources are encountered, verify work is suspended and review and approve of the treatment and monitoring plan if archaeological materials are discovered</p>	<p>Both Phase 1 and Future Phases: Review and approve worker training program prior to issuance of building permits If resources encountered, review of treatment and monitoring plan prior to continuation of</p>	<p>Phase 1 Verified by: Date: Future Phases Verified by: Date:</p>

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>archaeologist shall be summoned within 24 hours to conduct an independent review to evaluate whether or not the archaeological materials would be considered "historically significant" or "unique" under the criteria set forth under Public Resources Code section 21083.2(g) and CEQA Guidelines sections 15064.5(a) and 15064.5(c)(1)-(3).</p> <p>(iii) If the find is determined to be significant or unique, a treatment or protection plan shall be developed by the professional archeologist in consultation with the appropriate Native American group(s), and the plan shall be implemented by the Project Applicant. A protection plan for either unique or historically significant archaeological resources shall include, at a minimum, one or some combination of the following: removing the object or feature, planning the construction around the object or feature, capping the object or feature with a layer of soil sufficient to protect the integrity of the feature or object, or deeding the site as a permanent conservation easement. The protection plan shall also satisfy and be consistent with the treatment parameters set forth in Section 21083.2 of the Public Resources Code or Sections 15064.5(b)(3) or 15126.4(b) of the CEQA Guidelines, as applicable. An archaeological consultant shall monitor implementation of the treatment and monitoring plan and shall conduct the monitoring specified in that plan.</p> <p>(iv) If archaeological materials are discovered and construction activities are halted, those construction activities may resume immediately upon a written determination from the City of Eureka that the archaeological material is not significant or unique or a treatment or protection plan is prepared and the field portion adequately completed.</p>		<p>Project Applicant or its contractor(s) shall implement treatment plan</p>			<p>construction</p>	
<p>E-2c: If human remains are discovered during project construction, all work shall cease within 100 feet of the find until the coroner for Humboldt County is informed and determines that no investigation of the cause of death is required and, if the remains are determined to be of Native American origin, the coroner shall notice the California Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall assign the most likely descendant. The most likely descendant shall be consulted and provided the opportunity to make recommendations to the landowner concerning the means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods, all in accordance with Health & Safety Code section 7050.5, CEQA Guidelines section 15064.5(e), and Public Resources Code section 5097.98. If the human remains are determined to be of Native American origin, a qualified archaeologist shall be summoned within 48 hours to conduct an independent review to evaluate whether the remains belong to a single individual or multiple individuals. If the latter, and if there are six or more Native American burials on the site, the site shall be identified as a Native</p>	<p>Phase 1 and Future Phases</p>	<p>Project Applicant and its contractor(s) shall halt work and notify coroner and Community Development Department if remains are discovered NAHC shall assign most likely descendant Project Applicant and its contractor(s) shall hire archaeologist and cease work if site is a Native American Cemetery Project Applicant and</p>	<p>City of Eureka Community Development Department; NAHC; County Coroner</p>	<p>Contact City, NAHC, or County Coroner if human remains are encountered</p>	<p>Ongoing</p>	<p>Phase 1 Verified by: Date: Future Phases Verified by: Date:</p>

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
American cemetery and all work on the site within 100 feet of any burial site must cease until recovery or reburial arrangements are made with the descendants of the deceased or, if there are no descendants of the deceased, with the NAHC.		contractor(s) shall negotiate recovery or reburial arrangements				
G. Hazards and Hazardous Materials						
G-1a: Prepare a site-specific remediation plan and health and safety plan that meets the requirements of the Regional Water Quality Control Board (RWQCB) or other overseeing agency and shall comply with all federal and state regulations including Occupational Safety and Health Administration (OSHA) requirements for worker safety. Applicable regulations and methods of compliance shall depend upon the level of contamination discovered.	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall prepare Health and Safety Plan (HASP)	RWQCB; City of Eureka Building Department	RWQCB to review and approve HASP; Building Department to confirm RWQCB approval	Approval of HASP by RWQCB Confirm prior to permit(s) issuance	Phase 1 Verified by: Date: Future Phases Verified by: Date:
G-1b: Prior to commencement of any construction activities, complete any further characterization and/or remediation, as directed, of any remaining contaminated soil to the satisfaction of the RWQCB or other applicable oversight agency, undertaking soil excavation or other appropriate remedial measures as required. If required, soil may be excavated using a backhoe or excavator. The excavated soil shall be loaded into a dump truck and transported as required to a secured stockpile area where it shall be protected from contact with stormwater. The excavation contractor shall employ dust control measures during excavation and stockpiling activities. Soil samples shall be collected from each excavation area, as required by the RWQCB, to confirm that remaining soil meets site clean-up goals. Following site excavation, the excavation pits shall be left open pending receipt of satisfactory confirmation soil sampling analytical results. Each excavation pit shall be secured with a fence during the period that it is left open. Once the excavation work is complete, the excavation pits in areas intended for development shall be backfilled with clean, river-run gravel or other clean fill material and compacted. At least one sample for every 500 yards of the backfill material shall be collected during the backfill process, submitted to the analytical laboratory and tested to ensure that it, also, meets the site clean-up standards. The excavation pits located in areas intended for wetland restoration shall be restored in accordance with an approved wetland restoration plan. Soil Stockpile Characterization. Soil samples shall be collected from various locations and depths of the stockpile for characterization. The soil stockpile characterization shall be conducted in accordance with, and at the frequency required by the applicable disposal or recycling facility.	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall complete characterization and remediation, as well as test and remove soil as directed by RWQCB	RWQCB; City of Eureka Building Department	RWQCB to confirm requirements are met; Building Department to confirm RWQCB approval	Approval by RWQCB Confirm prior to permit(s) issuance	Phase 1 Verified by: Date: Future Phases Verified by: Date:

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>Based on the results of the soil characterization, the material shall be properly managed as required by the RWQCB, depending on the concentration of contaminants in the stockpiled material. All excavated material that requires removal shall be removed from the site within 90 days and placed in a permitted disposal facility by a licensed waste hauler.</p>	<p>Phase 1 and Future Phases</p>	<p>Project Applicant and its contractor(s) shall stop work if suspected residual contamination is encountered Site supervisor shall ensure protective equipment and adequate training are provided to all present before beginning work again Project Applicant and its contractor(s) shall test excavated soil / water and dispose of contaminated soils offsite</p>	<p>City of Eureka Building Department; RWQCB</p>	<p>Building Department shall perform inspections of job site to ensure proper procedures are followed RWQCB shall ensure proper analysis and disposal of contaminated materials</p>	<p>Building Department shall perform inspections during excavation and grading RWQCB shall review analysis and disposal procedures, if contaminated materials are found</p>	<p>Phase 1 Verified by: Date: Future Phases Verified by: Date:</p>
<p>G-1c: During site preparation, construction, or restoration of the wetland, suspected residual contamination could be detected by a hydrocarbon odor, photo-ionizing detector (PID), or visually (hydrocarbon sheen or discoloration) despite initial remediation efforts. If suspected contamination is encountered, work shall stop and the site supervisor shall be notified. The site supervisor shall then ensure that site workers have adequate training and proper protective equipment to continue working in the area. Work shall not resume until properly trained and equipped workers are present. Suspect soil shall be excavated using a backhoe or excavator. The excavated soil shall be loaded into a dump truck and transported to a secured stockpile area that is away from routine traffic and protected from contact with ponding water and stormwater. The excavated soil shall be sampled and analyzed for petroleum hydrocarbons, metals, and volatile organic compounds (VOCs), as appropriate or required by the RWQCB. The analytical results of the soil stockpile sample(s) shall be used to determine the proper handling and disposal method for the soil. In the event that the soil requires off-site disposal, a contractor licensed to transport such material shall transport the contaminated soil to a facility that is licensed to accept such soil. All contaminated soil that requires removal shall be removed from the site within 90 days following excavation.</p> <p>Following site excavation, the re-filling of excavation pits, soil stockpile characterization and soil disposal shall be the same as for Mitigation Measure G-1a above.</p> <p>Any suspected contaminated groundwater or surface water that is encountered shall be sampled and analyzed for petroleum hydrocarbons, metals, and VOCs, as appropriate or required by the RWQCB. Identified contaminated water that requires removal shall be pumped into appropriate containers, depending on the volume of water to be removed. If only a small volume is removed, Department of Transportation-approved, 55-gallon steel drums may be appropriate. If a large volume must be removed, a Baker Tank or equivalent shall be used to temporarily store the extracted water. Contaminated water shall be disposed of as required by the RWQCB in light of the level and type of contamination.</p>	<p>Phase 1 and Future Phases</p>	<p>Project Applicant and its contractor(s) shall receive approval of local</p>	<p>Applicable environmental oversight agency (see</p>	<p>Review proposed reuse of excavated soil as subgrade fill material</p>	<p>Upon receipt of information regarding future</p>	<p>Verified by:</p>
<p>G-1d: Possible reuse of excavated soils as subgrade fill material shall require approval from the local environmental oversight agency (Humboldt County Department of Health), Integrated Waste</p>	<p>Phase 1 and Future Phases</p>	<p>Project Applicant and its contractor(s) shall receive approval of local</p>	<p>Applicable environmental oversight agency (see</p>	<p>Review proposed reuse of excavated soil as subgrade fill material</p>	<p>Upon receipt of information regarding future</p>	<p>Verified by:</p>

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
Management Board, or successor agency, and/or the RWQCB.		environmental oversight agency prior to reuse of excavated materials as subgrade fill material	mitigation measure)	and determine appropriateness	reuse of excavated soils	Date:
<p>G-1e: The following measures shall be undertaken to the satisfaction of the RWQCB to ensure that human and environmental health is protected:</p> <ol style="list-style-type: none"> Upon completion of site remediation activities, a post-remediation groundwater-monitoring program shall be implemented as required by the RWQCB; The RWQCB will outline the monitoring schedule, including what constituents will require testing and at what frequency the monitoring will occur; and A groundwater monitoring report of findings shall be prepared for submittal to the RWQCB upon completion of each monitoring event. If required by the RWQCB, additional site remediation shall also occur. 	Phase 1 and Future Phases	Project Applicant and its contractor(s) must receive approval from RWQCB after site remediation activities. Project Applicant or its contractor(s) are responsible for ongoing reporting and monitoring	RWQCB shall confirm that monitoring schedule is prepared and acceptable. RWQCB shall confirm receipt and completeness of findings	Confirm schedule before completion of remediation activities. Confirm receipt and completeness of findings after each monitoring event	<p>Phase 1 Verified by:</p> <p>Date:</p> <p>Future Phases Verified by:</p> <p>Date:</p>	
<p>G-2a: The following measures shall be undertaken to the satisfaction of the RWQCB and the County Department of Environmental Health, HazMat Division. All potentially hazardous or regulated materials that are used at the project site during construction activities shall be appropriately covered, handled, stored, and secured in accordance with local and state laws. No hazardous wastes shall be disposed of at the project site. Absorbent materials shall be maintained at locations where hazardous materials are used or stored, in order to capture spilled materials in the event of an accidental release. An emergency response plan shall be developed and implemented for the project site. All jobsite employees shall be trained to respond to any accidental releases.</p>	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall appropriately handle all hazardous materials, develop an emergency response plan, and train all jobsite employees	RWQCB; Humboldt County Department of Health HazMat Division	Approval of training program and emergency response plan	Prior to commencement of grading, excavation, and construction	<p>Phase 1 Verified by:</p> <p>Date:</p> <p>Future Phases Verified by:</p> <p>Date:</p>
<p>G-2b: Prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement construction site best management practices in accordance with the guidelines for erosion control and pollution prevention during construction that can be found in the <i>California Stormwater Best Management Practices Handbooks</i>. The guidelines recommend techniques for erosion and sediment control, non-stormwater management, and waste management and materials pollution control. Implement site-appropriate measures from these guidelines. SWPPP implementation is described in more detail in Section IV. H, <i>Hydrology and Water Quality</i> of the Draft EIR.</p>	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall prepare and implement a SWPPP	RWCQB; City of Eureka Building Department	RWQCB to review and approve SWPPP. Building Department to inspect site during construction to verify compliance with SWPPP	Verify approval of SWPPP prior to issuance of grading or building permit(s). Onsite verification during construction	<p>Phase 1 Verified by:</p> <p>Date:</p> <p>Future Phases Verified by:</p> <p>Date:</p>
H. Hydrology and Water Quality						
<p>H-3a: In addition to the required SWPPP, implement the following BMPs to protect water quality.</p>	Phase 1 and Future	Project Applicant and its contractor(s) shall	RWCQB; City of Eureka Public Works	RWQCB to review and	Approval of BMPs prior to	Phase 1 Verified by:

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>1. <i>Erosion/Sediment Control.</i> During the construction phase, prior to site grading, construct combinations of silt fencing, straw wattles, and/or straw bale sediment transport barriers at specific site locations with the intent of containing all site runoff on the project site. This barrier shall be maintained during the rainy season and until completion of construction and shall prevent transport of pollutants, such as excessive sediment, away from the construction area. The barrier shall be constructed so that concentrated surface water flows during heavy rains cannot penetrate it without being dissipated in flow energy, and without the water being filtered through the sediment transport barriers.</p> <p>2. <i>Scheduling.</i> The north coast's dry season is typically between April 15 and October 15. Proper timing of grading and construction during the dry season would minimize soil and construction material exposure during the rainy season. Following October 15, areas of disturbed or fill soils more than 6 inches in depth and greater than 100 square feet (10-foot-by-10-foot area) shall be specifically protected from erosion by 1) shaping the ground surface so that concentrated surface flows do not encounter or cross them, or 2) providing localized straw wattles, straw bales and/or silt fencing. During the rainy season, construction materials and equipment shall be stored under cover or in secondary containment areas.</p> <p>3. <i>Protection of Water Courses and Drainage Inlets.</i> Site drainage under existing conditions is toward the bay. General guidelines for water course and drainage inlet protection during the rainy season shall include providing downgradient sediment traps or other BMPs that allow soil particles to settle out before flows are released to receiving waters, storm drains, streets, or adjacent property. Drainage inlet protection BMPs, if required, shall be installed in a manner that does not cause additional erosion or flooding of a roadway.</p> <p>4. <i>Soil Stockpiles.</i> Should it be necessary to stockpile excess soil onsite, the soil shall be placed within a sediment-protected area that is not likely to result in off-site sedimentation. If likely to be subjected to rain or high winds, stockpiles shall be covered with plastic sheeting (Visqueen® for example) at least 6- to 10-mils thick. Plastic sheeting shall be well-anchored to resist high winds. If stockpiles are to be present through the rainy season, they shall be surrounded with silt or straw bale fencing about 5 feet from the toe of the pile.</p> <p>5. <i>Dust Control.</i> Treat and maintain all construction areas as necessary to minimize the generation of dust that may blow off-site. The most common method of dust control during construction activities is through periodic application of water. However, the application of water for dust control purposes shall be managed to</p>	<p>Phases</p>	<p>prepare and implement a plan that uses all BMPs listed to project water quality</p>	<p>Department</p>	<p>approve BMPs plan Building Department to inspect site during construction to verify compliance</p>	<p>issuance of grading or building permit(s) Onsite verification during construction</p>	<p>Date: Future Phases Verified by: Date:</p>

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>ensure there is no off-site runoff.</p> <p>6. <i>Material Delivery, Storage and Use.</i> Materials used during construction, where appropriate, shall be delivered and stored in appropriate containers and in designated areas, to prevent the discharge of pollutants to nearby watercourses or storm drain systems. During the rainy season, materials shall be stored in covered areas. Chemicals, paints or bagged materials shall not be stored directly on the ground, but instead shall be placed on a pallet or in a secondary containment system. Materials shall be used according to the manufacturer's instructions and all materials shall be disposed of properly. Any spills shall be cleaned up immediately and an ample supply of spill clean-up materials shall be kept onsite during construction activities. There shall be no fueling or equipment washing activities conducted onsite.</p> <p>7. <i>Monitoring.</i> During construction, all erosion and pollution control measures shall be periodically inspected throughout the duration of the project by a qualified professional to ensure that the control measures are properly implemented. If the erosion and pollution control measures are not functioning properly, the owner shall immediately make appropriate modifications to ensure that water quality is protected.</p>	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall prepare plans and apply for Erosion Control Permit and implement the permit during all construction activities	City of Eureka Public Works Department	Review and approve erosion control plan Perform building site inspections to confirm adherence to permit requirements	Review and approve plans prior to issuance of building or grading permit(s) Inspect site during construction	Phase 1 Verified by: Date: Future Phases Verified by: Date:
<p>H-3b: Prior to any clearing, grading, excavating or fill within 50 feet from the edge of a delineated wetland, stream, or stream channel or disturbing more than 2,500 square feet, obtain an Erosion Control Permit (ECP) from the City of Eureka. The ECP shall require specific erosion/sediment control devices, which shall be maintained in proper working condition for as long as work is being conducted on the property or for as long as an active permit of any nature is issued for the project. Erosion/sediment control devices required by the ECP may include, but are not limited to, silt fences, straw bales, retention ponds, mulch, sod, rip-rap, vegetation barriers, hydro-seeding, erosion blankets and any other measures that would adequately prevent soil from being eroded and transported onto adjoining property. The ECP shall always require a stabilized construction site access for any sites where sediment can be tracked onto public roads by construction vehicles. The responsibility of the property owner and its agents shall be joint and severable with the entity performing the work for the maintenance of all erosion control devices. The erosion control devices shall be maintained in a condition so as to prevent soil erosion on the property and transport of sediment off the property.</p>	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall prepare drainage plan, submit it to the City, and implement plan during	City of Eureka Engineering Department, City of Eureka Building Department, City of	Public Works Department approve Drainage Plan Confirm adherence to	Prior to issuance of building or grading permit(s) Inspect site during	Phase 1 Verified by: Date:
<p>H-4a: Prepare a drainage plan indicating the specifics of the project drainage system. The drainage plan shall demonstrate that the culverts are adequately sized and configured to address peak runoff and protect against a 10-year storm event. The drainage plan shall ensure that any increase in stormwater drainage runoff in a 10-year storm event</p>	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall prepare drainage plan, submit it to the City, and implement plan during	City of Eureka Engineering Department, City of Eureka Building Department, City of	Public Works Department approve Drainage Plan Confirm adherence to	Prior to issuance of building or grading permit(s) Inspect site during	Phase 1 Verified by: Date:

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remains below 1 cfs. Alternatively, if the 1 cfs threshold cannot be maintained in a projected 10-year storm event, the drainage plan shall provide a retention/siltation basin that limits stormwater runoff to pre-project flows. The plan shall be submitted to and approved by the City of Eureka, and recommendations from the City shall be adopted by the Project Applicant prior to issuance of a building permit.		construction	Eureka Public Works Department	plan by site inspection	construction	Future Phases Verified by: Date:
H-5c: Use only USEPA-approved herbicides and pesticides on the site in any area that might drain to aquatic environments.	Phase 1 and Future Phases	Project Applicant and its contractors shall incorporate into landscape plan; Implement during construction and maintain after construction	RWQCB	Review vegetation removal plans as part of wetland restoration	Prior to issuance of grading or building permits; ongoing	Phase 1 Verified by: Date: Future Phases Verified by: Date:
K. Noise						
K-4a: Limit standard construction activities to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise-generating activities (greater than 90 dBA) limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise-generating activity permitted between 12:30 p.m. and 1:30 p.m. No construction activities shall be allowed on weekends, except that interior construction shall be permitted after buildings are enclosed. No extreme noise-generating activities shall be allowed on weekends and holidays. Construction activities outside of these hours and days may be allowed by prior approval from the City.	Phase 1 and Future Phases	Project Applicant and its contractor(s) to limit construction activities as described	City of Eureka Building Department	Review construction plans to ensure conformance; inspection to ensure conformance	Prior to issuance of grading or building permit(s); inspection during construction	Phase 1 Verified by: Date: Future Phases Verified by: Date:
K-4b: To reduce daytime noise impacts due to construction: 1. Equipment and trucks used for project construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds, wherever feasible). 2. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dBA. Quieter procedures, such as use of drills rather than impact tools, shall be	Phase 1 and Future Phases	Project Applicant and its contractor(s) shall use best available noise-control techniques described and locate stationary noise sources as far from adjacent receptors as possible	City of Eureka Building Department	Require use of noise-control techniques in building permit; inspect construction site to confirm adherence to those requirements	Prior to issuance of grading building permit(s); inspect during construction	Phase 1 Verified by: Date: Future Phases Verified by: Date:

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>used whenever feasible.</p> <p>3. Locate stationary noise sources as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.</p> <p>K-4c: To mitigate pile driving and/or other extreme noise-generating construction impacts, a qualified acoustical professional shall prepare a set of site-specific noise attenuation measures. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City of Eureka to ensure that noise attenuation and acoustical standards will be achieved. These attenuation measures may include, as necessary, the following control strategies:</p> <ol style="list-style-type: none"> 1. Erect temporary plywood noise barriers around the construction site. 2. Use noise control blankets on building structures as buildings are erected to reduce noise emission from the site. 3. Monitor the effectiveness of noise attenuation measures by taking noise measurements at locations and frequencies necessary to ensure acoustical standards are satisfied. 	Phase 1 and Future Phases	<p>Project Applicant and its contractor(s) shall hire qualified acoustical professional to prepare plan</p> <p>Acoustical professional prepares plan and submits to City; implement during construction</p>	City of Eureka Building Department	Review noise-attenuation plan and incorporate plan into building permit; inspect site during construction to confirm adherence to plan	Prior to issuance of grading or building permit(s); inspect during construction	<p>Phase 1 Verified by:</p> <p>Date:</p> <p>Future Phases Verified by:</p> <p>Date:</p>
M. Public Services						
<p>M-2a: The Marina Center development shall have an onsite security patrol to handle routine situations that do not require emergency response from the Eureka Police Department.</p>	Ongoing	Project Applicant and its contractor(s) and tenants shall hire security to patrol the site	City of Eureka Police Department	City of Eureka Police Department shall monitor calls to ensure routine situations are handled by onsite security	Ongoing	<p>Verified by:</p> <p>Date:</p>
O. Transportation						
<p>O-1a: Develop a construction management plan for review and approval by the City's Engineering Department and Caltrans. The plan shall include at least the following items and requirements to reduce traffic congestion during construction:</p> <ol style="list-style-type: none"> 1. A set of comprehensive traffic control measures shall be developed, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. Prior to approving plans for mitigation on U.S. 101, Caltrans requires that all construction activities include an assessment of the potential for traffic congestion. This is accomplished through lane closure analysis showing the times of day and days of the week that lanes can be closed to traffic. Excepting extraordinary circumstances, lane closures are 	Phase 1 and Future Phases	Project Applicant and its contractor(s) obtain approval of construction management plan and implement the plan during construction	City Engineering Department; City of Eureka Building Department; Caltrans	Engineering Department and Caltrans must review and approve Construction Management Plan; Building Department must receive the approvals	Prior to issuance of building or grading permit(s); inspect during construction	<p>Phase 1 Verified by:</p> <p>Date:</p> <p>Future Phases Verified by:</p> <p>Date:</p>

Mitigation Measures Adopted as Conditions of Approval	Phase	Implementation Procedures	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
<p>authorized at times of the day and on days of the week where the interruptions, closures, and activity is least likely to cause unacceptable congestion using the same level of service criteria as used for assessing project traffic impacts.</p> <p>2. If construction activities result in unacceptable traffic congestion, flaggers shall supplement approved traffic control plans to ensure that traffic moves through the construction zone with minimal delays.</p> <p>3. The Construction Management Plan shall identify haul routes for movement of construction vehicles that would minimize impacts on motor vehicle, bicycle, and pedestrian traffic, circulation, and safety, and specifically to minimize impacts to the greatest extent possible on streets in the project area. The haul routes shall be approved by the City and Caltrans</p> <p>4. The Construction Management Plan shall provide for notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur.</p> <p>5. The Construction Management Plan shall provide for accommodation of bicycle flow, particularly along First Street and Waterfront Drive.</p> <p>6. The Construction Management Plan shall provide for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the Project Applicant.</p>						