

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE 2023-2031 HOUSING ELEMENT UPDATE AND SAFETY ELEMENT UPDATE

I. OVERVIEW

A. Purpose of the Findings

The County of Marin (County), as lead agency under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, has prepared the Final Environmental Impact Report for the Housing and Safety Elements Update to the Marin Countywide Plan (State Clearinghouse No. 2021120123). The Final Environmental Impact Report (“Final EIR”) consists of the Draft EIR (published on October 7, 2022) and the Housing & Safety Element Update to the Marin Countywide Plan Draft Environmental Impact Report Final EIR volume (published on December 20, 2022) (“Final EIR Volume”) which includes responses to comments on the Draft EIR and text revisions to the Draft EIR, the Final EIR Amendment (revised version published on January 18, 2023) which includes further text revisions to the Draft EIR and Final EIR Volume, responses to late comments, and all documents incorporated therein. The Final EIR is a program EIR, as authorized by CEQA Guidelines Section 15168, which analyzes the potentially significant environmental effects of the overall development potential of the Project and not the site-specific impacts of any individual development project, the details of which are not known at this time.

In determining to approve the 2023-2031 Housing Element Update and the Safety Element Update of the Marin Countywide Plan (CWP), and amendments to the County Development Code and conforming amendments to other elements in the Countywide Plan to remove impediments to housing, clarify development potential, and provide internal consistency (collectively, the “Project”, which is described in more detail in Section II, below), the County makes and adopts the following findings of fact and statement of overriding considerations, and adopts and makes conditions of project approval the mitigation measures identified in the Final EIR, all based on substantial evidence in the whole record of this proceeding (administrative record). Pursuant to Section 15090(a) of the CEQA Guidelines, the Final EIR was presented to the Board of Supervisors, the Board of Supervisors reviewed and considered the information contained in the Final EIR prior to making the findings in Sections II through XIII, below, and the Board of Supervisors determined that the Final EIR reflects the independent judgment of the County. The conclusions presented in these findings are based on the Final EIR and other evidence in the administrative record.

B. Background

The Marin Countywide Plan, which is the County’s general plan, serves as the constitution for land use in the unincorporated portions of Marin County. The long-range planning document describes goals, policies, and programs to guide land use decision-making. State law requires a community’s general plan to be internally consistent. This means that the Housing Element and Safety Element, although subject to special requirements and a different schedule of updates, must function as an integral part of the overall general plan, with consistency between them and the other general plan elements.

The mitigation measures and the Mitigation Monitoring and Reporting Program (“MMRP”) adopted as part of the CWP in 2007 and as part of the 2012 Housing Element remain in effect, except as amended by the mitigation measures identified in the Final EIR for the Project.

II. PROJECT DESCRIPTION

As fully described in Chapter 3 of the Draft EIR, the Project involves all of the following: (1) updates to the Housing Element of the Marin Countywide Plan, including the facilitation of new housing growth throughout the unincorporated county in response to the region’s need for more affordable and market rate housing and development of housing solutions to meet the County’s 2023-2031 Regional Housing Needs Allocation (RHNA); (2) updates to the Safety Element of the Marin Countywide Plan; and (3) amendments to the County Development Code and conforming amendments to other elements in the Countywide Plan to remove impediments to housing, clarify development potential, and provide internal consistency.

The Project applies to all land within the unincorporated area of Marin County subject to County jurisdiction. Marin County is one of the nine counties that comprise the San Francisco Bay Area. It is linked to San Francisco by the Golden Gate Bridge and to the East Bay by the Richmond-San Rafael Bridge. Marin County’s total land and water area is approximately 606 square miles, of which about 87 percent (527 square miles) is unincorporated.

A. Housing Element Update

The Housing Element Update addresses the planning period from 2023 to 2031, and is an update of the County’s State-certified Housing Element that was adopted by the Marin County Board of Supervisors on December 9, 2014.

Among its requirements, the Housing Element is required to identify an adequate number of sites to meet the number of housing units assigned to the County by the Regional Housing Need Allocation. The Housing Element also provides the policy framework and identifies actions the County will take to remove housing constraints and promote housing that addresses community needs. State law mandates that all California cities, towns, and counties plan for the housing needs of its residents regardless of income. The Association of Bay Area Governments (ABAG) assigns housing production goals to every Bay Area jurisdiction in its RHNA, with units identified in four categories of affordability: homes that are affordable to households earning above-moderate, moderate, low, and very-low incomes (includes extremely low income). Upon receiving its RHNA from ABAG, each local government, including Marin County, must update the Housing Element of its General Plan to show how it plans to meet the housing needs in its community. The RHNA for Marin County calls for the County to provide for development of a total of 3,569 housing units during the 2023-2031 period, consisting of 1,100 units for very low-income households, 634 units for low-income households, 512 units for moderate-income households, and 1,323 units for above-moderate-income households.

As part of the Housing Element Update, the Project proposes sites for housing, also referred to as “Project Sites,” that would facilitate development of up to 5,197 new housing units, which meets the RHNA as well as a reasonably foreseeable number of density bonus units and a buffer number of additional units recommended by HCD.¹ These Project Sites include vacant

¹ Revisions to the Project Site Inventory included in the Draft EIR were necessary to correct inaccurate reporting of unit numbers associated with several sites as well as the removal of one site (Site #22, (footnote continued on next page)

sites and sites having the potential for redevelopment that can be developed for housing within the Housing Element planning period of 2023 to 2031. The Housing Element includes a sites analysis that takes account of state laws regarding site suitability applied in the context of local conditions. The sites considered include parcels on surplus school, County, and State lands; religious institutions; other vacant lands; plus commercial and residential sites not currently used to their full potential.

The proposed “Project Sites” were selected from a list of “Candidate Housing Sites” by the Board of Supervisors and the Planning Commission based on input at a series of public hearings. The County considered site locations throughout unincorporated county areas to meet its goal of affirmatively furthering fair housing.

The Housing Element Update consists of five chapters, each of which addresses a major subject area, as summarized below. In addition to these five chapters, four appendices are included to the Housing Element Update that contain technical details and other information pertaining to community outreach efforts conducted (Appendix A), review of the 2015 Housing Element (Appendix B), a sites inventory (Appendix C), and a comprehensive discussion of the County’s commitment to specific meaningful actions to affirmatively furthering fair housing (Appendix D).

Chapter 1: Introduction. The Introduction provides an overview of the county and describes the purpose of the Housing Element, housing element law, information requirements, and a summary of the community involvement and decision-making processes and techniques used.

Chapter 2: Housing Needs Analysis. The Housing Needs Analysis provides an overview of the County, including population and employment trends, household characteristics, and housing stock characteristics. The chapter describes the RHNA and discusses housing costs, household income, the ability to pay for housing, overcrowding, special housing needs.

Chapter 3: Housing Constraints. This chapter discusses nongovernmental and governmental constraints to the development of housing. Nongovernmental constraints include availability of vacant land, construction costs and financing, community resistance to new housing, and availability of infrastructure. Governmental constraints include regulatory standards that may present conflicts in land use objectives and create constraints to the production of housing, permit processing, and planning application review and fees.

Chapter 4: Resources. This chapter discusses land characteristics and breakdown of land in the county; development policy and objectives focusing residential development to the City-Centered Corridor; affordable housing in the county and the populations it serves; housing strategies for meeting RHNA and the process for identifying potential housing sites; local funding opportunities such as the Affordable Housing Trust Fund and the Restricted Affordable Housing Fund, among others; and opportunities for energy conservation such as the County’s green building ordinance and programs offering free technical assistance or assistance to low income owners to rehabilitate older housing units for energy efficiency improvements.

Carmelite Monastery of the Mother of God) from the Housing Sites list because the property owner indicated it would not be developed with housing during this housing cycle. Revisions to Tables 3-2 and 3-3 in the Final EIR Amendment now show the Project Site Inventory to have 5,197 units, 17 units fewer than presented in the Draft EIR Project Description.

Chapter 5: Goals, Policies, and Programs. This chapter contains the Housing Element Update policies and programs, some of which are new and others that are carried forward from the existing 2015 Housing Element. These policies and programs describe the County's commitment to the actions necessary to address the current and future housing needs and reflect the major themes identified through the County's community outreach process and a critical evaluation of the programs and policies from the previous 2015 Housing Element (see the Housing Element Update Appendix B: Evaluation of 2015 Housing Element Programs). In addition, under AB 686, policies and programs must be examined under the lens of affirmatively furthering fair housing and a commitment to specific meaningful actions (see the Housing Element Update Appendix D: Affirmatively Furthering Fair Housing).

B. Safety Element Update

The Project also includes an update to the Safety Element. The 2007 CWP does not contain an adopted "Safety Element" as a standalone document, but it does contain policies and programs that address the required contents of a safety element, in compliance with State law. These policies and programs are contained in The Natural Systems and Agriculture, The Built Environment, and The Socioeconomic Elements.

The currently adopted policies and programs in CWP section 2.6 – Environmental Hazards address geologic, flooding, and wildfire hazards and would be updated to comply with new State requirements to include climate change and resiliency planning, as well as new requirements to further address sea level rise, flooding, and wildfire hazards, and disaster preparedness, response, and recovery. Government Code section 55302(g) requires that some of these updates be made upon revising the Housing Element. The "Safety Element Update" includes new policies and programs, and revisions to current Environmental Hazards policies and programs, in compliance with new State laws. Collectively, this content comprises the Safety Element Update. The updated section 2.6 of the CWP is now considered the County's "Safety Element," as explained in the first paragraph of that section. The Safety Element Update includes the following sections:

- *Background*, which explains the context of the Safety Element in the CWP and how the Safety Element is intended to provide an understanding of the hazards that could threaten unincorporated Marin County, plus practices and policies that will enable continued prosperity and resilience in the county.
- *What is a Safety Element?*, which describes the Safety Element as one of the State-mandated elements of the CWP and identifies and discusses State requirements for equitable community safety planning; disaster preparedness, response and recovery; geology and seismicity; flooding; wildfire; and climate change and resiliency planning.
- *Documents Incorporated by Reference*, which identifies key documents relied on during preparation of the Safety Element.
- *Additional Reference Documents*, which identifies other relevant documents related to wildfire protection, sea level rise, and adaptation.
- *Marin County Hazards*, which discusses environmental hazards from geology and seismicity, flooding, wildfire, and climate change. Other topics discussed include resiliency planning; disaster preparedness, response, and recovery; the changing regulatory

environment and approach to climate planning; equitable community safety planning and vulnerable populations; and hazard recovery planning.

- *Safety Element Update Goals*, which includes new Goal EHS-1 and Goal EHS-6, and revisions to Goal EHS-2, Goal EHS-3, Goal EHS-4, and Goal EHS-5 incorporating existing 2007 CWP Goal EHS-1, Goal EHS-2, Goal EHS-3, and Goal EHS-4, respectively. For each of these goals, the Safety Element Update states policies to guide action by decision making bodies (such as the Board of Supervisors), identifies programs to be used to implement the policy, and describes the responsibilities, potential funding priorities, and estimated time frames, dependent upon the availability of adequate funding and staff resources.

C. Amendments to the Other Elements of the Countywide Plan and County Development Code

The Project includes programs that require conforming amendments to other elements of the CWP, specifically the Introduction to the CWP, the Natural Systems and Agriculture Element, and the Built Environment Element, and amendments to the County Development Code to remove impediments to housing, clarify development potential, and provide internal consistency to be adopted with the Housing and Safety Elements Updates. The analysis in the EIR contemplates these actions as implementing programs and activities of the Project. The purpose of these amendments is to implement the Housing Element Update and Safety Element Update and ensure Development Code consistency with the goals, policies, and programs of the Project. The conforming amendments to other elements of the CWP and Development Code amendments may include the following:

Countywide Plan

- Adjust the Inland Rural/City-Center corridor boundary at the northern edge of the County adjacent to the Buck Center site.
- Eliminate or modify policies limiting development to the lowest end of the density range to accommodate residential density necessary to satisfy the RHNA.
- Modify commercial/mixed use land use categories and intensities.
- Modify discussion of policies for the St. Vincent property.
- Amend Housing Overlay Designation (HOD) to encourage and facilitate housing for low- and moderate-income households.
- Clarify the relationship between the CWP and Community Plans.

County Development Code

- As needed redesignation/rezoning for adequate sites to fully accommodate the RHNA.
- Update the Development Code to address the ministerial approval requirements.
- Amend the Development Code to establish minimum and maximum densities for multiunit and mixed-use zones.

- Amend the Development Code to establish Objective Design Standards contained within the Form Based Code
- Amend the Development Code to increase the height limit of residential structures from 30 feet to 45 feet.
- Amend the Accessory Dwelling Units regulations to be consistent with State law.
- Amend agricultural worker provisions in the Development Code to be consistent with the State Employee Housing Act.
- Amend the Development Code to permit or conditionally permit large residential care facilities in all zones that permit residential uses, as similar uses in the same zone, and ensure the required conditions for large facilities are objective to provide certainty in outcomes.
- Amend the Development Code to comply with state laws related to supportive housing, emergency shelters, and Low Barrier Navigation Centers.
- Amend the Development Code to reduce parking requirements for multi-unit housing, and to revise parking requirements for supportive housing meeting certain criteria and emergency shelters.
- Amend the Development Code to alleviate constraints to housing development for low- and moderate-income households.

D. Project Objectives

The Housing Element Update and Safety Element Update to the Marin Countywide Plan establish the goals, policies, and programs that will provide County staff and discretionary bodies with a foundation for decisions related to long-range planning for housing development and safety related to climate change. The overarching goal of the Project is to revise the adopted Housing and Safety Elements to create a policy framework that meets the objectives listed below.

1. Housing Element Objectives

1. New Housing. Facilitate new housing growth throughout the unincorporated County area in response to the region's need for more affordable and market rate housing, and develop housing solutions to meet the County's 2023-2031 Regional Housing Needs Allocation.
2. Housing Choice. Respond to the broad range of housing needs in Marin County by supporting a mix of housing types, densities, affordability levels, and designs.
3. Healthy Neighborhoods. Promote healthy neighborhoods that incorporate best practices related to land use, racial equity, mobility, housing, affordability, safety, environmental justice, community services, and design.
4. Equity. Combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access in order to foster inclusive communities and achieve racial equity.

5. Inclusivity. Engage residents and stakeholders to ensure equitable and inclusive processes, policies, investments, and service systems.

2. Safety Element Objectives

1. Safety. Establish new CWP goals, policies, and programs to include climate change adaptation and resiliency planning, sea level rise, and additional wildfire measures, and provide direction to improve emergency preparedness, response, and recovery.

2. Adaptive and Resilient Communities. Develop strategies that help people, infrastructure, and community assets adapt to and recover from evolving climate threats and vulnerabilities, and from natural and human-caused hazards.

3. Conformance with Regulatory Requirements. Develop a Safety Element that meets all the requirements under Government Code Section 65302(g), and which reflects State and local regulations for specific hazards, with the intent of protecting people and key infrastructure from damage resulting from an environmental hazard.

4. Equity. Identify communities most vulnerable to climate change impacts and establish new goals, policies, and programs for equitable public safety, emergency preparedness, response and recovery.

5. Technology. Embrace technology and innovative practices to create smart, sustainable cities and adaptable infrastructure systems.

III. PUBLIC REVIEW PROCESS

A. Environmental Impact Report

On December 8, 2021, the County circulated a Notice of Preparation (NOP) of the Draft EIR to the Office of Planning and Research (OPR) State Clearinghouse and to notify agencies and interested members of the public that an EIR was being prepared for the Project. The issuance of the NOP began a 45-day scoping period, which closed on January 24, 2022. A virtual public scoping meeting was held Tuesday, on January 11, 2022 from 6:00 p.m. to 8:00 p.m., in accordance with the Governor's Executive Order N-29-20. Comments on the NOP were received by the County and considered during preparation of the Draft EIR.

On November 12, 2021, before issuing the NOP, the County sent Assembly Bill (AB) 52 notification letters to the Native American tribes traditionally and culturally affiliated with the County: Federated Indians of Graton Rancheria (FIGR), the Coast Miwok Tribal Council of Marin, and the Lone Band of Miwok Indians. All three tribes have previously requested consultation notifications pursuant to AB 52. The notification letters provided a description of the Project, the name of the program points of contact, and the time period for comments as provided for by State law. FIGR submitted a response to the County on November 19, 2021, requesting consultation. No other tribes responded to the AB 52 notifications. After some scheduling coordination, County staff met with FIGR on March 29, 2022 via Zoom and, during that meeting, FIGR requested that background cultural resource information (known as CHRIS reports) be compiled by the County on all the potential housing sites. FIGR also requested ongoing consultation on the EIR. The County shared its tribal cultural resources impact conclusions and proposed mitigation measures with FIGR. No response with feedback has been received to date (January 17, 2023).

The Draft PEIR was published and made available to local, State, and federal agencies and to organizations and individuals for review and comment in accordance with CEQA requirements. On October 7, 2022 the Draft EIR and a Notice of Completion of the Draft EIR and Notice of Public Hearing were transmitted to the State Clearinghouse, distributed to the environmental mailing list including the email subscriber list, and published in a newspaper of general circulation, the Marin Independent Journal, to begin a 45-day public review and comment period that concluded at 4:00 p.m. on November 21, 2022.

On November 16, 2022, during the public review and comment period, the Board of Supervisors and Planning Commission jointly held a public hearing to receive comments on the Draft EIR. Agencies, organizations, and members of the public also submitted written comments on the Draft EIR. On December 6, 2022, the Board of Supervisors held a hearing on the final proposed list of housing sites from among the Candidate Sites analyzed in the Final EIR to address the RHNA for the 2023-2031 planning period and reviewed and provided comments on staff's recommendation for candidate housing sites, which resulted in revisions to the proposed list of housing sites by replacing some sites with other Candidate Sites that are analyzed in the EIR, as shown in revised Table 3.3 in Chapter 5 (Text Revisions) of the Final EIR volume.

The Final EIR, was issued for public review on December 20, 2022 and transmitted to agencies, commenters on the Draft EIR including agencies that commented on the Draft EIR, and other interested groups and individuals. Chapter 4 of the Final EIR provides responses to the comments received during the comment period on the Draft EIR. The County received late comments on the Draft EIR following the close of the public review and comment period ("late comments"), and, although, pursuant to Public Resources Code Section 21091(d) and CEQA Guidelines Section 15088(a) written responses to late comments are not required, responses to late comments raising new issues have been provided in the Final EIR volume and with staff reports.

On January 5, 2023 at a duly noticed public hearing, the Planning Commission recommended that the Board of Supervisors certify the Final EIR.

B. Additional Housing Element Public Review Process

To assist in the preparation of the Housing Element Update, the County conducted a community outreach program to actively engage low-income renters, people of color, disabled individuals, local residents, business and property owners, developers, neighborhood representatives, elected and appointed officials, and others during the planning process. As described in detail in Appendix A to the proposed Housing Element Update, the County facilitated this public participation in a variety of ways including facilitated focus groups and community workshops to gather community input. These community involvement processes and techniques constituted the County's diligent effort to receive input on development of the Housing Element from all economic segments of the community, pursuant to Section 65583(c)(9) of the Government Code.

Below are examples of outreach and noticing conducted as part of the Housing Element Update:

- Creating a dedicated webpage tool to publicize activities and host supporting documents

- Using a County email notification service that allowed participants to sign-up to receive automatic notification when new materials were posted on webpage and when outreach activities were scheduled
- County staff receipt of and response to questions over email and telephone
- County use of Facebook, Next Door and related social media platforms to promote outreach activities
- Posting flyers at neighborhood hubs and bulletin boards publicizing outreach activities
- Holding several focus groups, including sessions with CBOs who represent members of protected classes under fair housing laws, homeowners, low-income residents, the West Marin Collaborative, and County of Marin employee affinity groups – August to September 2021
- Community Workshops – September 22, 2021; November 22, 2021; January 20, 2022; March 29, 2022; April 5, 2022
- Bi-monthly meetings with the Marin County Housing and Safety Elements Stakeholder Committee
- Mailing postcards to 22,000 households to introduce the Housing Element Update and promote outreach activities – November 2021
- Holding joint public meetings of the Planning Commission and Board of Supervisors to review and take public testimony on the proposed Housing Element Update – December 7, 2021; March 1, 2022; March 15, 2022; April 12, 2022; June 14, 2022; August 9, 2022; September 27, 2022; October 25, 2022, and November 16, 2022.
- Consider-it Forum to collect input on people’s safety concerns and preparedness for responding to natural hazards and extreme weather – November to December 2021
- Digital Housing Needs Survey – October to December 2021
- Print version of Housing Needs Survey – October to December 2021
- Sites Road Shows of Housing Element information and sites to multiple neighborhoods – January to February 2022
- Use of Balancing Act platform to gather input – February to March 2022
- Producing a Digital Atlas mapping tool County to provide information about community demographics and natural hazards to people to consider as the commented on potential housing sites – March 2022
- Posting the draft Housing Element Update and requesting public comment for a 30-day review period – June 1, 2022
- Publishing a revised draft Housing Element Update responding to HCD’s findings and requesting public comment on the draft – October 17, 2022

- Workshop with the Board of Supervisors to take public testimony and provide feedback to staff on changed circumstances to the Sites Inventory – December 6, 2022
- Public meetings of the Planning Commission to take public testimony and review the proposed Housing Element Update – December 12, 2022 and January 5, 2023

Feedback from these public workshops, meetings, surveys and other forms of gathering input was used to identify needs, assess constraints and develop draft programs for the Housing Element Update, and are included in Appendix A of the proposed Housing Element Update.

C. Additional Safety Element Public Review Process

The Safety Element Update also was included in the community outreach program conducted for the Housing Element Update, discussed above in Section III.B and described in the Housing Element Update Appendix A.

On June 2, 2022, the Marin County Community Development Agency submitted the 2023 Draft Safety Element to the Board of Forestry and Fire Protection for review pursuant to California Government Code § 65302.5(b). The Board of Forestry and Fire Protection held a duly-noticed public meeting on September 22, 2022 where it approved Marin County’s 2023 Draft Safety Element.

The Marin County Planning Commission and Board of Supervisors held duly-noticed, joint public hearings on development and review of the 2023 Draft Safety Element on February 1, 2022, April 19, 2022, June 14, 2022, and October 11, 2022.

The Marin County Planning Commission held duly-noticed public hearings on the 2023 Draft Safety Element on December 12, 2022 and January 5, 2023. At all these public hearings, the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the 2023 Draft Safety Element, and all interested persons were given an opportunity to hear and be heard regarding the 2023 Draft Safety Element.

IV. FINDINGS

The findings, recommendations, and statement of overriding considerations set forth below (the “Findings”) are made and adopted by the Marin County Board of Supervisors as the County’s findings under CEQA and the CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of this Board of Supervisors regarding the Project’s environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations that support approval of the Project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR with regard to project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the Final EIR. Instead, these findings provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the County’s findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR

supporting the Final EIR's determinations regarding mitigation measures and the Project's impacts.

When evaluating cumulative impacts, CEQA allows the use of either a list of past, present, and probable future projects, including projects outside the control of the lead agency, or a summary of projections in an adopted planning document. The cumulative impacts analysis in the Final EIR uses the projections approach and takes into account the regional growth embedded in the Transportation Authority of Marin Demand Model (TAMDM), which is nested within the nine-county Bay Area Travel Model Two maintained by the Metropolitan Transportation Commission (MTC), plus (2) the development capacity assumptions for the Project.

In adopting mitigation measures, below, the County intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the Project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections V and VI, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

V. SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS AND DISPOSITION OF RELATED MITIGATION MEASURES RESULTING IN SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. Public Resources Code § 21081(a)(1). Therefore, as explained below, some impacts will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in Section XII, below. Public Resources Code § 21081(a)(3). As explained in Section IX, below, the findings in this Section V are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Aesthetics

1. Impact 4-1: Effects on Scenic Vistas.

The Final EIR finds that potential housing facilitated by the Housing Element Update would include development on vacant sites and also replacing existing developed areas with new development, which could substantially adversely affect a scenic vista due to changes in densities and building heights that could potentially obscure or degrade scenic vistas and substantially adversely affect a scenic vista. Because neither the County's design review process nor use of objective design standards, when adopted, may be adequate to reduce project effects on scenic vistas to a less-than-significant level, and no additional feasible

mitigation is available for ministerial and streamlined projects, this impact would be significant and unavoidable.

2. Impact 4-2: Impacts on Existing Visual Character and Quality.

The Final EIR finds that potential housing facilitated by the Housing Element Update, including development on vacant sites and also replacing existing developed areas with new development, could degrade the existing visual character or quality of public views of the site and its surroundings resulting from densities, building heights, building massing, and other types of exterior building materials and elements that could occur with new development. These effects could degrade the existing visual character or quality of public views of the site, and would be a significant impact. Because neither the County's design review process nor use of objective design standards, when adopted, may be adequate to reduce project effects on the visual character or quality of the area to a less-than-significant level, and no additional feasible mitigation is available for ministerial and streamlined projects, this impact would be significant and unavoidable.

3. Cumulative Aesthetics Impacts.

Future cumulative development outside of the Project planning area could result in substantial adverse effects on scenic vistas and degradation of the existing visual character or quality of public views of project sites and their surroundings. These types of impacts would be localized in nature, and projects being developed in the 11 incorporated cities and towns would be required to comply with the design standards of their respective jurisdictions. For areas within the unincorporated county, Marin County Code regulations and standards would also apply.

However, as discussed above in Impact 4-1 and 4-2, County design review would not necessarily apply to all potential future development facilitated by the Project. For example, design review does not apply to non-discretionary projects. Also, though the County plans to adopt Objective Design Standards, because the specific standards are not known at this time nor have any project plans/designs been submitted, an individual project's potential impacts on scenic vistas or on existing visual character and quality cannot be assured to be less-than significant. For non-discretionary projects or projects using streamlining options such as projects proposed under SB 743 or proposed under SB 35, no other mitigation would be allowed. Because the outcome of this decision-making process for any individual, future proposal cannot be guaranteed at this time, the impact is considered significant and unavoidable. The Project's contribution to cumulative aesthetics impacts would be significant and unavoidable.

B. Air Quality

1. Impact 6-1: Conflict with the Local Air Quality Plan and Result in a Cumulatively Considerable Net Increase in Criteria Air Pollutants for which the Region is Non-Attainment (Operational).

The proposed Housing Element Update would be inconsistent with one of the control measures identified in the 2017 Clean Air Plan related to Plan Bay Area 2050 because the residential growth that it would facilitate would result in VMT growth at a rate that is greater than the rate of population growth. The Project, therefore, could obstruct implementation of the 2017 Clean Air Plan and has the potential to generate a cumulative considerable net increase in criteria air pollutant emissions for which the region is nonattainment, including ozone precursors, PM2.5, and PM10, pursuant to Bay Area Air Quality Management District (BAAQMD) plan-level

assessment criteria. Mitigation Measure 6-1, set forth below, which is hereby adopted and incorporated into the Project, would help to reduce VMT generated by the additional residential units identified in the Housing Element Update; however, it would not be enough to reduce this impact to less than significant. There is no additional mitigation that can be applied to the proposed Housing Element Update to reduce VMT associated with the development proposed by the Housing Element Update. This impact would be significant and unavoidable despite the implementation of mitigation.

Mitigation Measure 6-1: Reduce VMT from New Residential Development. Implement Mitigation Measure 18-4 (Transportation).²

2. Impact 6-2: Result in a Cumulatively Considerable Net Increase in Criteria Pollutants for which the Region is Non-Attainment (Construction).

The Final EIR finds that construction activities authorized by the adoption of the proposed Project could exceed one or more of the BAAQMD's construction criteria air pollutant thresholds of significance (e.g., NO_x for a project involving a substantial amount of earthwork during grading). The County requires projects involving ground disturbance that are subject to environmental review to implement the BAAQMD fugitive dust best management practices through County Code §22.20.040 (C) (see Marin County Code under Section 6.2.4). Therefore, project compliance with the County Code would address fugitive dust emissions that could be generated by future projects constructed under the proposed Project.

Based on the preceding discussion and analysis, implementation of the proposed Project could have a potentially significant impact with regard to criteria air pollutant emissions (excluding fugitive dust emissions) that would be generated during construction, which requires mitigation. Accordingly, the County would implement Mitigation Measure 6-2, set forth below, which is hereby adopted and incorporated into the Project, to address equipment exhaust emissions. Although future development projects would be required to comply with Mitigation Measure 6-2, it is not known at this time whether all future development facilitated by the Project would be able to reduce potential criteria air pollutant emissions to levels that are below BAAQMD thresholds. Therefore, even with implementation of Mitigation Measure 6-2, criteria air pollutant construction emissions associated with the proposed Project could continue to exceed applicable BAAQMD thresholds and could generate a cumulatively considerable net increase in criteria air pollutants for which the region is in non-attainment. This impact would be significant and unavoidable.

Mitigation Measure 6-2: Evaluate Air Quality Impacts of Proposed Projects and Plans. The County shall require future projects and plans to evaluate and mitigate, as necessary, potential air quality impacts through Countywide Plan Program AIR-1.b. The text of Countywide Plan Program AIR-1.b states:

Evaluate Air Quality Impacts of Proposed Projects and Plans. As part of the Environmental Review Process, use the current BAAQMD CEQA Guidelines to evaluate the significance of air quality impacts from projects or plans, and to establish appropriate minimum submittal and mitigation requirements necessary for project or plan approval.

² Mitigation Measure 18-4 is set forth below in Section V.F.1

3. Impact 6-3: Generate Toxic Air Contaminant Emissions that Expose Sensitive Receptors to Substantial Pollutant Concentrations During Construction.

Adoption of the proposed Project would result in construction activities over the next 10 to 20 years that generate toxic air contaminant emissions and could expose sensitive receptors to substantial pollutant concentrations. Specifically, heavy-duty off-road construction equipment, as well as haul trucks for any soil import / export, would generate exhaust PM2.5, with a portion of the exhaust PM2.5 consisting of DPM, which is a Toxic Air Contaminant (TAC). Accordingly, the County would implement Mitigation Measure 6-3, set forth below, which is hereby adopted and incorporated into the Project, to address equipment exhaust emissions. Mitigation Measure 6-3 would require future projects to assess potential air quality impacts and evaluate potential TAC construction emissions associated with the development project.

Although future development projects would be required to implement Mitigation Measure 6-3, it is not known at this time if all development projects occurring under implementation of the proposed Project would be able to reduce potential TAC emissions to levels that are below BAAQMD thresholds. Therefore, even with the implementation of Mitigation Measure 6-3, TAC construction emissions associated with the proposed Project could result in significant adverse health risks at receptor locations. This impact would be significant and unavoidable.

Mitigation Measure 6-3: Evaluate Air Quality Impacts of Proposed Projects and Plans.
Implement Mitigation Measure 6-2.

4. Cumulative Air Quality Impacts.

The growth that could be facilitated by adoption of the proposed Housing Element Update would be inconsistent with the BAAQMD 2017 Clean Air Plan, as discussed under Impact 6-1 and Impact 6-2, could facilitate future development projects that generate construction emissions in excess of the BAAQMD's recommended regional CEQA thresholds, despite the implementation of Mitigation Measure 6-2. Although the quantity of emissions (i.e., in pounds or tons) attributable to a single project does not necessarily contribute to air pollution levels measured within the San Francisco Bay Area Air Basin (SFBAAB) and in or near the county, the BAAQMD, in developing its CEQA significance thresholds, considered the emission levels at which a project's individual emissions would be cumulatively considerable. Because the proposed Project proposes growth that could result in emissions that exceed the BAAQMD CEQA significance thresholds, it would be inconsistent with the 2017 Clean Air Plan and could impede attainment of air quality standards. Despite the implementation of Mitigation Measures 6-1 and 6-2, this impact would therefore be significant and unavoidable.

C. Cultural, Tribal Cultural, and Historic Resources

1. Impact 8-1: Destruction/Degradation of Historical Resources.

There may be one or more properties or features within the Planning Area, now or in the future, that meet the CEQA definition of a historical resource, including properties or features eligible for listing in a local, State, or Federal register of historic resources. Future development facilitated by the proposed Housing Element Update could cause substantial adverse changes in the significance of one or more such historical resources. Such adverse changes in the significance of a CEQA-defined historical resource would be a significant impact.

Existing CWP Policy HAR-1.1 – Preserve Historical and Archaeological Resources and Policy HAR-1.5 – Regulate Alteration of Historical Buildings provide for identification of historical resource sites and protection of historical structures. County Code Section 22.20.040 E addresses requirements for outdoor construction activities that encounter historical resources. These policies and code regulations would ensure Housing Element Update impacts on known historical resources would be less-than-significant. However, due to the possibilities described above, a substantial adverse change to a historical resource due to an individual discretionary development proposal facilitated by the Project could occur unless, prior to construction activities, an evaluation by a qualified professional in accordance with CEQA Guidelines Section 15064.5 determines whether the project would have new or substantially more severe impacts to historical resources.

Therefore, the County would implement Mitigation Measure 8-1, set forth below, which is hereby adopted and incorporated into the Project, to reduce impacts to Historical Resources associated with future development facilitated by adoption of the Housing Element Update. Where implementation of measures (a) or (b) of Mitigation Measure 8-1 is feasible, that measure would reduce the impact to a less-than-significant level. Implementation of measures (c), (d), (e), and/or (f) of Mitigation Measure 8-1 would reduce a significant impact on historic resources, but not to a less-than-significant level. Without knowing the characteristics of the potentially affected historical resource or of the future individual development proposal, the County cannot determine with certainty that measure (a) or (b) of Mitigation Measure 8-2 would be considered feasible. Consequently, this impact is considered significant and unavoidable.

Mitigation Measure 8-1. Development applications for housing development projects that are facilitated by the Housing and Safety Elements Update project which the County determines may involve a property that contains a potentially significant historical resource, shall be assessed by a professional who meets the Secretary of the Interior's Professional Qualifications Standards to determine whether the property is a significant historic resource and whether or not the project may have a potentially significant adverse effect on the historical resource. If, based on the recommendation of the qualified professional, the County determines that the project may have a potentially significant effect, the County shall require the applicant to implement the following mitigation measures:

(a) Adhere to at least one of the following Secretary of the Interior's Standards:³

Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings; or

Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

The qualified professional shall make a recommendation to the County as to whether the project fully adheres to the Secretary of the Interior's Standards, and any specific modifications necessary to do so. The final determination as to a project's adherence to the Standards shall be made by the County body with final decision-making authority over the project. Such a determination of individual project adherence to the Secretary of

³ Under the CEQA Guidelines section 15064.5(b)(3), a project's adverse impact on a historic resource generally can be mitigated to a less-than-significant level by following either of these standards.

*the Interior's Standards will constitute mitigation of the project historic resource impacts to a **less-than-significant level** (CEQA Guidelines section 15064.5).*

(b) If measure (a) is not feasible, the historical resource shall be moved to a new location compatible with the original character and use of the historical resource, and its historical features and compatibility in orientation, setting, and general environment shall be retained, such that a substantial adverse change in the significance of the historical resource is avoided.

*Implementation of measure (b) would reduce the impact to a **less-than-significant level**.*

If neither measure (a) nor measure (b) is feasible, then the County shall, as applicable and to the extent feasible, implement the following measures in the following order:

(c) Document the historical resource before any changes that would cause a loss of integrity and loss of continued eligibility. The documentation shall adhere to the Secretary of the Interior's Standards for Architectural and Engineering Documentation. The level of documentation shall be proportionate with the level of significance of the resource. The documentation shall be made available for inclusion in the Historic American Building Survey (HABS) or the Historic American Engineering Record (HAER) Collections in the Library of Congress, the California Historical Resources Information System (CHRIS), and the Bancroft Library, as well as local libraries and historical societies.

(d) Retain and reuse the historical resource to the maximum feasible extent and continue to apply the Secretary of the Interior's Standards to the maximum feasible extent in all alterations, additions, and new construction.

(e) Through careful methods of planned deconstruction to avoid damage and loss, salvage character-defining features and materials for educational and interpretive use on-site, or for reuse in new construction on the site in a way that commemorates their original use and significance.

(f) Interpret the historical significance of the resource through a permanent exhibit or program in a publicly accessible location on the site or elsewhere within the Planning Area.

2. Cumulative Historical Resources Impacts.

Future cumulative development outside of the Project planning area could result in impacts on historical resources. This development would be subject to the same Federal and State regulations discussed in Section 8.2, Regulatory Setting of the Draft EIR. For areas within the unincorporated county, Marin County Code regulations and standards would also apply; however, although Mitigation Measure 8-1 establishes performance standards for preserving historical resources, without knowing the characteristics of the potentially affected historical resource or of the future individual development proposal, the County cannot determine with certainty that this Mitigation Measure would be considered feasible and therefore cannot determine at this time that it would be sufficient. Consequently, this impact is currently considered significant and unavoidable. Therefore, if local historical resources are determined to exist on a future, specific development site and are demolished or altered in a manner that does

not comply with the Secretary of the Interior's Standards, the Project's contribution to cumulative historic resource impacts would be significant and unavoidable.

D. Greenhouse Gas Emissions and Energy

1. Impact 10-1: Generate Significant Greenhouse Gas Emissions and Conflict with an Applicable Plan, Policy, or Regulation Adopted for the Purposes of Reducing Greenhouse Gas Emissions.

The residential housing growth that would be facilitated by the proposed Housing Element Update would generate GHG emissions in significant quantities and would be inconsistent with the California Air Resources Board (CARB) 2017 Scoping Plan, Metropolitan Transportation Commission (MTC)/Association of Bay Area Governments (ABAG) Plan Bay Area 2050, and County 2030 Climate Action Plan. This would be a potentially significant impact.

Therefore, the County would implement Mitigation Measures 10-1A through 10-1C, set forth below, which are hereby adopted and incorporated into the Project, to reduce GHG emissions associated with future development facilitated by adoption of the Housing Element Update. These measures would reduce GHG emissions from transportation and building energy use, two of the largest sources of potential GHG emissions associated with the additional land uses contained in the Housing Element Update.

The GHG emissions reductions associated with the Implementation of Mitigation Measure 10-1A have been quantified. Mitigation Measure 10-1A would reduce the 2040 EIR Forecast GHG emission estimates to 454,363 MTCO₂e/yr, which would be approximately 16,979 MTCO₂e/yr less than the unmitigated 2040 EIR Forecast's emissions, but still far greater than the 83,926 MTCO₂e mitigation-only target of the 65,825 MTCO₂e mitigation plus sequestration target. The mitigated GHG per capita rate of 4.2 MTCO₂e/yr/SP would also continue to exceed the CARB 2017 Scoping Plan interpolated GHG efficiency target of 4.0 MTCO₂e per capita. Despite the implementation of Mitigation Measures 10-1A through 10-1C this impact would be significant and unavoidable.

Mitigation Measure 10-1A: Prohibit Natural Gas Plumbing and Appliances in New Housing Sites. The County's 2022 Green Building Model Reach Code that is under development shall include provision(s) that prohibit natural gas plumbing and the use of natural gas appliances such as cook tops, water heaters, and space heaters in all new housing site developments unless the applicant can show an all-electric building design is not feasible due to specific economic, technical, logistical, or other factors associated with the development site. All new housing sites shall be required to comply with the aforementioned natural gas prohibition requirements prior to the adoption of the County's 2022 Green Building Model Reach Code.

Mitigation Measure 10-1B: Residential Bicycle Parking Requirements. The County shall require new residential housing sites to comply with the Tier II bicycle parking requirements contained in the latest editions of the California Green Building Standards Code (CalGreen) in effect at the time the building permit application is submitted to the County. Currently, the 2019 CalGreen Code Section A4.106.9, Bicycle Parking, requires new multi-family buildings provide on-site bicycle parking for at least one bicycle per every two dwelling units, with acceptable parking facilities conveniently reached from the street.

*Mitigation Measure 10-1C: Reduce VMT from New Residential Development. Implement Mitigation Measure 18-4 (Transportation).*⁴

2. Cumulative Greenhouse Gas Impacts

Global climate change is the result of GHG emissions worldwide; individual projects do not generate enough GHG emissions to influence global climate change. Thus, the analysis of GHG emissions is by nature a cumulative analysis focused on whether an individual project's contribution to global climate change is cumulatively considerable. As described under Impact 10-1, the proposed Housing Element Update would result in GHG emissions that exceed the significance thresholds applied in this EIR and conflict with the 2017 Climate Change Scoping Plan, Plan Bay Area 2050, and the County 2030 CAP. The County would implement Mitigation Measures 10-1A through 10-1C; however, the Project's cumulative GHG impact would still be significant and unavoidable.

E. Noise

1. Impact 15-1: Substantial Permanent Increases in Traffic Noise Levels.

The proposed Housing Element Update would authorize a change in the existing amounts and types of land uses within the County. These potential land use changes would increase the number of residents and/or employees in the County which in turn, would lead to increased vehicle traffic on the local roadway system that could create noise and land use compatibility issues or otherwise result in a substantial permanent increase in noise levels in specific areas of the County. The 2007 CWP includes policies that emphasize the reduction of transportation-related noise impacts on residential and other sensitive land uses and implements these policies through programs that enforce allowable noise levels and require project-specific noise mitigation if noise impacts occur.

Although the 2007 CWP addresses noise from new development projects, its policies and program are limited in their ability to protect existing land uses from the predicted increases in vehicle traffic that would occur in Year 2040 with and without the Project (see Table 15-4 and Table 15-14 of the Draft EIR). The installation of physical barriers to reduce noise levels at existing residential land uses is not considered feasible mitigation along impacted roadway because most segments are already developed and cannot accommodate the installation of a barrier without landowner access, authorization, and potential easement dedication, all of which are outside the County's control and none of which could be guaranteed at this time. In addition, the installation of a physical barrier along rural roads is generally incompatible with the rural nature of these areas.

The 2007 CWP and the County's Climate Action Plan include measures to reduce vehicle miles travelled from development projects (see Chapter 18 and Chapter 10, respectively), and Mitigation Measure 18-4, set forth below in Section V.F.1, requires future residential development projects to achieve a 15% reduction in VMT below the regional average residential VMT per capita. These measures would reduce vehicle trips and lower traffic-related noise levels; however, it is not known which specific roadway segments would experience a reduction in vehicle trips and traffic-related noise due to this mitigation. Therefore, no noise reduction has been assumed in this analysis for VMT and trip reduction measures required by existing County

⁴ Mitigation Measure 18-4 is set forth below in Section V.F.1

policies or by Mitigation Measure 15-1, set forth below, which is hereby adopted and incorporated into the Project and which requires implementation of Mitigation Measure 18-4. Because a reduction in vehicle trips on specific, impacted roadway segments cannot be guaranteed, and future traffic noise levels would increase by 3 dB or more in areas where noise levels would exceed acceptable levels, and by 5 dB or more in other areas where noise levels would remain acceptable, this impact would remain significant and unavoidable.

Mitigation Measure 15-1. Reduce VMT from New Residential Development. Implement Mitigation Measure 18-4 (Transportation).

2. Cumulative Noise Impacts

The proposed Housing Element Update would result in long term increase in vehicle trips and traffic-related noise levels (Impact 15-1). These vehicle trips would contribute to a 1 dB change in modeled traffic noise levels in areas already affected by high noise levels that exceed the County's guidelines for acceptable noise levels from transportation noise. The 2007 CWP and the County's Climate Action Plan include measures to reduce vehicle miles travelled from development projects, as does Mitigation Measure 18-4; however, the specific roadway segments where this mitigation would reduce vehicle trips and traffic-related noise is not known; and, therefore, no noise reduction has been taken for VMT and trip reduction measures required by the 2007 CWP, Climate Action Plan, or Mitigation Measure 18-4. Because a reduction in vehicle trips on specific, impacted roadway segments cannot be guaranteed, and future traffic noise levels would increase by 3 dB or more and/or potentially expose noise-sensitive land uses to normally unacceptable noise levels, the Project would result in a cumulatively considerable contribution to a significant and unavoidable cumulative traffic noise impact. There is no feasible mitigation available to avoid or reduce this cumulative impact.

F. Transportation

1. Impact 18-4: Impacts Related to Vehicle Miles Traveled.

Vehicle miles traveled (VMT) modeling results indicate that with the development additional housing units facilitated by the Housing Element Update, residential uses in the Planning Area would on average generate 19.7 VMT per capita, exceeding the applied 10.7 VMT per capita threshold of significance by approximately 84 percent. This would be a significant impact.

Adopted Policy TR-1.8 in the Countywide Plan calls for reducing the rate of increase for total vehicle miles traveled by single-occupant automobile to not exceed the population growth rate. Adopted Implementing Program TR-1.s calls for the County to develop and implement a program for monitoring and reducing VMT, and requiring in new developments specific transportation demand management (TDM) strategies for reducing the VMT below levels that would otherwise occur. The Program identifies strategies including increased transit, focusing residential development near transit, and indicating that multi-family projects with 25 or more units should include TDM measures and provide connections to non-auto mode facilities. While complying with this adopted policy and implementing program would be expected to reduce the residential VMT per capita associated with the proposed Housing and Safety Elements Update, such reductions may be insufficient to fully offset the Projected VMT impacts. Therefore, the County would implement Mitigation Measures 18-4, set forth below, which is hereby adopted and incorporated into the Project, to reduce VMT increases associated with future development facilitated by adoption of the Housing Element Update. This mitigation measure would reduce the VMT impacts associated with future residential development projects. However, given the

inability to assure that residential VMT per capita can be reduced below significance thresholds despite required VMT reduction strategies, this impact would be significant and unavoidable.

Mitigation Measure 18-4: Development applications for housing development projects that are facilitated by the Housing and Safety Elements Update, which the County determines may result in significant impacts to vehicle miles traveled shall be required to achieve a VMT significance threshold of 15 percent below the regional average residential VMT per capita. The methodologies and screening parameters used to determine VMT significance shall be consistent with the guidance provided in the Technical Advisory on Evaluating Transportation Impacts in CEQA, OPR, 2018 (or subsequent updates), or future VMT policies adopted by the County of Marin, provided that such policies have been shown through evidence to support the legislative intent of SB 743. Output from the TAMDM travel demand model shall be the source of the regional VMT per capita performance metric used to establish the significance threshold and shall be used in residential development project VMT assessments. VMT reduction techniques will vary depending on the location of each development site and the availability of nearby transportation services though utilization of TDM strategies will play a major role in most cases. Following are TDM and other strategies that may be applied; additional measures beyond those provided in this list may be allowed if supported by evidence.

- *Subsidize resident transit passes*
- *Provide or participate in established ride-matching program(s)*
- *Provide information, educational, and marketing resources for residents and visitors managed by a TDM Coordinator*
- *Complete bus stop improvements or on-site mobility hubs*
- *Construct off-site pedestrian and/or bicycle network improvements, particularly those that fill gaps and/or connect the project and surrounding neighborhood to transit*
- *Reduce parking supply at affordable or senior projects and projects that are well-served by transit*
- *Unbundle parking costs (sell or lease parking separately from the housing unit) where appropriate on-street management is present*
- *Provide or participate in car-sharing, bike sharing, or scooter sharing program(s)*
- *Contribute to future VMT mitigation fee programs, banks, or exchanges as they become available.*

2. Cumulative Transportation Impacts

The Project would make a cumulatively considerable contribution to a significant cumulative impact with respect to Impact 18-4, “impacts related to vehicle miles traveled.” This impact would be significant and unavoidable.

G. Utilities and Service Systems

1. Impact 19-2a: Project and Cumulative Water Supply Impacts: West Marin Community Service Districts and North Marin Water District - West Marin.

Parts of the unincorporated County are served by community service districts and water districts whose supplies are dependent upon water obtained from local wells and streams. Under drought conditions, water in the wells and streams has decreased to levels such that the districts have imposed restrictions for existing customers and moratoriums on new connections. Multiple new connections can result in demands in excess of available supply. Bolinas Community Public Utility District and Inverness Public Utility District do not have sufficient water supplies available to serve the additional residential units under the proposed Housing Element Update or cumulative (unincorporated county units and Districts' commitments outside of the unincorporated county) scenarios during normal, dry and multiple dry years. This represents a potentially significant impact.

For the proposed Housing Element Update scenario, which includes development of nineteen new units in Inverness as described above, there is currently not sufficient water supply available during normal, dry, and multiple dry years to support the proposed number of residential units. Within the Candidate Housing Sites list, some of the sites may be able to be converted to housing but there is currently not sufficient water supply available during normal, dry, and multiple dry years to support the number of residential units proposed per parcel in Bolinas and Inverness. Because of the effects the current drought on local and regional water sources and the planning and costs involved to find and connect to other sources of water, there are no feasible mitigation measures to reduce potential impacts associated with the proposed Housing Element Update or cumulative scenarios within the planning period of the proposed Housing Element Update; therefore, this impact is significant and unavoidable with no feasible mitigation.

2. Impact 19-2b: Project and Cumulative Water Supply Impacts: North Marin Water District and Marin Municipal Water District.

Parts of the unincorporated County are served by North Marin Water District (NMWD), the majority of whose supplies are dependent upon water purchased from Sonoma County Water Agency and piped into the County. Other parts of the unincorporated County are served by Marin Municipal Water District (MMWD), the majority of whose supplies are dependent upon water stored in Marin County reservoirs. Due to drought impacts in Sonoma County, NMWD is not able to receive its full annual entitlement from Sonoma County Water Agency and has adopted an ordinance imposing moratoriums on new connections in order to work within its restricted supply. Additionally, until recently MMWD had imposed restrictions on connections for irrigation for new development due to water shortages in its reservoirs as a result of multiple years of less than average rainfall. MMWD's restriction on irrigation connections was lifted in 2022 because large storm events in the winter of 2021-2022 filled the reservoirs.

Because there is uncertainty in the future about the amount of water that would be available for the Districts to supply to customers during the current, ongoing drought, and the Districts are in the early stages of seeking alternate water sources, possible multiple new connections proposed in the proposed Housing Element Update and cumulative (unincorporated county units and Districts' commitments outside of the unincorporated county) scenarios could result in

demands in excess of available supply during dry and multiple dry years, which would be a potentially significant impact.

Both Districts are currently exploring measures to supplement water supplies. Further, the proposed Housing Element Update contains Program 11: Water Availability which recognizes water availability is a significant constraint to housing development in the County and commits the County to pursue several strategies to mitigate this constraint to the extent feasible. Even with implementation of the above policies and programs, the uncertainty associated with drought impacts on water supply and with the timing and fruition of efforts by the County and water districts to supplement water supplies in dry and multiple dry years presents the possibility that the Districts may not be able to supply water for the development resulting from the proposed Housing Element Update and cumulative (unincorporated county residential units and Districts' commitments outside of the unincorporated county) scenarios. Because of these uncertainties, impacts to water supply for the proposed Housing Element Update and cumulative scenarios are significant and unavoidable with no feasible mitigation measures.

3. Impact 19-2c: Project and Cumulative Water Supply Impacts: Individual Water Supply Systems.

Parts of the unincorporated County are outside of community service and water district service areas, and developed parcels need to rely on private, individual water supply systems with water obtained from wells and local streams. The proposed Housing Element Update includes sites which will need to rely on individual water systems. State and local requirements for small water systems will help ensure that the number of units in a development do not exceed the capacity of new or existing wells to supply water. System capacity will be based on the water supply investigations required for individual developments at the time they are proposed.

Under drought conditions, groundwater can decrease to levels below the supply needed to sustain development. This could result in demands in excess of available supply during normal, dry, and multiple dry years, which would be a potentially significant impact. The proposed Safety Element Update includes policies and implementing programs to reduce demand and assist in maintaining water supplies to serve the Project and future development during normal, dry, and multiple dry years. However, due to the uncertainty associated with drought impacts on water supply, water supply impacts resulting from development under the proposed Housing Element Update and cumulative (unincorporated county residential units and County's commitments outside of the unincorporated county) scenarios are significant and unavoidable with no feasible mitigation during the planning horizon of the proposed Housing Element update.

4. Impact 19-3a: Wastewater Treatment Capacity Impacts.

Parts of the unincorporated County are served by small community service districts that are in need of infrastructure upgrades and expansion in order to collect and treat wastewater from new development. Possible multiple new connections discharging an increased amount of waste to existing infrastructure and facilities could exceed the system's capacity for conveyance and treatment, which would be a potentially significant impact.

The proposed Safety Element Update includes policies and implementing programs to maintain or reduce sewage discharges from proposed development or redevelopment and assist in maintaining existing infrastructure and treatment capacity to serve residential units developed under the proposed Housing Element Update.

Because increasing wastewater treatment capacity is considered infeasible within the timeframe of the proposed Housing Element Update, wastewater treatment capacity impacts for the proposed Housing Element Update and cumulative (unincorporated county residential units and Districts' commitments outside of the unincorporated county) scenarios would be significant and unavoidable with no feasible mitigation during the planning horizon of the proposed Housing Element Update.

5. Impact 19-3b: Wastewater Treatment Capacity Impacts: Sanitary Districts.

Parts of the unincorporated County are served by large sewer districts, some for which future treatment capacity is unknown and which may need infrastructure upgrades and expansion in order to collect and treat wastewater from the Project. Possible multiple new connections discharging an increased amount of wastewater to existing infrastructure and facilities could exceed the system's capacity for conveyance and treatment, which would be a potentially significant impact.

The proposed Safety Element Update includes policies and implementing programs to maintain or reduce sewage discharges from proposed development or redevelopment, and assist in maintaining existing infrastructure and treatment capacity to serve the development under the proposed Housing Element Update. However, due to the uncertainties associated with the existing wastewater treatment facilities and their capacities, the impact under the proposed Housing Element Update and cumulative (unincorporated county residential units and Districts' commitments outside of the unincorporated county) scenarios would be significant and unavoidable with no feasible mitigation during the planning horizon of the proposed Housing Element Update .

6. Impact 19-3c: Wastewater Treatment Capacity Impacts Outside of Sanitary Districts and Community Service Districts Providing Sewage Treatment.

Parts of the unincorporated County are outside of sanitary district service areas and community service districts providing wastewater treatment. These areas rely on individual septic systems to treat wastewater on developed parcels. The potential for an individual septic system to have capacity to serve a development's demand depends on the specific soil conditions and existence of natural and built features within the parcel proposed for development. Until site-specific investigations are completed, uncertainty exists on any given parcel regarding the capacity of the existing soil to treat wastewater from a proposed development. Due to this uncertainty in the ability of the parcel to serve a development's wastewater treatment needs, this would be a potentially significant impact.

The proposed Safety Element Update includes policies and implementing programs to maintain or reduce sewage discharges from proposed development or redevelopment, and assist in maintaining existing infrastructure and treatment capacity to serve development under the proposed Housing Element Update. It also contains a new policy addressing impacts of rising groundwater levels on septic systems.

Due to the uncertainty of the ability of a given parcel to accommodate a proposed housing site's wastewater treatment needs, and the unknowns of the results of investigations to identify alternative approaches to sewage disposal and rising groundwater levels, proposed Housing Element Update and cumulative (unincorporated county residential units and County's

commitments outside of the unincorporated county) septic system impacts would be significant and unavoidable with no feasible mitigation.

7. Cumulative Utilities and Service Systems Impacts

The proposed Housing Element Update would make a cumulatively considerable contribution to significant cumulative impacts with respect to Impacts 19-2a, 19-2b, and 19-2c, “project and cumulative water supply impacts,” Impacts 19-3a and 19-3b, “wastewater treatment capacity impacts,” and Impact 19-3c, “wastewater treatment capacity impacts outside of sanitary districts and community service districts providing sewage treatment.” These impacts would be significant and unavoidable.

VI. SIGNIFICANT ADVERSE IMPACTS IDENTIFIED IN THE FINAL EIR THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES ADOPTED AND INCORPORATED INTO THE PROJECT

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less than significant level or avoided by adopting and incorporating these mitigation measures conditions into the Project. Public Resources Code § 21081(a)(1). As explained in Section IX, below, the findings in this Section VI are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Biological Resources

1. Impact 7-1: Impacts to Special-Status Species.

The Final EIR finds that development facilitated by the Safety Element Update could occur on undeveloped or partially developed sites in proximity to areas where there are known occurrences of special-status species and/or habitats that may support these species. This could have a substantial adverse effect, either directly or through habitat modifications, on candidate, sensitive, or special-status species and is therefore considered a potentially significant impact.

Implementation of the Mitigation Measure 7-1, set forth below, which is hereby adopted and incorporated into the Project, would reduce this impact to a less-than-significant level.

Mitigation Measure 7-1: To Protect Special-Status Species During Implementation of Safety Element Activities, Marin County shall implement the following measures listed below:

Public infrastructure projects, activities needed to maintain or improve public facilities, and development applications which involve Safety Element activities that entail substantial ground disturbance or vegetation removal where sensitive biological resources may occur shall be required to conduct a biological resources site assessment, prepared by a qualified biologist, to determine whether the project will result in significant biological impacts. The assessment shall be submitted to the County for review as part of the discretionary permit approval process. The biological resources site assessment shall include the following:

- *The presence or absence of any sensitive biological resources that could be affected by proposed activities, including occurrences of special-status species, occurrences of*

sensitive natural communities, jurisdictional wetlands, and important wildlife nursery areas and movement corridors;

- *Recommendations for protocol-level surveys if necessary to determine presence or absence of special-status animal or plant species, as needed;*
- *Impact assessment of the proposed activities on sensitive biological resources;*
- *Identification of laws and regulations that apply, an assessment of compliance with Marin CWP and Development Code policies, and a statement of which permits may be required from agencies other than the County, and why;*
- *Mitigation measures for avoidance of harm or removal of sensitive biological resources would include, but not be limited to, avoiding habitat occupied by special-status species or reducing the disturbance in occupied habitat, timing the work during a season that would cause the least impact to species survival and breeding success, and/or having a biological monitor present during ground disturbance or vegetation removal where sensitive biological resources would be impacted.*
- *Mitigation measures that include conducting species-specific pre-construction surveys for special-status species following current survey protocols or established survey procedures, including surveys during the nesting bird season (February 1 – August 31), bat breeding season (April 15 – August 31), and for avoidance of the bat winter torpor season (November 1 – February 1).*
- *Mitigation measures if take of special-status species or loss of habitat that supports special-status species cannot be avoided. The site assessment report shall outline take permits that will be required from the appropriate agencies (i.e., CDFW, USFWS, NMFS) if take of a special-status species cannot be avoided, and discuss the types of mitigation that would be acceptable to the responsible regulatory agencies (CDFW and/or USFWS).*

The County shall review the results of the biological resources site assessment to determine whether impacts to special-status species are likely to occur, and the actions needed to a) avoid identified impacts such that there is no net loss of sensitive habitat acreage, values, and function, b) determine if additional County and resource agency permits are required, and c) determine the appropriate level of CEQA review.

The County shall modify its application requirements for ministerial road improvement projects to include information on the project's likelihood of impacting special-status species by requiring the following information as part of the project application when biological resources are present on the project site:

- 1) *Biological evaluation prepared by a qualified biologist documenting presence or absence of sensitive biological resources, and if any sensitive biological resources are present;*
- 2) *Description of avoidance and minimization measures to protect sensitive resources according to applicable federal, state, and County requirements for the protection of the resource;*

3) *Demonstration of obtaining regulatory permits if required; and*

4) *Demonstration of compliance with regulatory permit requirements and mitigation (e.g., preconstruction surveys, habitat replacement, habitat restoration /revegetation plan as needed), or measures to avoid and minimize impacts on special-status species if permits are not required. Mitigation in the form of habitat replacement shall ensure that there is no net loss of habitat acreage, values, and function.*

The biological evaluation shall disclose what, if any, sensitive biological resources are present on the site including wetlands, Stream Conservation Areas (SCAs), Wetland Conservation Areas (WCAs), Habitat Conservation Plans, Natural Community Conservation Plans, habitat for protected species, state and federal regulated habitats, and sensitive natural communities. The County shall not issue a permit for the road improvement project until the avoidance of significant impacts to biological resources is demonstrated in the application materials.

The County shall use a standard checklist and procedure to document its application requirements and application review standards, and to determine whether the project qualifies as a ministerial project or requires additional CEQA review. The procedure would specify the actions the County will carry out in establishing the checklist and reviewing application materials.

For example, the procedure shall specify

1. *Which County department receives and reviews application materials,*
2. *The steps required to respond to the information received in the application process,*
3. *Which County department determines the need for a biological resources report,*
4. *The steps the County must take to select a qualified biologist to prepare a biological resources report,*
5. *Which County department reviews the biological resources report for project compliance with federal, state, and County policies, and whether the avoidance/mitigation measures identified in the report reduce the impacts to biological resources to less than significant, and how that information is reported*
6. *Preparing an assessment of compliance with County policies,*
7. *Tracking any required permits and permit conditions, and*
8. *Specifying how the County will verify that the project has complied with mitigation.*

The checklist shall specifically require information about the project's impacts to sensitive natural communities designated by CDFW that would not be protected by state or federal laws or regulations except CEQA.

The checklist should include information such as:

1. *Identification and location of the project site;*

2. *Description of the project and site plans;*
3. *Description of any natural features on the project site;*
4. *A description of what biological resources may be impacted;*
5. *Avoidance and/or mitigation measures that are incorporated into the project to keep impacts to biological resources to less than significant, and*
6. *Whether regulatory agency permits would be required.*

With implementation of Mitigation Measure 7-1, impacts of the Safety Element Update to Special-Status Species would be *less than significant*.

2. Impact 7-2: Impacts on Riparian Habitat, Sensitive Natural Communities, and Wetlands.

Development facilitated by the Safety Element Update could occur on undeveloped or partially developed sites in proximity to riparian areas, wetlands, and sensitive natural communities. This could have a substantial adverse effect on these areas and communities and is therefore considered a potentially significant impact.

Implementation of the Mitigation Measures 7-2.1, 7-2.2, and 7-2.3, set forth below, which are hereby adopted and incorporated into the Project, would reduce this impact to a less-than-significant level.

Mitigation Measure 7-2.1: Best Management Practices for vegetation management in riparian areas, wetlands, and sensitive natural communities. *For public infrastructure projects, activities needed to maintain or improve public facilities, and development applications that involve vegetation removal for fuel load reduction and creation of defensible space where sensitive biological resources may occur, the County shall require preparation of a Construction Management Plan (CMP) for projects that involve vegetation removal within or in proximity to riparian areas, wetlands, and sensitive natural communities, and shall consult with state and federal agencies that have jurisdiction over these resources, including CDFW, RWQCB, and potentially USACE, to determine whether permits and mitigation are required. The CMP shall include Best Management Practices (BMPS) that protect these habitats. The CMPs may include, but are not limited to, the following BMPs:*

- *Setbacks from riparian areas, wetlands, and other sensitive areas where work should be avoided.*
- *Field delineation of sensitive habitats as Environmentally Sensitive Areas to avoid.*
- *Identification of sensitive areas where work should be done by hand rather than with heavy machinery*
- *Measures to control and prevent the discharge of potential pollutants, including solid wastes, paints, concrete, petroleum products, chemicals, wash water or sediment and non-stormwater discharges to storm drains and water courses.*

- *Restrictions on cleaning, fueling, or maintaining vehicles on site, except in a designated area in which run-off is contained and treated.*
- *Erosion control measures for wet season work (October 15 through April 15).*
- *Measures to store, handle, and dispose of construction materials and wastes properly, so as to prevent their contact with stormwater.*
- *Measures to avoid the invasion and/or spread of noxious weeds*

Mitigation Measure 7-2.2: Application Requirements for Ministerial Road Improvement Projects. *The County shall implement Mitigation Measure 7-1 above to modify the application requirements for ministerial road improvement projects to include information on the project's likelihood of impacting riparian areas, wetlands, and sensitive natural communities. Like the application requirement in Mitigation Measure 7-1, the County shall require:*

- 1) *A biological evaluation prepared by a qualified biologist documenting presence or absence of sensitive biological resources (i.e., riparian habitat, wetlands, or sensitive natural communities);*
- 2) *Avoidance and minimization measures to protect sensitive resources according to applicable federal, state, and County requirements for the protection of the resource;*
- 3) *Demonstration of obtaining any required regulatory permits; and*
- 4) *Demonstration of compliance with regulatory permit requirements and mitigation. Mitigation in the form of habitat replacement shall ensure that there is no net loss of habitat acreage, values, and function and that any proposed compensatory mitigation shall be acceptable to the regulatory agencies.*

The biological evaluation shall disclose what, if any, sensitive biological resources are present on the site including wetlands, Stream Conservation Areas (SCAs), Wetland Conservation Areas (WCAs), Habitat Conservation Plans, Natural Community Conservation Plans, habitat for protected species, state and federal regulated habitats, and sensitive natural communities. The County shall not issue a permit for the road improvement project until the avoidance of significant impacts to biological resources is demonstrated in the application materials.

Mitigation Measure 7-2.3: Adopt and Implement a Standard Review Procedure. *The County shall also implement the standard checklist and procedure described in Mitigation Measure 7-1 to document its review, and to determine whether the project qualifies as a ministerial project or requires additional CEQA review. The checklist shall specifically require information on the project's impacts to sensitive natural communities that would not be covered under any state or federal laws or regulations.*

Implementation of these mitigation measures would reduce impacts of the Safety Element Update on riparian habitat, state or federally-protected wetlands, or other sensitive natural communities to a less-than-significant level.

3. Impact 7-3: Impacts on Wildlife Movement Corridors and Wildlife Nursery Sites.

Development facilitated by the Project could interfere with the movement of wildlife or result in the loss or reduction of undeveloped or underutilized land that provides movement corridors for wildlife species. In addition, development activities could impair or destroy breeding sites, including the taking of active bird nests and bat maternity roosts. Also, development occurring in proximity to potential movement corridors could potentially increase the risk of bird-building collisions. This is considered a potentially significant impact.

Implementation of the Mitigation Measures 7-3.1, 7-3.2, and 7-3.3, set forth below, which are hereby adopted and incorporated into the Project, would reduce this impact to a less-than-significant level.

Mitigation Measure 7-3.1. Revise Definition of the Nesting Season. *Adopted Policy BIO-2.5 in the Natural Systems and Agriculture Element of the 2007 CWP defines the avian nesting season as March 1 through August 1. However, the nesting season in Marin County is generally defined as February 1 through August 31. Unless this policy is amended, future individual development projects resulting from the Housing Element Update have the potential to take active nests of birds protected by the Migratory Bird Treaty Act and California Fish and Game Code. Therefore, the County shall revise this policy as follows:*

Policy BIO-2.5 (revised) Restrict Disturbance in Sensitive Habitat During the Nesting Season. Limit construction and other sources of potential disturbance in sensitive riparian corridors, wetlands, and Baylands to protect bird nesting activities. Disturbance should generally be set back from sensitive habitat during the nesting season from February 1 through August 31 to protect bird nesting, rearing, and fledging activities. Preconstruction surveys should be conducted by a qualified professional where development is proposed in sensitive habitat areas during the nesting season, and appropriate restrictions should be defined to protect nests in active use and ensure that any young have fledged before construction proceeds.

Mitigation Measure 7-3.2 Bird-Safe Design. *The County shall establish design standards in the Marin County Development Code for new construction and redevelopment projects to implement bird-safe features to prevent or reduce avian collision risks with glass windows. Consistent with the American Bird Conservancy recommendations, the County shall specify thresholds when standards would apply, such as site location relative to avian habitat and amount of contiguous glass proposed on building facades. If projects meet or exceed the thresholds, the County shall require application of bird-safe design features including, but not limited to, window treatments, glass treatments, and landscaping and lighting modifications. The County or project applicants shall obtain a qualified biologist, with experience in avian ecology, to evaluate proposed building plans and bird-safe design features, where applicable. If the proposed bird-safe design does not sufficiently address collision risks, the biologist shall provide additional bird-safe design recommendations that shall be incorporated.*

Mitigation Measure 7-3.3. Implement Protective Buffers During Vegetation Management. *Housing projects that are facilitated by the Housing and Safety Elements Update, and which the County determines may result in significant impacts to wildlife movement corridors and wildlife nursery sites due to removal, degradation, or substantial long-term disturbance, shall minimize vegetation management activities to the greatest extent feasible, while still meeting*

defensible space requirements, and implement protective buffers, or specify vegetation management and removal methods to protect wildlife movement corridors and avoid disturbance of wildlife nursery sites.

B. Cultural, Tribal Cultural, and Historic Resources

1. Impact 8-1: Destruction/Degradation of Historical Resources.

This impact is described above in Section V.C.1. As also described in that section, where it is feasible to implement measures (a) or (b) of Mitigation Measure 8-1, set forth above, this impact would be reduced to a less-than-significant level.

VII. GROWTH INDUCING IMPACTS

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. CEQA Guidelines §15126.2(d); Public Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes substantial new permanent employment opportunities. This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. CEQA Guidelines § 15126.2(d). Section 21.3 of the Draft EIR analyzes the growth inducing impacts of the Project. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

- Based on Government Code Section 65300, the CWP is required to serve as a comprehensive, long-term plan for the physical development of Marin County and, by definition, intends to provide for and address future growth in the unincorporated portions of the county. As part of its general plan, every city and county are required to adopt a housing element, as required by Government Code Section 65302(c), and a safety element, as required by Government Code Section 65302(g). Even though the Housing Element Update does not propose any specific development projects, it would still have growth-inducing impacts because one of the goals of the Housing Element Update is to provide for up to 5,197 new housing units in the county (3,569 in compliance with the RHNA and a buffer of 15 and 16 percent for lower income and moderate income housing, respectively, which is consistent with the HCD recommended buffer of between 15 to 30 percent). The Safety Element Update similarly does not propose any specific development projects but through its programs would result in construction of road improvements, creating new evacuation routes and improving deficient routes, and otherwise enhance access provisions in support of the future potential housing facilitated by the Housing Element Update.
- No substantial, detrimental, growth-inducing effect is expected. Any road extension or infrastructure would be of a scale commensurate with the needs of the new development and would not be “oversized” in a way that would lead to substantial indirect growth. Road work and infrastructure would be designed to facilitate the development envisioned in the Housing Element Update efficiently and effectively, and to meet the safety objectives stated

in the Safety Element Update, consistent with State Planning and Zoning Law. The goals, policies, and programs in the Housing Element Update and Safety Element Update are designed to provide the framework for this future growth, one of the primary goals of which is to meet identified housing needs in the unincorporated area of Marin County. No other future potential development is being contemplated in the Housing Element Update and Safety Element Update. They are purposely designed to meet the County's RHNA, with goals, policies, and programs to manage this growth in ways that protect the environment and quality of life in Marin County.

- As explained in Chapter 3, Project Description of the Draft EIR, the Project is being proposed to encourage housing development in areas of the County that have been determined suitable for this additional development.

State law requires the County to promote the production of housing to meet its Regional Housing Needs Allocation made by ABAG. The housing growth in the county would allow the County to address its regional fair-share housing obligations. Residential development under the Housing Element Update would consist of infill development on underutilized sites, sites that have been previously developed, and sites that are vacant and have been determined to be suitable for development.

VIII. ALTERNATIVES

The Final EIR analyzed three alternatives to the Project, examining the environmental impacts and feasibility of each alternative, as well as the ability of the alternatives to meet project objectives. The project objectives are listed in Chapter 3 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapters 4 through 21 of the Draft EIR; and the alternatives are described in detail in Chapter 6 (Alternatives to the Proposed Project) of the Draft EIR.

Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. As explained in Section IX, below, the findings in this Section VIII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Alternative 1: No Project – Existing Countywide Plan

CEQA requires evaluation of a “no project” alternative. CEQA Guidelines § 15126.6(e). Consistent with CEQA Guidelines section 15126.6(e)(3)(A), the No Project Alternative assumes that growth and development would continue to occur under the provisions of the existing 2015 to 2023 Housing Element and the existing Safety Element.

Safety Element: Under the No Project Alternative, Section 2.6, Environmental Hazards, of the Natural Systems and Agricultural Element would continue to function as the County's Safety Element. Section 2.6 discusses the hazards posed by geologic and seismic, flooding, and wildfire hazards. It does not cover the new spectrum of environmental hazards required by Gov. Code §65302(g) to be covered in the updated Safety Element as applicable, including climate change and resiliency planning (drought, extreme weather events, extreme heat events), sea level rise, or a more robust discussion and analysis of wildfire hazards.

The environmental impacts of existing Section 2.6, Environmental Hazards, of the CWP were analyzed in an EIR adopted for the 2007 Countywide Plan. The 2013 SEIR for the 2007-2014 Housing Element and the Addendum to the 2013 SEIR for the 2015- 2023 Housing Element did not include analysis of a Safety Element update.

The proposed Project includes the update of Section 2.6 Environmental Hazards of the Natural Environment and Agriculture Element of the CWP. Section 2.6 Environmental Hazards serves as the County's Safety Element. New State laws require jurisdictions to update the General Plan Safety Element in coordination with the Housing Element update, as well as to plan for additional environmental hazards such as climate change hazards (extreme weather, extreme heat days, and sea level rise) and increased wildfire hazard. The No Project Alternative would not meet any of the County's goals and objectives established for the Safety Element Update.

Housing Element: Under the No Project Alternative, the County would not update the existing 2015 to 2023 Housing Element. The existing Housing Element would continue to direct the County's decisions related to housing development and the RHNA assignment of 185 units in the current Housing Element would remain the County's goal for new housing units. The 2015 to 2023 Housing Element goals, policies, and implementing programs would continue to guide County decisions regarding housing within the county. Under these conditions it would be reasonable to assume that applications for new housing developments consistent with the 2015 to 2023 Housing Element and other portions of the CWP would continue to be submitted and approved.

The proposed 2015–2023 Housing Element was a revised version of the 2007–2014 Housing Element. The housing sites included in the 2015–2023 Housing Element include the same housing sites inventory as the 2007–2014 Housing Element, except for one site (Site #11: 650 North San Pedro), which was removed from the inventory. No new housing sites were considered. The total number of housing units considered for the Housing Element was reduced from 823 units to 801 units.

The No Project Alternative would only partially meet the County's Housing Element Update objectives. The existing 2015-2023 Housing Element has goals and policies that are somewhat consistent with the Project objectives, but the County has articulated additional Housing Element Update objectives not reflected in the current Housing Element. The 2015-2023 Housing Element does not meet the current RHNA assignment and, therefore, would not meet the County's objective of preparing an updated Housing Element that demonstrates conformance with State housing law and the current RHNA assignment. Marin County would face significant penalties for not having an approved housing element, including limited access State funding, fines, threat of lawsuit from the development community and housing advocates, and loss of local control on building matters, including issuance of building permits or granting zoning changes, variances or subdivision map approvals.

For the foregoing reasons, Alternative 1: No Project – Existing Countywide Plan is hereby rejected as infeasible.

B. Alternative 2: Reduced VMT Alternative

Safety Element: This alternative would not alter the proposed Safety Element Update and would allow the County to achieve all Safety Element Update objectives.

Housing Element: The Reduced VMT Alternative identifies ways to reduce the VMT associated with the more remote West Marin housing sites and concentrate housing opportunity sites near the Highway 101 corridor and public transit. The Reduced VMT Alternative would result in most of the proposed housing sites, except those screened out by the CEQA Guidelines (see Section 18.3 Vehicles Miles Traveled Methodology), being located within an approximate two-mile radius of the US 101 corridor, including 0.5 miles on either side of Sir Francis Drake Boulevard to Fairfax. The intent of this alternative is to reduce the significant unavoidable VMT impact, and the resulting significant unavoidable air quality and GHG impacts, associated with the Housing Element Update by lowering the average per capita VMT. This alternative would place housing sites nearer to the urban core of Marin County and closer to transit and employment, and relocate the housing sites that are in the more rural areas of the unincorporated county. Compared to other parts of the county, the urban core of Marin County would (1) tend to have lower VMT per capita, and (2) have substantially better VMT mitigation options available because of proximity to mass transit and other transportation demand management (TDM) solutions. This alternative would result in lower VMT per capita than the proposed Project; however, it would still result in significant unavoidable VMT, air quality, and GHG impacts.

In total, based on data modeled for the EIR transportation analysis, Alternative 2 could include development of up to 4,735 residential units, which is above the County's RHNA assignment (3,569) and the Total Proposed Sites as listed in Table 3-2 in Chapter 3 Project Description of the Draft EIR, as revised in the Final EIR Volume (3,916). This 4,735-unit number includes the same density bonus (1,281) and opportunities for accessory dwelling units (ADUs) (256) as the proposed Project. Table 22-1 of the Draft EIR presents a list of the housing sites by address that would be relocated somewhere within the Hwy 101 corridor under this alternative.

The Reduced VMT Alternative would result in 4,735 units (including density bonus units and ADUs), which would meet the County's RHNA (3,569) and the Total Proposed Sites (3,916) but would not accommodate the total number of units included in the Project Site Inventory (5,197 units). To achieve the Project Site Inventory of 5,197 units, the housing sites removed under this alternative would have to be relocated to already identified sites in the housing inventory, most likely St. Vincent's and the Juvenile Hall sites, and possibly the Buck site.

The Housing Element proposes housing sites in West Marin and the rural parts of the County to meet the housing needs of those communities and to provide housing opportunities close to jobs in the rural areas. Providing housing in West Marin and the rural areas of the County may increase VMT as shown in the Transportation chapter of this EIR. However, adding housing to the more remote areas of the County may also provide new opportunities for people working in these areas to live nearer where they work, thereby reducing VMT travel from that segment of the population. The County has a stated objective of providing additional housing throughout the unincorporated county communities. This alternative would eliminate the larger housing sites in the more rural communities of the county; however, the smaller sites that can be screened out from the CEQA VMT analysis would still be part of the alternative. The Reduced VMT Alternative would not fully meet the County's objective to provide housing throughout the unincorporated County.

For the foregoing reasons, Alternative 2: Reduced VMT Alternative is hereby rejected as infeasible.

C. Alternative 3: Reduced Utility Impact Alternative (Water & Wastewater)

Safety Element: This alternative would not alter the proposed Safety Element Update and would not hinder the County's ability to meet all Safety Element objectives.

Housing Element: This alternative would remove housing sites from the districts of water and wastewater service providers that do not have the capacity to serve the amount of development in the proposed Project in addition to the RHNA assignments from other communities. This alternative also includes relocating housing sites that would require significant infrastructure improvements.

To meet the RHNA requirements (3,569 residential units), under this alternative 731 housing units would need to be relocated out of severely constrained service provider boundaries to locations where water and sewer providers have greater capacity to serve new development. The County could relocate the units to other Housing Inventory sites located in in-fill areas that have the capacity for increased density, such as the Juvenile Hall and St. Vincent's. A further 130 units would need to be relocated outside of the boundaries of wastewater service providers that do not have capacity for new connections. In total, this alternative would result in the need to relocate 861 units. This Alternative identifies units to be relocated to other areas of the unincorporated County with a greater ability to serve new development, but it does not identify specific sites where the relocated housing units could be accommodated. The identified housing sites with the most likely capability to absorb the 861 units would be St. Vincent's, Juvenile Hall, and possibly the Buck sites.

Under this alternative, the County would also need to relocate the 259 units to locations that do not have significant infrastructure improvement requirements. If no sites are available to accommodate the 259 units without similar levels construction impacts related to necessary infrastructure improvements (long pipelines, pump stations, additional wastewater treatment plant capacity), the County could eliminate them from the Project Site Inventory (5,197) and still meet RHNA (3,569) and Total Proposed Sites (3,916).

The Reduced Utility Alternative would eliminate the significant unavoidable impacts to water and wastewater service providers that do not have the ability to serve the level of new development proposed by the Housing Element Update. Because the housing units would be relocated to other areas of the county where utility providers have greater capacity to serve new development, the alternative would meet all the project objectives except for the goal of facilitating new housing growth throughout the unincorporated county, similar to the Reduced VMT Alternative.

The Housing Element proposes housing sites in West Marin and the rural parts of the County to meet the housing needs of those communities and to provide housing opportunities close to jobs in the rural areas. The County has a stated objective of providing additional housing throughout the unincorporated county communities.

This alternative would eliminate housing in the Bolinas, Tamales Bay, and Inverness areas of the County. For this reason, this alternative would not fully meet the County's objective to provide housing throughout the unincorporated County.

For the foregoing reasons, Alternative 3: Reduced Utility Impact Alternative (Water & Wastewater) is hereby rejected as infeasible.

D. Environmentally Superior Alternative

In addition to the discussion and comparison of impacts of the Planning Commission Recommendation and the Alternatives, Section 15126.6(e)(2) of the CEQA Guidelines requires that an “environmentally superior” alternative be selected and the reasons for such a selection be disclosed. The environmentally superior alternative is the alternative that would be expected to create the least significant environmental effects. Identification of the environmentally superior alternative is an informational procedure and the alternative selected may not be the alternative that best meets the goals or needs of the County.

Alternative 1, the No Project Alternative, is not the environmentally superior alternative. While it would have reduced levels of impacts compared to the proposed Project in a number of resource areas (see Table 22-4 in the Draft EIR) because it would result in fewer housing units being constructed, it would have increased environmental hazard impacts because the Safety Element Update would not be adopted, and the County would not have policy direction for climate change and resiliency, sea level rise, and wildfire hazard planning.

Alternative 2, the Reduced VMT Alternative, would facilitate development of 4,735 units (including density bonus units and ADUs), which would meet the County’s RHNA (3,569 units) and the Total Proposed Sites as listed in Table 3-2 in Project Description of the Draft EIR, as revised in the Final EIR Volume (3,916 units), but would not facilitate development of the number of units included in the proposed Project (5,197 units) unless those sites could be successfully relocated to sites within the Hwy 101 corridor. The Reduced VMT Alternative is the environmentally superior alternative because it would reduce the Project per capita VMT by placing housing sites nearer to the urban core of Marin County and closer to transit and employment, and relocating the housing sites that are in the more rural areas of the unincorporated county, thereby reducing the resulting air quality and GHG emissions by 10 to 15%. The lowered VMT compared to the proposed Project and to Alternative 3 would result in reduced impacts from the proposed Project; however, the VMT, air quality, and GHG impacts would remain significant and unavoidable.

Alternative 3, Reduced Utility Impact Alternative, would eliminate the Project’s impacts on water and wastewater service providers that do not have the ability to serve the amount of new housing proposed in the Housing Element Update by relocating housing sites to other areas of the county where utility providers have greater capacity to serve new development. While the Reduced Utility Impact Alternative has fewer impacts on air quality, GHGs and utilities and service systems compared to the proposed Project, it is not identified as the Environmentally Superior Alternative because, as described above, Alternative 2, Reduced VMT, reduces impacts to a greater extent (VMT, Air Quality, and GHG).

For the foregoing reasons, Alternative 2 is considered the environmentally superior alternative.

IX. INCORPORATION BY REFERENCE

These findings incorporate the text of the Final EIR for the Project, the Mitigation Monitoring and Reporting Program, County staff reports relating to the Project and other documents relating to public hearings on the Project, by reference, in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, project and cumulative impacts, the basis for determining the significance of impacts, the comparison of the alternatives to the Project, the determination of the environmentally superior alternative, and the reasons for approving the Project.

X. RECORD OF PROCEEDINGS

Various documents and other materials related to the Project constitute the record of proceedings upon which the County bases its findings and decisions contained herein. Those documents and materials are located in the offices of the custodian for the documents and materials, which is the County of Marin Community Development Agency – Planning Division, 3501 Civic Center Drive, Suite 308, San Rafael, California 94903.

XI. NO RECIRCULATION REQUIRED

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR but before certification. No significant new information was added to the Draft EIR as a result of the public comment process. The Final EIR responds to comments, and clarifies, amplifies and makes insignificant modifications to the Draft EIR. Those modifications include:

- Additional information regarding the environmental and regulatory setting, project description details, and new analysis.
- Changes to the proposed Project Site Inventory presented in Table 3-3 of the Draft EIR. All of the replacement sites were selected from the list of Candidate Housing Sites analyzed in the EIR.
- Text changes to provide clarity to the analysis, make minor text corrections, or fix grammatical or typographic errors.
- Text changes in response to comments received on the Draft EIR.
- Text changes to biological resource mitigation measures in Draft EIR Chapter 7 to better reflect the County’s existing processes.

These revisions do not constitute significant new information regarding the project description, environmental and regulatory setting, conclusions of the environmental analysis, or in the mitigation measures or requirements incorporated into the project to mitigate impacts, or otherwise provide significant new information that would require recirculation of the Draft EIR pursuant to CEQA Guidelines section 15088.5. The potential for refining the proposed Project Site Inventory over time was anticipated since the beginning of the environmental review process, which is based on a larger list of Candidate sites. Because the Draft EIR analyzed all of the Candidate Housing Sites at a program level, the change in the Project Site list involving refining the Project Site Inventory with selections from the Candidate Housing Sites list does not constitute a change in the project requiring recirculation of the EIR. The Final EIR does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact. Therefore, recirculation of the Draft EIR pursuant to CEQA Guidelines section 15088.5 is not required.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth above, the County has found that Project will result in project and cumulative significant adverse environmental impacts related to aesthetics, air quality, historical resources, greenhouse gas emissions and energy, noise, transportation, and utilities and service systems

that cannot be avoided following adoption, incorporation into the Project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project's significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. See also Public Resources Code Section 21081(b). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the County finds that the Project's benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the County's judgment based on substantial evidence, specific benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the Project can be found in the preceding sections of these Findings, in the Project itself, and in the record of proceedings as defined in Section X, above. The County further finds that each of the Project's benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

1. The Housing Element Update promotes development in a manner that would accommodate anticipated population growth for the County and existing unmet need for housing, as required by the County's 6th Cycle Regional Housing Needs Allocation (RHNA). The County is mandated, pursuant to State Housing Element law, to plan for and accommodate the County's RHNA Allocation of 3,569 units as part of the 2023-2031 Housing Element. The RHNA allocation, prepared by the California Department of Housing and Community Development (HCD) and the Association of Bay Area Governments, reflects the number of housing units that must be provided to meet the forecast population growth and the need for housing among the existing population. The Housing Element Update accommodates this population, along with the HCD-recommended buffer in the housing inventory of at least 15 to 30 percent more capacity than required. It does this by incorporating goals, objectives, policies, and programs in the Housing Element Update, as well as by making changes to the Countywide Plan and Development Code necessary to implement programs in the Housing Element Update and to accommodate the development intensity needed to satisfy the RHNA.
2. The Housing Element Update responds to the broad range of housing needs in Marin County and enables development of an adequate supply of housing for Marin's workforce, residents, and special needs populations by supporting a mix of housing types, densities, affordability levels, and designs. As required by State law, the Housing Element Update follows the principles of planning sustainable communities by meeting both the present and future housing needs of Marin County.
3. The Housing Element Update promotes neighborhoods that incorporate best practices related to land use, racial equity, mobility, housing, affordability, community services, and design.
4. The Housing Element Update substantially complies with State Housing Element Law (Government Code Section 65580 et seq.). The County must adopt a Housing Element Update with adequate sites to meet the County's RHNA to comply with State Housing Element Law. Adoption of a housing element in substantial compliance with State

Housing Element Law is required for the County to be eligible for certain state and federal funding programs for affordable housing. Further, the Attorney General is authorized to bring suit if the County fails to adopt a housing element in compliance with State Housing Element Law (Government Code Section 65585(k)), and the County may be exposed to other litigation, penalties, or consequences if it fails to adopt a housing element in substantial compliance with State Housing Element Law, including but not limited to prohibiting disapproval of certain projects pursuant to Government Code Section 65589.5(d).

5. The Housing Element Update complies with Government Code Section 65583, which requires that the County's Housing Element affirmatively furthers fair housing. The Development Code changes, in addition to the analysis and implementation Programs included in the Housing Element Update, are anticipated to provide meaningful action to combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access in order to foster inclusive communities and achieve racial equity. This is achieved by the Development Code changes' focus on increasing housing opportunities in higher resource areas and eliminating constraints to developing multifamily housing in all of unincorporated Marin County, and the Proposed Project's goals, objectives, polices, and programs related to removing barriers to production of affordable and multifamily housing, with a focus in high resource areas and anti-displacement and housing preservation strategies, and fair housing compliance.
6. The Housing Element Update includes policies that build and maintain local government institutional capacity and that provide for monitoring accomplishments to respond to housing needs effectively over time.
7. The Safety Element Update creates equitable processes for implementing resilience and community safety policies, where justice is central to policy design and implementation, plans for disaster mitigation, preparedness, response, and recovery, and presents goals, policies, and implementation programs that protect the public and infrastructure from the effects of environmental and climate change hazards. The first goal in the updated Safety Element is focused on equitable safety planning. Policies prioritize involvement of the vulnerable communities identified in the Marin County Climate Change Vulnerability Assessment, which identifies several populations most vulnerable to climate change impacts, including but not limited to financially-constrained households, physically or socially isolated communities, persons with high outdoor exposure, racial or ethnic minorities, and people with limited mobility. The implementation programs require development of a vulnerable communities database, outreach programs for vulnerable populations, preventing displacement of vulnerable populations by providing priority housing to those who lose housing during a disaster, and providing financial assistance for disaster recovery.
8. The Safety Element Update supports continuing public awareness of hazards, including avoidance, disaster preparedness, and emergency response procedures. It includes policies and programs that specify emergency preparedness and mitigation measures in and after emergency situations. Several implementation programs identify actions that will contribute to an improved evacuation route network, including identification and improvement of deficient evacuation routes, construction of additional local evacuation routes in areas of high hazard concern or limited mobility, and ensuring new development includes adequate roadway ingress/egress for emergency access and evacuation routes.

9. The Safety Element Update minimizes the loss of life, injury, and property damage due to seismic and related geological hazards with policies and programs that require development to avoid or minimize potential geologic hazards from earthquakes and unstable ground conditions. Policies and programs also require compliance with the Alquist-Priolo Act and require that design and construction of all new buildings and substantial remodeling projects are earthquake resistant to the minimum level of design necessary in accordance with seismic provisions and criteria contained in the most recent version of the State Codes.
10. The Safety Element Update minimizes risks associated with flooding with implementation programs that incentivize landowners to work together on shoreline protection projects, such as levees, pumps, tidal marsh restoration, or beach enhancement, and facilitate public communication and coordination around shoreline protection in a process that follows Safety Element policies and programs.
11. The Safety Element Update protects people and property from hazards associated with wildland and structure fires and includes goals, policies, and implementation programs that would promote vegetation management to create defensible space, including developing and maintaining fuel breaks along access roads and requiring ecological sensitive Fuel Reduction and Management Plans for new developments. Safety Element policies would facilitate construction of road improvements, and require new development to meet current fire code requirements and commit funding for projects that enhance evacuation safety, spanning road improvement, signage, and notification systems.
12. The Safety Element Update includes goals, policies, and implementation programs aimed at managing the threat of climate risks to Marin County, including policies to increase community resilience to climate change and protection of vulnerable populations; increase the resilience of Marin County's shoreline by requiring projects to include natural alternatives to flood control rather than hardscape seawalls or levees; increase resilience of the landscape by requiring that vegetation management for fire protection is balanced with habitat protection; increase the resilience of infrastructure, buildings, and services with new siting, design, and construction requirements as well as new policies and programs to improve emergency communications, ingress, and egress; safeguard the Marin shoreline, coastline, natural resources, recreational resources, and urban uses from flooding due to rising sea levels; plan for Extreme Heat and Weather Events; and prepare for a reduced long-term water supply resulting from more frequent and/or severe drought events.

XIII. SUMMARY

1. Based on the foregoing Findings and the information contained in the record, the County has made one or more of the following Findings with respect to each of the significant environmental effects of the Project:
 - a. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.

- b. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
 - c. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the Project.
- 2. Based on the foregoing Findings and the information contained in the record, the County determines that:
 - a. All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
 - b. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.