RESOLUTION NO. 2662-10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR MAKING FINDINGS BASED UPON CONSIDERATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE PROPOSED FIFTH AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE WINDSOR REDEVELOPMENT PROJECT

WHEREAS, the Sonoma County Board of Supervisors adopted Ordinance No. 3378 on November 27, 1984, approving and adopting the Redevelopment Plan for the Windsor Redevelopment Project ("Redevelopment Plan" or "Plan"); and

WHEREAS, jurisdiction of the Windsor Redevelopment Project Area ("Project Area") was transferred from the County of Sonoma Community Development Commission to the Town of Windsor Redevelopment Agency ("Agency") by a Transfer Agreement dated February 24, 1993, and effective July 1, 1993, prepared pursuant to Health and Safety Code Section 33215; and

WHEREAS, the Agency, a public body corporate and politic, is a redevelopment agency duly organized pursuant to Community Redevelopment Law [("CRL")] (California Health and Safety Code Section 33000 et seq.) and pursuant thereto has responsibility to carry out the Redevelopment Plan for the Project Area and to formulate a redevelopment project or projects within the Town of Windsor; and

WHEREAS, the Redevelopment Plan has been amended four times (as amended, the "Existing Plan") to, among other things, conform the limits as required by Assembly Bill 1290, increase the financial limits, extend eminent domain and add public improvements, extend Plan effectiveness and debt repayment/receipt of tax increment per Senate Bill 1045 by one year for payments made to the Education Revenue Augmentation Fund ("ERAF") in fiscal year 2003/04, and to extend Plan effectiveness and debt repayment/receipt of tax increment per Senate Bill 1096 for two years for payments made to the ERAF in fiscal years 2004/05 and 2005/06; and

WHEREAS, the Agency again desires to amend the Existing Plan ("Fifth Amendment," "Amendment" or "Project") to: 1) extend plan effectiveness by 10 years; 2) extend the time period for collection of tax increment/repayment of debt by 10 years; 3) increase the tax increment limit; 4) increase the bond debt limit; 5) repeal the debt establishment limit; 6) re-establish eminent domain over non-residential uses; 7) add certain public improvements and facilities to the list to eligible projects and facilities the Agency may undertake; 8) add territory; and 9) make certain technical corrections to the Redevelopment Plan; and

WHEREAS, the Agency has prepared a proposed Amended and Restated Redevelopment Plan ("Amended and Restated Redevelopment Plan") incorporating the Fifth Amendment; and

WHEREAS, the Agency has prepared a Program Environmental Impact Report (the "EIR") on the proposed Fifth Amendment in accordance with the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*; "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 *et*

seq., hereafter the "State CEQA Guidelines") and the local procedures adopted by the Agency pursuant thereto; and

WHEREAS, on August 27, 2009, the Agency filed a Notice of Preparation of the Draft Program EIR with the State Office of Planning and Research and local agencies soliciting comments on the probable effects of the Project and scope of the EIR in compliance with CEQA and the State CEQA Guidelines; and

WHEREAS, on December 3, 2009, the Agency filed a Notice of Completion of the Draft Program EIR with the State Office of Planning and Research—State Clearinghouse and provided copies of the Draft Program EIR to the affected taxing agencies and other interested persons and agencies for a 45-day public review period beginning December 3, 2009, and ending January 19, 2010; and

WHEREAS, on December 3, 2009, a Notice of Availability of the Draft Program EIR was published in the ***Windsor Times***, a newspaper of general circulation, which notice summarized the Project, provided the deadline for submittal of comments, and invited all interested persons and agencies to submit comments on the Draft Program EIR, and copies of the Draft Program EIR were made available for review at the office of the Redevelopment Agency in compliance with CEQA and the State CEQA Guidelines; and

WHEREAS, the Draft Program EIR was thereafter supplemented to incorporate comments received during the public review period, and to incorporate the Agency's responses to said comments, and as so supplemented, a Final Program EIR was prepared by the Agency and sent to all persons and agencies that submitted comments, in compliance with CEQA and the State CEQA Guidelines; and

WHEREAS, the Final Program EIR consists of the Draft Program EIR, as supplemented to incorporate all comments received and the responses of the Agency thereto, and is part of the Agency's Report to the Town Council on the Fifth Amendment prepared in accordance with the requirements of CRL Sections 33352, 33451.5, 33457.1 and 33333.11; and

WHEREAS, the Town Council, acting as a Responsible Agency, in accordance with CEQA, has reviewed and considered the Final Program EIR with respect to the adoption of the proposed Fifth Amendment; and

WHEREAS, all legal prerequisites to the adoption of this resolution have occurred.

NOW, THEREFORE BE IT RESOLVED:

Section 1: The foregoing recitals are true and correct and are a substantive part of this resolution.

Section 2: The Town Council has duly reviewed and considered the Final Program EIR prepared and certified by the Agency prior to adopting this resolution and acting on the proposed Fifth Amendment.

Section 3: The Town Council hereby makes and adopts the Statement of Findings, Facts, and Overriding Considerations for the Fifth Amendment to the Windsor Redevelopment Project relating

to the potential significant environmental impacts of the Fifth Amendment as set forth in Exhibit A attached hereto and incorporated herein by this reference. Based upon such Statement of Findings, Facts, and Overriding Considerations, the Town Council hereby finds that all potentially significant environmental impacts have been eliminated or substantially lessened, except Cultural and Historic Resources, Impact 6.4-5: Redevelopment projects and redevelopment engendered development could contribute to the cumulative degradation or loss of paleontological, archaeological, or historic resources including human remains. Based upon the foregoing, the Agency finds and determines that the proposed Fifth Amendment will have a significant effect upon the environment but that the benefits of the Fifth Amendment outweigh the unavoidable adverse impacts for the reasons set forth in the Statement of Findings, Facts, and Overriding Considerations, in particular, Section 5.4 thereof attached herein as Exhibit A.

Section 4: The Town Council hereby adopts the Mitigation Monitoring Plan set forth in the Final Program EIR.

Section 5: The Final Program EIR and other materials for the proposed Fifth Amendment that constitute the record of proceedings of the Town Council on which this resolution is based are on file and available for public inspection during normal business hours at Civic Center located at 9291 Old Redwood Highway, Windsor, California. The custodian of these documents is the Town Clerk of the Town of Windsor.

Section 6: The Town Clerk, on behalf of the Town Council, is hereby authorized and directed to file with the County Clerk of Sonoma County, a Notice of Determination pursuant to Section 21152 of the Public Resources Code and Section 15094 of the CEQA Guidelines.

PASSED, APPROVED AND ADOPTED this 7th day of April 2010 by the following vote:

AYES: **COUNCILMEMBERS ALLEN, FUDGE, GOBLE, SCHOLAR AND MAYOR SALMON**
NOES: **NONE**
ABSTAIN: **NONE**
ABSENT: **NONE**

SAM SALMON, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK

Attachment:
Exhibit A

EXHIBIT A
STATEMENT OF FINDINGS, FACTS AND
OVERRIDING CONSIDERATIONS FOR THE
FIFTH AMENDMENT TO THE REDEVELOPMENT PLAN
FOR THE WINDSOR REDEVELOPMENT PROJECT

The Town of Windsor Redevelopment Agency (Agency) does hereby find, determine, and resolve as follows:

CEQA Findings

1.1 The Agency finds that the Environmental Impact Report for the Windsor Redevelopment Project Proposed Fifth Amendment (herein EIR) which consists of the Draft EIR and Final EIR has been completed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Windsor local environmental procedures.

1.2 The Agency certifies that the EIR was prepared, published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines and the Windsor local environmental procedures, and constitutes an adequate, accurate, objective and complete Final Environmental Impact Report in accordance with the requirements of CEQA.

1.3 The Final EIR has been presented to the Town of Windsor Redevelopment Agency (Agency), and the Agency has reviewed and considered the information contained in the Final EIR prior to taking action on the Amendments.

1.4 The Final EIR reflects the Agency's independent judgment and analysis.

1.5 Pursuant to CEQA Guidelines Section 15093, and in support of its approval of the Windsor Redevelopment Project Proposed Fifth Amendment, the Agency hereby adopts the attached Findings of Fact and Statement of Overriding Considerations and the Mitigation Monitoring Program to require all reasonably feasible mitigation measures be implemented.

PROCEDURAL Findings

2.1 Based on the initial study conducted for the Windsor Redevelopment Project Proposed Fifth Amendment (proposed project or Amendment), the Windsor Redevelopment Agency (Agency) determined, on substantial evidence, that the Amendments may have a significant effect on the environment and prepared an environmental impact report (EIR) on the Project. The EIR was prepared, noticed, published, circulated, reviewed, and completed in full compliance with the California Environmental Quality Act (CEQA (Public Resources Code

§21000 *et seq.*)), the CEQA Guidelines (14 California Code of Regulations §15000 *et seq.*), as follows:

2.1.1 A Notice of Preparation (NOP) for an EIR was filed with the Governor's Office of Planning and Research, State Clearinghouse and Planning Unit (State Clearinghouse) on August 27, 2009. The 30-day public review comment period for the NOP was established starting on August 27, 2009 and ending on September 28, 2009.

2.1.2 A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the State Clearinghouse on December 3, 2009, to those public agencies that have jurisdiction by law with respect to the Project, or which exercise authority over resources that may be affected by the Project, and to other interested parties and agencies as required by law. The comments of such persons and agencies were sought.

2.1.3 An official forty-five (45) day public comment period for the Draft EIR was established by the State Clearinghouse. The public comment period began on December 3, 2009 and ended on January 19, 2010.

2.1.4 A Notice of Availability (NOA) of the Draft EIR was mailed to all interested groups, organizations, and individuals - who had previously requested notice in writing - on December 3, 2009. The NOA stated that the Agency had completed the Draft EIR and that copies were available at Town of Windsor Redevelopment Agency located at 9291 Old Redwood Hwy Bldg 400, Windsor, CA 95492. The NOA also indicated that the official forty-five day (45) public review period for the Draft EIR would end on January 19, 2010.

2.1.5 A public notice was placed in a local newspaper of general circulation on December 3, 2009, which stated that the Windsor Redevelopment Project Proposed Fifth Amendment Draft EIR was available for public review and comment.

2.1.6 A public notice was posted in the office of the Sonoma County Clerk on December 3, 2009.

2.1.7 Following closure of the public comment period, all comments received on the Draft EIR during the comment period, the Agency's written responses to the significant environmental points raised in those comments, and additional information added by the Agency were added to the Draft EIR to produce the Final EIR.

2.2 The following information is incorporated by reference and made part of the record supporting these findings:

2.2.1 The Draft and Final EIR and all documents relied upon or incorporated by reference, as specified in Chapter 8.0 of the Draft EIR.

2.2.2 The Mitigation Monitoring Plan for the Project.

2.2.3 All records of decision, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by any Town or Agency commissions, boards, officials, consultants, or staff relating to the

Amendments, including but not limited to the Town of Windsor General Plan – 2015.

2.3 Pursuant to Guidelines section 15091(e), the administrative record of these proceedings is located, and may be obtained from, the Town of Windsor, 9291 Old Redwood Hwy, Bldg 400, Windsor, CA 95492. The custodian of these documents and other materials is the Town of Windsor, Legal Department.

2.4 Upon approval of the Amendments, the Agency shall file a notice of determination with the County Clerk of Sonoma County pursuant to the provisions of CEQA section 21152.

Project Under Review

The California Community Redevelopment Law (CRL) permits redevelopment agencies to amend redevelopment plans to facilitate the elimination of blighting conditions by adding territory, increasing financing limits, and extending plan duration. In an effort to expand revitalization of the Town, the Agency has proposed amendments to the Redevelopment Plan. If adopted by the Town of Windsor Town Council (Town Council) in April or May 2010, the Amendment would accomplish the following:

- Extend the Redevelopment Plan effectiveness period by 10 years
- Extend the time period for collection of tax increment/repayment of debt by 10 years
- Increase the tax increment limit
- Increase the bond debt limit
- Repeal the debt establishment limit
- Reestablish eminent domain over non-residential uses
- Add certain public improvements and facilities to the list to eligible projects the Agency may undertake
- Add territory
- Make certain technical corrections to the Redevelopment Plan

A Feasibility Study prepared on behalf of the Agency determined that blighting conditions continue to persist in both the Existing Project Area and Added Area (Amended Project Area). Blighting conditions present in the Amended Project Area include physical blighting factors and economic blighting factors. Physical blighting factors present in the Amended Project Area include:

a) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious seismic or geologic hazards, and faulty or inadequate water or sewer utilities.

b) Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions include buildings of substandard design, defective or obsolete design or construction, given the present general plan, zoning or other development standards.

c) Adjacent or nearby incompatible land uses that prevent the development of those parcels or other portions of the Project Area.

d) The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions.

Economic blighting factors present in the Amended Project Area include:

a) Depreciated or stagnant property values.

b) Impaired property values, due in significant part, to hazardous wastes on property where the agency authority may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).

The proposed Amendment will not change the Redevelopment Plan, but will have the effect of focusing the Agency's future redevelopment efforts on the Added Area and parts of the Existing Project Area that are still blighted.

Redevelopment tax increment is used to rehabilitate properties, stimulate private business and new development, improve or replace infrastructure, create jobs, and develop and maintain affordable housing. State law requires that at least 20% of the tax increment received by the Agency from the Added Area be used to increase and preserve the community's supply of affordable housing to low- and moderate-income households. For the Existing Project Area beginning in the first fiscal year following adoption of the Amendment, the Agency must set aside 30% of the tax increment for affordable housing.

The Amendment does not propose any changes to the existing or planned land uses in the Amended Project Area, but provides authority and funding for general programs and actions to eliminate blight within the Amended Project Area over time within the context of adopted Town plans and policies. Under the Amendment, permitted land uses in the Amended Project Area mirror the land uses designated in the Town of Windsor General Plan (General Plan) or any specific plan that may be adopted by the Town at any point in time. The General Plan governs development standards for the Amended Project Area, both currently and as amended over time.

Record of Proceedings

Documents Incorporated By Reference

Section 15150 of the CEQA Guidelines allows incorporation by reference of "...all or portions of another document which is a matter of public record or is generally available to the public." Incorporation by reference is used principally as a means of reducing the size of EIRs. This EIR relies, in part, on policies, regulations, data, environmental evaluations, mitigation measures and other components of City documents recently prepared by either the Agency or the Town for

areas located within the Project Area or in its vicinity. The documents incorporated by reference are available for review at the Town of Windsor, 9291 Old Redwood Hwy, Bldg 400, Windsor, CA 95492. Relevant sections of these documents are summarized in each chapter of this EIR, as applicable:

Shiloh Road Village Vision Plan General Plan and Zoning Ordinance Amendments EIR, Town of Windsor, Draft dated September 2004, Final dated February 2005.

Town of Windsor General Plan – 2015, Draft and Final Environmental Impact Report, Town of Windsor, Draft EIR dated September 1995, and Final EIR dated January 1996.

Town of Windsor General Plan – 2015, Town of Windsor Planning and Building Department, Adopted March 13, 1996, Revised July 20, 2005.

Town of Windsor Greenhouse Gas Emissions Reduction Action Plan Analysis Final Report, Town of Windsor, July 31, 2008.

Town of Windsor Housing Element Update 2009-2014, Town of Windsor, July 2009.

Town of Windsor Municipal Code, Town of Windsor, codified through Ordinance No. 2009-251, adopted March 18, 2009, accessed October 1, 2009 from http://www.municode.com/Resources/gateway.asp?pid=16702&sid=5.

Findings and Statements of Facts Supporting the Findings

Significant Impacts Which Can Be Avoided

As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code Sections 15091, 15092, and 15093, the Town Council and Redevelopment Agency find that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environmental impacts listed below, as identified in the EIR. Many of the impacts and mitigation measures in the following findings are summarized rather than set forth in full. The text of the Draft and Final EIR should be consulted for a completed description of the impacts and mitigations. These findings are supported by substantial evidence in the record of proceedings before the Town and Agency as stated below.

Draft EIR Section 5.0, Land Use and Planning

There are no significant land use and planning impacts. DEIR pp. 5.0-11 through 5.0-13.

Draft EIR Section 6.1, Air Quality

Impact 6.1-2

Redevelopment engendered development and infrastructure construction activities would generate short-term emissions of regional criteria pollutants. DEIR pg. 6.1-16.

Mitigation Measure

6.1-2 Future redevelopment projects shall comply with all current Basic Construction Mitigation Measures at the time of development approvals. DEIR pg. 6.1-18.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures outlined in the proposed CEQA Guidelines whether or not construction-related emissions exceed applicable Thresholds of Significance, as such measures represent best management practices.

Impact 6.1-4

Redevelopment engendered development could increase the number of sensitive receptors exposed to significant levels of diesel particulate matter (DPM). DEIR pg. 6.1-19.

Mitigation Measure

6.1-4 Any redevelopment supported residential project adjacent to or within 300 feet of US 101 shall meet current BAAQMD requirements for evaluating and mitigating DPM effects to the extent feasible. DEIR pg. 6.1-21.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Development engendered by redevelopment could increase in health risks to new residential uses near US 101 because of DPM. However, the increased exposure to DPM is statistically less than considerable and once BAAQMD requirements are followed, the Amendment has a less than significant impact on human health.

Draft EIR Section 6.2, Biological Resources

Impact 6.2-2

Redevelopment activities and redevelopment engendered development could result in a potential loss of special status plant species. DEIR pg. 6.2-34.

Mitigation Measures

6.2-2a Prior to development approval, a qualified biologist shall be retained by the project proponent to prepare a site-specific biological survey to determine the potential presence of wetlands, special status species, and/or suitable habitat for special status species. The project proponent shall conduct focused plant surveys according to the requirements in both the Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain and the CNPS Botanical Survey Guidelines (CNPS, 2001) for rare plant surveys, to determine the presence or absence of sensitive plant species. The surveys should be conducted during the flowering season of the sensitive plant species, by a qualified botanist with experience and knowledge of the flora of the Santa Rosa Plain. A report of the findings should be submitted to the appropriate agencies within two months of completion of the surveys and will include: a

comprehensive species list, a description of habitat characteristics, copies of the survey forms and any notes taken during the survey, date of the survey, and the names of the surveyors. DEIR pg. 6.2-36.

6.2-2b No physical alteration of a development site or issuance of building permits shall occur within potentially biologically sensitive areas until evidence is submitted for review and approval by the Town that either no listed plants are present, or areas containing habitat for listed species have been avoided, or if avoidance is not possible, that all required consultations with the USFWS and/or CDFG have occurred pursuant to the FESA and CESA, and evidence is provided of any necessary permits, approvals, or agreements from USACE and CDFG for removal of any wetland or riparian habitat and/or associated drainages. If avoidance is not possible, a no jeopardy opinion will be required by the USFWS for federally listed species that could be affected. A no jeopardy opinion will not be issued unless USFWS agrees that adequate mitigation of the affected species has been provided. If state-listed species could be affected, the project proponent shall obtain a California Endangered Species Act (CESA) Permit from DFG and a written agreement (such as a 2081 agreement) with CDFG would need to be obtained that specifies that adequate mitigation has been provided through the appropriate CEQA review and mitigation monitoring plan. Future proposed development engendered by redevelopment shall be consistent with the provisions of any required consultations and associated permits or agreements. DEIR pg. 6.2-36 and FEIR pgs. 8, 24, and 43.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – The mitigation measures ensure that no physical alteration of a development site or issuance of building permits shall occur within potentially biologically sensitive areas until evidence is submitted for review and approval by the Town and the appropriate state and/or federal agency. The Amendment will have a less-than-significant effect on special status plant species after mitigation.

Impact 6.2-3

Redevelopment activities and redevelopment engendered development could result in a potential loss of special status raptor, migratory, or other bird species. DEIR pg. 6.2-37.

Mitigation Measures

6.2-3a No physical alteration of a development site or issuance of building permits shall occur within existing grasslands or riparian areas until a breeding season survey is conducted by a qualified biologist during spring or early summer (from March 1 through August 15, before development activity takes place) near annual grasslands, large trees, and riparian areas. The survey shall be conducted no more than one week prior to the start of work activities and shall cover all affected areas – including a 500-foot buffer area around the active project area, staging areas, and access road improvement areas where substantial ground disturbance or vegetation clearing is required. DEIR pg. 6.2-37

6.2-3b If surveys detect nesting raptors on the project site, the nest shall be fenced and avoided until nesting activity is completed. The CDFG shall be consulted to determine an appropriate "no disturbance" protection buffer for the active nest.

Tree removal, grading, or other construction activities shall be prohibited within this buffer zone until the end of the nesting season, or until the young have fledged and are no longer dependent upon the nesting tree as determined by a qualified wildlife biologist who shall monitor the nest to determine when the young have fledged and submit weekly reports to the CDFG and the Town throughout the nesting season. If the qualified biologist determines that a disturbance is occurring, construction shall be halted, and the CDFG shall be contacted to determine the need for additional protection measures. DEIR pg. 6.2-37 and FEIR pgs. 8, 25, and 45

6.2-3c Identified nesting trees approved for removal may only be removed prior to the onset of the nesting season or after young have fledged. DEIR pg. 6.2-38

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Active raptor nests are protected under Section 3503.5 of the CFGC. Mitigation measures require surveys to detect the presence of nesting raptors and that potential tree removal, grading, or other construction activities be prohibited within buffer zones during sensitive breeding and fledging periods, in coordination with the CDFG. These measures ensure the protection of nesting raptors and fledglings and reduce potential impacts to less than significant.

Impact 6.2-4

Redevelopment activities and redevelopment engendered development have the potential to affect roosting or breeding special-status bats in the Amended Project Area. DEIR pg. 6.2-38

Mitigation Measures

6.2-4a Concurrent with breeding bird surveys (Mitigation Measure 6.2-3a), a qualified biologist will conduct preconstruction surveys for special-status bats within suitable open structures and suitable trees on the site no earlier than two to three days prior to tree removal or construction activities. If special status bat species are identified on-site, the biologist shall evaluate whether breeding adults or juveniles are present. If present, a suitably sized buffer (e.g., 100 to 150 feet) shall be placed around the roost if it appears that grading, tree removal or other project activities may cause abandonment. If it appears that demolition activities may cause nest abandonment, demolition activities must cease until juvenile bats are self-sufficient and would not be directly impacted by project activities. The optimal time to remove trees is September 15 through October 15, when young would be capable of flying and February 15 to April 1 to avoid hibernating bats and prior to formation of maternity sites. DEIR pg. 6.2-38 and FEIR pgs 8, 9, 26 and 46.

6.2-4b If special-status bats (i.e., pallid bat, Townsend's Pacific big-eared bat) are found on-site, and the roost would be destroyed during development, an artificial roost shall be provided for the bats. The roost shall be constructed and placed on-site prior to removal

of the original roost. The project sponsor shall prepare a mitigation plan specifying the construction details and siting of the structure. The plan shall be approved by the Town and CDFG prior to removal of the existing roost. The project sponsor shall provide a secure source of funding for the monitoring of the artificial roost for a period of at least 5 years. The site on which the artificial roost is located shall be placed in a conservation easement. A report documenting the implementation of the plan shall be provided to the Town within one month of completion of the artificial roost. The plan shall be completed and implemented prior to the issuance of the grading permit. DEIR pg. 6.2-38

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Mitigation measures require surveys to detect the presence of special status bat species and that potential demolition or other construction activities be prohibited until juvenile bats are self-sufficient and would not be directly impacted by project activities, and/or that artificial roosts shall be provided where indicated. These measures ensure the protection of special status bat species and reduce potential impacts to less than significant.

Impact 6.2-5

Potential jurisdictional seasonal wetlands, non-wetland waters, and waters of the US and State could be adversely affected by grading, construction, and improvements in connection with future redevelopment projects. DEIR pg. 6.2-39

Mitigation Measures

6.2-5a Wetland Delineation: On parcels containing potential wetlands, a USACE-verified wetland delineation and jurisdictional determination of the parcel shall be completed before any earthmoving or grading activities within or adjacent to potential jurisdictional wetlands and drainages. If the USACE determines that areas on the project site are jurisdictional, all work proposed in these areas shall be authorized by permits from the USACE. All applicable permits from the CDFG and RWQCB will also be obtained before construction in areas under the jurisdiction of these agencies, and provided to the Town prior to the initiation of ground disturbing activities or other construction activities. The permitting agencies would need to be contacted by the owner in the event of any significant deviation from permitting conditions. If the USACE determines that the seasonal wetlands on a development site are protected by Section 404 of the CWA, the project would qualify as a permitted project under the PBO (USFWS, 2007). The USACE will then enter into consultation with USFWS in order to appropriately address the federally listed species in the USACE wetland permit. This action would effectively append the project to the PBO. DEIR pgs. 6.2-39 through 6.2-40.

6.2-5b If construction activities occur within any creek channel, ditches with a defined bed and bank, or within the riparian woodland dripline, the project sponsor shall obtain a SAA from the CDFG. The project sponsor shall provide proof to the Town of compliance with the terms and conditions of the permits prior to issuance of the grading permit and prior to any construction in jurisdictional waters. DEIR pg. 6.2-40.

6.2-5c Wetland Avoidance and Minimization: To the extent feasible, the final project design will avoid and minimize effects to wetlands and other waters. Areas that are avoided will be protected from construction activities through implementation of Best Management Practices (BMPs). DEIR pg. 6.2-40.

6.2-5d Compensatory Mitigation of Permanent Impacts. Seasonal wetlands on the Santa Rosa Plain are considered habitat for federally-listed plants even if these plants are not found after conducting the USFWS protocol-level surveys for listed plants. Compensatory mitigation for impacts to low quality seasonal wetlands shall be in accordance with the PBO and permit requirements. DEIR pg. 6.2-40.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Mitigation measures have been required to conduct surveys to detect the presence of wetlands, and to require avoidance, minimization, or compensatory mitigation as appropriate to the site conditions. These measures ensure the protection of wetlands and reduce potential impacts to less than significant.

Impact 6.2-7

Redevelopment activities and redevelopment engendered development could result in the loss of aquatic and terrestrial habitat for special status amphibians and reptiles, and may result in direct impacts to these species through injury or mortality. DEIR pg. 6.2-41 and FEIR pgs 9, 26, and 50.

Mitigation Measures

6.2-7a In conjunction with Mitigation Measure 6.2-2a, above, surveys to determine the habitat suitability for or the presence of Northern Pacific pond turtles and other special status amphibians and reptiles shall be conducted to identify basking sites, potential nesting areas, and for over wintering and aestivating within 350 feet of aquatic habitat and shall be conducted during the spring or summer when the turtles and frogs are active and observable. DEIR pg. 6.2-41 and FEIR pgs 9, 26, and 50.

6.2-7b Where special status turtles and frogs are found, then preconstruction surveys for the Northern Pacific pond turtle and foothill yellow-legged frog shall be conducted at least 48 hours prior to work in turtle and frog habitat. Buffers of at least 100 feet should be established from any nest. Any frogs or turtles observed during the pre-construction survey should be allowed to leave the project site on their own accord. Approval to relocate species of special concern or other animals for movement "out of harm's way" shall be obtained from the DFG Regional Office prior to any relocation or construction activities. DEIR pg. 6.2-41 and FEIR pgs. 9, 26, and 51.

6.2-7c Creekside buffer zones provided by creek setbacks shall be sufficient to provide upland habitat on-site for pond turtles, if present. DEIR pg. 6.2-41.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Mitigation measures have been required to conduct surveys and preconstruction surveys to detect the presence of special status amphibians, and to require

construction buffers or relocation out of harms way. These measures ensure the protection of special status amphibians and reduce potential impacts to less than significant.

Draft EIR Section 6.3, Climate Change

Impact 6.3-1

Redevelopment engendered development and infrastructure construction activities would generate greenhouse gas emissions that could contribute to global climate change. DEIR pg. 6.3-21.

Mitigation Measures

6.3-1 All redevelopment construction activities shall implement the most current BAAQMD performance-based best management practices, including but not limited to:

a) Alternative-fueled (e.g., biodiesel, electric) construction vehicles/equipment of at least 15% of the fleet

b) Local building materials of at least 10%

c) Recycle at least 50% of construction waste or demolition materials. DEIR pg. 6.3-22.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Rationale for Finding – Construction activities are regulated by the Town and the BAAQMD. According to the 2009 BAAQMD Draft CEQA Guidelines, the threshold of significance for construction-related GHG emissions is the presence of BMPs. Requiring implementation of the most current BAAQMD performance-based BMPs will reduce potential project specific impacts to less than significant.

Draft EIR Section 6.4, Cultural Resources

Impact 6.4-1

Redevelopment projects and redevelopment engendered development could cause a substantial adverse change in the significance of an archaeological resource, including human remains. DEIR pg. 6.4-11.

Mitigation Measures

6.4-1a For any project involving ground penetrating activities, the Northwest Information Center (NWIC) at Sonoma State University shall be consulted to determine if a proposed project would require archaeological study and/or testing be conducted as part of the site-specific environmental review. Recommended study and/or testing shall be completed prior to the completion of environmental review. DEIR pg. 6.4-11.

6.4-1b Foremen and key members of major excavation, trenching, and grading for site preparation shall be instructed to be wary of the possibility of destruction of buried cultural resource materials. They shall be instructed to recognize signs of prehistoric use and their responsibility to report any such finds (or suspected finds) immediately, as

specified by measure 6.4-1c below, so damage to such resources may be prevented. DEIR pg. 6.4-11.

6.4-1c Any unanticipated discovery of cultural resources during construction will be evaluated by a qualified archaeologist. If the find is determined to be potentially significant, the archaeologist, in consultation with the Town and appropriate Native American group(s), will develop a treatment plan. All work in the immediate vicinity of the unanticipated discovery shall cease until the qualified archaeologist has evaluated the discovery, or the treatment plan has been implemented. DEIR pg. 6.4-11.

6.4-1d If human remains are encountered unexpectedly during construction excavation and grading activities, State Health and Safety Code §7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC §5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the NAHC. The NAHC will then identify the person(s) thought to be the Most Likely Descendent of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains. DEIR pg. 6.4-12.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – The mitigation measures provide for the identification, characterization, and treatment of any archaeological resources that may be uncovered during construction activities. Such procedures are designed to adequately protect against a significant loss of subsurface cultural resources during future construction activities.

Impact 6.4-2:

Redevelopment projects and redevelopment engendered development could cause a substantial adverse change in the significance of a paleontological resource. DEIR pg. 6.4-12.

Mitigation Measure

6.4-2 If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work will stop in that area and within 25 feet of the find until a qualified paleontologist can assess the significance of the find, and if necessary, develop and implement appropriate treatment measures in consultation with the Town. DEIR pg. 6.4-12.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Rationale for Finding – The mitigation measures provide for the identification, characterization, and treatment of any paleontological resources that may be uncovered during construction activities. These procedures are designed to adequately protect against a significant loss of subsurface paleontological resources during construction activities.

Impact 6.4-3

Redevelopment projects and redevelopment engendered development could result in the

alteration of historic resources. DEIR pg. 6.4-12.

Mitigation Measures

6.4-3a As part of any Owner Participation Agreement (OPA), Disposition and Development Agreement (DDA), or other Agency action or project that would affect any structure or feature over 45 years old that has not been evaluated, the buildings shall first be evaluated for eligibility for listing in the California Register. This evaluation shall occur through the preparation of DPR 523 forms for each building, and through standard CEQA evaluation. DEIR pg. 6.4-13.

6.4-3b If the structure or feature is determined to be eligible for listing in the California Register, the Secretary of the Interiors Standards for the Treatment of Historic Properties shall be applied to insure that treatments will maintain the authenticity and integrity of character-defining historical features. DEIR pg. 6.4-13.

6.4-3c If the properties are determined to be eligible for listing in the California Register, where rehabilitation involves demolition of feature(s) that do not remove the building from eligibility for the California Register, then the feature(s) shall be recorded to Historic American Building Survey/Historic American Engineering Record (HABS/HAER) standards prior to their removal. Copies of the HABS/HAER documentation shall be filed with the OHP. HABS/HAER recordation typically includes the following:

a) The development of site-specific history and appropriate contextual information regarding the particular resource. In addition to archival research and comparative studies, this task could involve limited oral history collection.

b) Accurate mapping of the resources, scaled to indicate size and proportion of the structures.

c) Photo documentation of the designated resources, both in still and video formats.

d) Recordation by measured architectural drawings, in the case of specifically designed structures of high architectural merit; "as-built" plans of existing structures/foundation ruins will involve field measurements, office scaled plan layout, and plot out of final plan. DEIR pg. 6.4-13.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Rationale for Finding – The OHP considers any building over 45 years of age to be a potential historic resource, and there are a large number of structures in the Amended Project Area that currently meet this criterion. More structures will fall into this category over the life of the Amendment. The mitigation measure ensures that redevelopment would result in the rehabilitation or relocation of existing structures or site features over the life of the Amendment in a manner consistent with the Secretary's Standards, and therefore ensure protection of character defining historic resources. The Historic Conservation and Preservation Ordinance also prohibits individuals from altering the exterior or demolishing a listed historic structure without first determining its historic significance and the effects of the proposed alterations. The mitigation measure ensures the impact is reduced to less than significant for both listed and not-yet listed historic resources.

Draft EIR Section 6.5, Geology, Soils, and Seismicity

Impact 6.5-1

Occupants of redevelopment-engendered development in the Amended Project Area would be subject to seismic hazards including ground shaking, liquefaction, and seismic-related subsidence and/or collapse. DEIR pg. 6.5-10.

Mitigation Measures

6.5-1 A design-level geotechnical study shall be prepared by a licensed professional and submitted to the Town of Windsor Building Division for review and confirmation that the proposed development fully complies with the CBC. The report shall determine the parcels' surface geotechnical conditions, and address potential seismic hazards, such as landslide, liquefaction, lateral spreading, subsidence, or collapse. The report shall identify building techniques appropriate to minimize seismic damage. In addition, the following requirement for the geotechnical and soils report shall be met:

a) Analysis presented in the geotechnical study shall conform to the California Division of Mines and Geology recommendations presented in the Guidelines for Evaluating Seismic Hazards in California.

b) All design criteria and specifications set forth in the geotechnical and soils report shall be implemented as a condition of project approval. DEIR pg. 6.5-11.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – The proposed Amendment would remove barriers to development as specified in the General Plan land use designations. No new development or population increases beyond those planned for by the Town would occur as a result of the Amendment. Mitigation measures have been adopted to require construction practices for new development to meet stringent requirements suitable for maintaining safety during strong and very-strong ground shaking. Mitigation measures have been adopted to ensure site-specific geotechnical study and advanced building practices are implemented for all redevelopment projects to sufficiently reduce the risk of loss, injury, or death to less-than-significant levels.

Impact 6.5-2

Damage to structures or property in the Amended Project Area related to expansive soils, corrosive soils, and/or settlements of non-engineered fill soils could occur. DEIR pg. 6.5-11.

Mitigation Measures

6.5-2a The design-level geotechnical study required by Mitigation Measure 6.5-1 shall include measures to ensure potential damage related to unstable soils, such as expansive soils and non-uniformly compacted fill, is minimized. In locations underlain by expansive soils and/or non-engineered fill, the designers of proposed building foundations and improvements (including sidewalks, roads, driveways, parking areas, and utilities) shall consider these conditions. Design options may range from removal of the problematic soils, and replacement, as needed, with properly conditioned and

compacted fill to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements. DEIR pg. 6.5-12.

6.5-2b The design-level geotechnical study shall include an evaluation of the potential for corrosive soils. If the results indicate corrosive soil conditions, appropriate measures to mitigate these conditions shall be incorporated into the design of project improvements that may come into contact with site soils. Wherever corrosive soils are found in sufficient concentrations, recommendations shall be made to protect iron, steel, metal, and concrete from long-term deterioration caused by contact with corrosive on-site soils. In general, these recommendations are expected to include, but are not limited to, the following provisions:

a) Protect buried iron, steel, cast iron, ductile iron, galvanized steel, and dielectric coated steel or iron (including all buried metallic pressure piping) against corrosion from soil.

b) Protect buried metal and cement structures in contact with earth surfaces from chloride ion concentrations.

c) Use sulfate-resistant concrete mix for all concrete in contact with the ground.

d) Consult a corrosion expert during the project's detailed design phase to design the most effective corrosion protection.

All design criteria and specifications set forth in the geotechnical report shall be implemented to reduce impacts associated with problematic soils to a less-than-significant level. DEIR pg. 6.5-12.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Mitigation measures have been adopted to ensure design-level geotechnical studies are conducted for future projects which will identify and incorporate appropriate engineers solutions for any problematic soils, and that such solutions are incorporated into the project design prior to the issuance of building permits. This will ensure soils impacts are less-than-significant.

Draft EIR Section 6.6, Hazards and Hazardous Materials

Impact 6.6-1

Redevelopment engendered development and infrastructure construction could disturb unidentified contaminated soil and structures. DEIR pg. 6.6-13.

Mitigation Measures

6.6-1a A thorough examination of past property uses shall be required for redevelopment projects involving demolition or reuse of older properties or construction on vacant parcels, prior to demolition or construction. This examination shall conform to the Phase I ESA process established by the American Society for Testing and Materials (ASTM), and shall include a site reconnaissance, a review of regulatory databases, interviews with persons knowledgeable of the property, and a review of past property uses using

appropriate historical sources. A Phase II ESA shall be conducted if deemed necessary based on the Phase I ESA results. DEIR pg. 6.6-13

6.6-1b If discolored soil, vapors, or contaminated groundwater are encountered during construction activities, all work shall cease until a qualified environmental professional assesses the situation and appropriate action is taken to ensure the safety of workers and the public. DEIR pg. 6.6-13

6.6-1c If the Phase I/II indicates the potential for unremediated soil and/or groundwater contamination or UST to be disturbed during construction, the Redevelopment Agency of the Town of Windsor (Agency) shall require in construction contract documents that a hazardous materials removal team be on-call and available for immediate response during site preparation, excavation, and other construction activities. Hazardous material removal activities must be contracted to a qualified hazardous materials removal contractor.

Construction contract documents shall require the hazardous material removal contractor or subcontractor to comply with the following:

a) Prepare a hazardous material discovery and response contingency plan for review by the Sonoma HMD. The Fire District will act as the first responder to a condition of extreme emergency (i.e., fire, emergency medical assistance, etc).

b) In the event that a condition or suspected condition of soil and/or groundwater contamination are discovered during construction, work shall cease or be restricted to an unaffected area of the site as the situation warrants and the Town shall be immediately notified. Upon notification, the Town shall notify the Sonoma County HMD of the contamination condition, and the hazardous material removal contractor shall prepare a site remediation plan and a site safety plan, the latter of which is required by OSHA for the protection of construction workers. Similarly, the hazardous material removal contractor shall follow and implement all directives of the Sonoma County HMD and any other jurisdictional authorities that might become involved in the remediation process.

c) Preparation of any remediation plan shall include in its focus measures to be taken to protect the public from exposure to potential site hazards and shall include a certification that the remediation measures would clean up the contaminants, dispose of the wastes properly, and protect public health in accordance with federal, state, and local requirements.

d) Obtain closure and/or No Further Action letters from the appropriate agency(ies).

e) Construction contract documents shall include provisions for the proper handling and disposal of contaminated soil and/or dewatering water (including groundwater and contaminated rainwater) in accordance with federal, state, and local requirements. DEIR pg. 6.6-13 through 6.6-14

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Adopted mitigation measures ensure demolition activities would be

subject to all applicable federal, state, and local regulations to minimize potential risks to human health and the environment, and worker and public safeguards would be included in the demolition contract. The Agency and Town have determined that implementation of the above measures will reduce disturbance to unidentified contamination to less-than-significant levels.

Impact 6.6-2

Redevelopment could result in the rehabilitation or demolition of buildings likely to contain asbestos, lead-based paint, or other hazardous substances. DEIR pg. 6.6-14.

Mitigation Measures

6.6-2a Prior to any Agency rehabilitation or demolition activities, the Agency shall conduct an interior survey to evaluate the presence of ACM, lead based paint, PCB-containing electrical and hydraulic fluids, and/or chlorofluorocarbons (CFCs), as well as any other potential environmental concerns (i.e., aboveground/underground fuel tanks, elevator shafts/hydraulic lifts, floor drains/sumps, chemical storage/disposal) which may be present within structures on a project site. DEIR pg. 6.6-16

6.6-2b A project applicant for a project subject to an Owner Participation Agreement (OPA) or Disposition and Development Agreement (DDA) shall provide written documentation to the Agency that ACM and lead-based paint has been abated and any remaining hazardous substances and/or waste have been removed in compliance with applicable state and local laws and regulations. DEIR pg. 6.6-16

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – Adopted mitigation measures ensure demolition activities would be subject to all applicable federal, state, and local regulations to minimize potential risks to human health and the environment, and worker and public safeguards would be included in the demolition contract. The Agency and Town have determined that implementation of the above measures will reduce disturbance of unidentified contamination to less-than-significant levels.

Draft EIR Section 6.7, Hydrology and Water Quality

Impact 6.7-2

Redevelopment in the Amended Project Area would generate new sources of runoff that could increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site, or exceed the capacity of existing or planned stormwater drainage systems. DEIR pg. 6.7-15.

Mitigation Measures

6.7-2a A final drainage plan shall be prepared for a project and off-site improvements by a Registered Civil Engineer to determine how drainage will be properly managed as the individual parcels are developed, and the necessary locations and size of common storm water detention facilities, drainage easements, and access easements for maintenance. DEIR pg. 6.7-16.

6.7-2b The methods shown shall not adversely affect adjacent or downstream properties. Storm drainage facilities shall be sized and installed in accordance with the project improvement plans as approved by the Town Engineer, and in accordance with the construction standards of the Public Works Department. DEIR pg. 6.7-16.

6.7-2c Prior to issuance of a grading permit, the project proponent shall provide the Town with documentation prepared by a licensed engineer verifying that road and utility improvements constructed within a 100-year floodplain do not adversely affect the carrying capacity of areas where base flood elevations have been determined, but a floodway has not been designated. DEIR pg. 6.7-16

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – The Amendment would provide drainage infrastructure improvements to meet the needs of redevelopment engendered development in the Amended Project Area. The Town of Windsor Public Works Department (Public Works Department) has the authority to require project-specific drainage plans that would typically include on-site drainage features such as gravel infiltration beds, pervious landscaped areas, or detention/retention facilities. The Amendment would further provide capital improvements assistance for improving storm drains, flood control improvements, curbs and gutters, and other drainage systems and capacity. Mitigation measures have been adopted to ensure a qualified engineer designs appropriate drainage facilities for future projects, and that such facilities are incorporated into the project design prior to the issuance of building permits. This will ensure runoff and flooding impacts are less-than-significant.

A. Draft EIR Section 6.8, Noise

Impact 6.8-1

Redevelopment engendered development and infrastructure projects could result in construction noise at sensitive receptors. DEIR pg. 6.8-10.

Mitigation Measures

6.8-1a Properly muffle and maintain all construction equipment powered by internal combustion engines. DEIR pg. 6.8-11.

6.8-1b Prohibit unnecessary idling of internal combustion engines. DEIR pg. 6.8-11

6.8-1c Locate all stationary noise-generating construction equipment, such as air compressors, as far as practical from existing nearby residences and other noise sensitive land uses. Such equipment shall also be acoustically shielded. DEIR pg. 6.8-11.

6.8-1d Select quiet construction equipment, particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order. DEIR pg. 6.8-11.

6.8-1e A noise disturbance coordinator responsible for responding to any local complaints about construction noise shall be designated. The disturbance coordinator shall determine the cause of any noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. A

telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. DEIR pg. 6.8-12.

Finding – Changes or alterations have been required in, or incorporated into the project, which avoid or substantially lessen the significant environmental effect as identified in the Draft EIR.

Rationale for Finding – The restriction of construction to specific daylight hours minimizes the annoyance from temporary noise impacts resulting from construction activities, and the Agency and Town have determined that implementation of the above additional measures will reduce project-specific construction noise emissions to less-than-significant levels.

Draft EIR Section 6.9, Public Services and Utilities

There are no significant public services and utilities impacts. DEIR pp. 6.9-17 through 6.9-21.

Draft EIR Section 6.10, Transportation and Circulation

There are no significant transportation and circulation impacts. DEIR pp. 6.10-17 through 6.10-19.

Significant Impacts Which Cannot Be Avoided

Finding

The Town and Agency find that, where feasible, changes or alterations have been required in, or incorporated into, the Project that reduce the significant environmental impacts listed below as identified in the EIR. However, specific economic, social, or other considerations make infeasible mitigation measures or project alternatives to reduce the following impacts to a less-than-significant level. This finding is supported by evidence in the record of the proceedings before the Town and Agency, including the Draft and Final EIR prepared for this Amendment and the General Plan for the Town of Windsor. All available, reasonably feasible mitigation measures identified in the EIR are employed to reduce the magnitude of the impacts, even if the reduction is not to a less-than-significant level. Also incorporated into this section are the findings and facts stated in Section C that reject the Project Alternatives for failure or infeasibility to mitigate the potential effect and achieve the basic objectives of the Project.

Impact 6.4-4

Redevelopment projects and redevelopment engendered development could result in the substantial alteration, removal, or destruction of historic resources. This would be a significant impact. DEIR pg. 6.4-14.

Mitigation Measures

6.4-4 The resource shall be recorded to HABS/HAER standards prior to their removal. Copies of the HABS/HAER documentation shall be filed with the OHP. HABS/HAER recordation typically includes the following:

a) The development of site-specific history and appropriate contextual information regarding the particular resource. In addition to archival research and comparative studies, this task could involve limited oral history collection.

b) Accurate mapping of the resources, scaled to indicate size and proportion of the structures.

c) Photo documentation of the designated resources, both in still and video formats.

d) Recordation by measured architectural drawings, in the case of specifically designed structures of high architectural merit; "as-built" plans of existing structures/foundation ruins will involve field measurements, office scaled plan layout, and plot out of final plan. DEIR pg. 6.4-14.

Finding – This mitigation measure would reduce the magnitude of potential impacts to historic resources, but not to less-than-significant levels. This impact remains ***significant and unavoidable***.

Rationale for Finding – This mitigation measure applies to any project that involves the demolition, movement, or significant alteration of a resource listed on or determined to be eligible for listing in the California Register, which causes the resource to be no longer eligible for such listing. While recording the resource is beneficial, it does not mitigate the loss of the historic resource, therefore the impact remains significant.

Impact 6.4-5

Redevelopment projects and redevelopment engendered development could contribute to the cumulative degradation or loss of paleontological, archaeological, or historic resources, including human remains. This would be a significant cumulative impact. DEIR pg. 6.4-15.

Mitigation Measure 6.4-5

None available beyond those identified for project-specific mitigation. DEIR pg. 6.4-15.

Finding – Site-specific mitigation measures adopted for future projects would reduce the magnitude of potential impacts to historic resources, but not to less-than-significant levels if historic resources are lost. This impact remains significant and unavoidable.

Rationale for Finding - The boundaries of an archaeologically or historically important site extend beyond the site boundaries. As a result, a meaningful approach to preserving and managing cultural resources must focus on the likely distribution of cultural resources, rather than on project or parcel boundaries. The cultural system is represented archaeologically by the total inventory of all sites and other cultural remains in the region. Proper planning and appropriate mitigation can help to capture and preserve knowledge of such resources and can provide opportunities for increasing our understanding of the past environmental conditions and cultures by recording data about sites discovered and preserving artifacts found. Federal, state, and local laws are also in place that protect these resources in most instances. Even so, it is not always feasible to protect these resources, particularly when preservation in place would frustrate implementation of projects, and for this reason, the cumulative effects of the redevelopment activities and other projects in the Town would be significant. Moreover, because redevelopment activities and projects in the Amended Project Area have the potential to adversely affect significant archaeological resources that are unique and non-renewable members of finite classes, the incremental contribution to these cumulative effects would itself be potentially cumulatively considerable. Damage or destruction of some archaeological and

historic resources in the Amended Project Area may be mitigated on a project-by-project basis; however, any loss of cultural resources associated with redevelopment projects would contribute to a region-wide impact that cannot be remedied. Therefore, this impact remains significant.

Rejection Of Alternatives

CEQA mandates that every EIR evaluate a no-project alternative. Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to determine the most feasible project for implementation. The alternatives studied in the EIR are infeasible based upon the following specific economic, social, or other considerations.

Alternative 1: No Project Alternative

Section 15126(d)(2) of the State CEQA Guidelines requires that a "no project alternative" be evaluated in comparison to the Proposed Project. Under the No Project Alternative, the Redevelopment Plan for the Windsor Redevelopment Project (Redevelopment Plan) would not be amended to expand the boundaries to include the Added Area, and the time and financial limits would not be extended or increased for the Redevelopment Plan. The proposed public improvements and development assistance that would be provided with redevelopment (such as public infrastructure improvements, commercial and residential rehabilitation/development, and low- and moderate-income housing assistance) would not be implemented with redevelopment funding in the Added Area, and would not be increased or extended in the Existing Project Area for an additional 10 years. Under the No Project Alternative, development in the Amended Project Area would occur as defined in the General Plan at a pace commensurate with prevailing market conditions and infrastructure improvements that the Town could implement without extending redevelopment tools and funding.

Under the No Project Alternative, Agency powers to assemble suitable sites for development and provide assistance would not be available in the Added Area, and would be limited in the Existing Project Area, thus integrated modern projects with greater community benefits would be unlikely to develop due to the conditions noted above, and in the Project Description (Chapter 3). The amount of development would likely be substantially less and consist of less varied uses reflective solely of the limited market demand at a given time. The No Project scenario would be similar to any aged and blighted area, where the Amended Project Area would suffer inadequate infrastructure, a deteriorating housing stock, and lower property viability and value, despite the underlying zoning. Quality of development would be outdated, blight would persist, and the housing stock would continue to deteriorate.

Finding

Specific economic, social, or other considerations make infeasible the No Project Alternative identified in the EIR and described above, in that:

a) The No Project Alternative would fail to resolve conditions of blight in the Amended Project Area.

b) The No Project Alternative would not promote the Town's General Plan policies related to promoting the rehabilitation and revitalization of existing commercial centers, and the preservation of existing housing stock.

c) The No Project Alternative would not achieve the basic goals and objectives of the Project, including housing, social, environmental, and economic goals for the Amended Project Area.

d) Development may occur haphazardly without addressing the physical and economic health of the remaining blighted areas, and street improvements, drainage and other infrastructure improvements, commercial and housing assistance, and rehabilitation of housing would unlikely be funded to the extent that these are anticipated as a result of the Amendment.

e) Significant effects of the Project are acceptable when balanced against this Alternative and the facts set forth in the Statement of Overriding Considerations.

Facts in Support of Finding of Infeasibility

a) Because general land use types, densities, and intensities that could be developed pursuant to the Amendment could ultimately be developed under this alternative, long-term environmental effects associated with future construction development under the No Project Alternative may be similar to those of the Amendment. However, this alternative would not alleviate conditions of oddly configured lots, infrastructure deficiencies, dangerous and substandard buildings, groundwater and soil contamination, and economic blight in the Amended Project Area. The continuation of such conditions makes it unlikely that significant new development would occur in this area under the No Project Alternative.

b) The existing Redevelopment Plan will terminate in 2017, after which the Agency cannot undertake any new actions – including any new projects. Under the No Project Alternative, the Agency would not have sufficient time to complete the Agency's redevelopment program for blight elimination and production of affordable housing given the severe downturn in the economy. No extensive infrastructure improvement program would be implemented by the Agency.

c) Blighting conditions, including factors hindering the economically viable use of lots, incompatible uses, serious building code violations, construction that is vulnerable to flooding, obsolescence, incompatible uses, parcels of irregular shape and in adequate size, depreciated or stagnant property values, hazardous materials contamination, serious overcrowding and crime would remain in the area. Because of these blighting conditions, the Amended Project Area could be expected to continue declining, with physical deterioration, vacancies, and building code violation occurrences increasing.

d) Without funding for rehabilitation, potentially historic buildings could be lost to severe deterioration. A lower level of new development could result in less disruption of cultural resources within the Amended Project Area. However, rehabilitation of residential and commercial buildings over 50 years old consistent with the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties* (*Secretary's Standards*) would help support the survival of historic and/or character-defining buildings in the Town. Without the funding available with the proposed Amendment, older buildings in the area will likely continue to deteriorate, and more historic fabric would be lost over time. Although

redevelopment could also result in the removal of severely deteriorated historic buildings, cultural resource impacts under the No Project Alternative would be anticipated to be the same or worse than the Amendment.

e) Seven sites within the Existing Project Area and six sites within the Added Area were identified as having moderate to severe contamination issues. Under the No Project alternative, the Agency would be precluded from or limited in its ability to use the Polanco Act or tax increment to assist in the remediation of such properties, and these contaminated properties would continue to lack the funds and/or incentives necessary for appropriate cleanup. The lack of or insufficient funding could also cause the delay of or inability to rehabilitate existing structures that may contain asbestos and lead based paint. Long-term exposure to contamination or ongoing contamination of groundwater would continue rather than being remediated through redevelopment activities. Hazards and hazardous materials impacts would be worse under this alternative compared to the Amendment.

f) The lack of or insufficient funding to construct necessary street improvements and provide incentives for new development would likely result in the delay of or inability to develop some of the planned mixed-use development in the Amended Project Area. A lower level of new pedestrian and transit oriented infill development could result, in the short-term, in somewhat less construction and traffic air emissions within the Amended Project Area. However, the inability to consolidate parcels, remediate contamination, and construct new development would also tend to push meeting housing demand outside the urban core as infill remains too expensive, with a resulting increase in traffic congestion, cumulative air emissions, and greenhouse gas (GHG) emissions. Regional air quality would be worse under this alternative compared to the Amendment.

Alternative 2: No Added Area - Alternative Means of Revitalization With Public Funds

The No Added Area Alternative would amend the time and financial limits for the Redevelopment Plan, but would not increase the boundaries of the Project Area by 202 acres. This alternative considers utilization of public revenue sources other than tax increment financing to fund public improvements and other actions in the Added Area. Federal, State, County, and Town programs exist that may initiate some development without the need for redevelopment tax increment financing. These sources of alternative funding typically include mortgage revenue bonds, Community Development Block Grant funds (CDBG), Economic Development Administration (EDA) funds, state and federal Transportation Grants, Urban Development Action funds, and revenue bonds. Some of the potential funding sources are capped each year for the Town, such as CDBG funds; many of these funds require applications and competition and cannot be relied upon to be available consistently over the next 30 years. Any such funds used in the Added Area are funds unavailable to alleviate blight in other parts of the Town.

Finding

Specific economic, social, or other considerations make infeasible the No Project Alternative identified in the EIR and described above, in that:

a) If consistently and continually available, with a focused effort by the Town, these alternative-funding mechanisms could achieve the key objectives of the Amendment for the Added Area. However, the Town has many demands on its available grants and other economic development and affordable housing resources, and shifting these funds to the Added Area would have to compete with the Town's need to reduce blight in other parts of the Town.

b) Each of these alternative sources of funds also has its own unique limitations on use – such as application requirements, eligibility, and funding priorities. Both the Town and the Sonoma County (County) also have limited influence over the funding programs operated by other agencies. Thus, the continued availability of outside sources of funding cannot be guaranteed through the decades for which the Amendment could provide a steady source of public funding. If outside funding mechanisms are relied upon and those funds are no longer available, the necessary public improvements and other actions needed to alleviate blighting conditions in the Added Area may not be undertaken.

c) The Amendment requires 20% of tax increment to be set-aside for the development and improvement of affordable housing in the Added Area and 30% of tax increment to be set-aside for the Existing Project Area; outside sources of funding may not provide comparable provision for this public need.

d) Due to the uncertainty of available funding for necessary public improvements and other blight removal actions and lack of a specific affordable housing provision, the achievement of the Amendment's goals could not be ensured. Therefore, this Alternative, although feasible, is considered unlikely to achieve the key project objectives.

Facts in Support of Finding of Infeasibility

a) Since these alternative-funding mechanisms could encourage some development in the Added Area, impacts associated with such development could be similar but not as extensive as those anticipated under General Plan build-out. Less redevelopment is anticipated to occur with the limitations in the funding sources and the large number of contaminated parcels and buildings with code violations. Development could also be delayed by inconsistent funding.

b) Four sites within the Added Area were identified as having moderate to severe contamination issues, and approximately half the Added Area was identified as have some contamination issues. Under the No Added Area Alternative, the Town would be precluded from using the Polanco Act or tax increment to assist in the remediation of such properties, and these contaminated properties would continue to lack the funds and/or incentives necessary for appropriate cleanup. The lack of or insufficient funding could also cause the delay of or inability to rehabilitate existing structures that may contain asbestos and lead based paint. Long-term exposure to contamination or ongoing contamination of groundwater would continue rather than being remediated through redevelopment activities.

Hazards and hazardous materials impacts would be worse under this alternative compared to the Amendment.

c) The lack of or insufficient funding to construct necessary street improvements and provide incentives for new development would likely result in the delay of or inability to develop some of the planned mixed-use development in the Added Area. A lower level of new pedestrian and transit oriented infill development could result, in the short-term, in somewhat less construction and traffic air emissions within the Added Area. However, the inability to consolidate parcels, remediate contamination, and construct new development would also tend to push meeting housing demand outside the urban core as infill remains too expensive, with a resulting increase in traffic congestion, cumulative air emissions and greenhouse gas emissions. Regional air quality and cumulative greenhouse gas emissions would be worse under this alternative compared to the Amendment.

d) All of the significant and unavoidable impacts identified in this EIR would still occur under the No Added Area Alternative, and all of the mitigation measures identified in the EIR would still be required under the No Added Area Alternative.

STATEMENT OF OVERRIDING CONSIDERATIONS

Notwithstanding disclosure of the significant impacts and the accompanying mitigation, the Town and Agency have determined pursuant to Section 15093 of the CEQA Guidelines that the benefits of the Project outweigh the adverse impacts.

With reference to the above findings and in recognition of those facts that are included in the record, the Town and Agency have determined that the Project would contribute to environmental impacts that are considered significant and adverse, as disclosed in the EIR prepared for the Project.

The Town and Agency specifically find that all significant effects on the environment with adoption and implementation of the Project have been eliminated or substantially lessened where feasible. Furthermore, the Town and Agency have determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the overriding considerations described below:

a) The Amendment will serve a critical need, that being the elimination and prevention of the spread of blight and deterioration in the Amended Project Area, and the conservation, rehabilitation and redevelopment of the Amended Project Area in accordance with the Redevelopment Plan, the General Plan for the Town of Windsor and local codes and ordinances.

b) The promotion of new and continuing private sector investment within the Amended Project Area will prevent the loss of and facilitate the capture of commercial sales activity.

c) The Amendment provides additional tools to alleviate code violations and deter crime through the elimination of blight through rehabilitation and reconstruction and new development and infrastructure improvements.

d) The Amendment would result in the retention and expansion of businesses by means of redevelopment and rehabilitation activities including the assembly of parcels into more developable sites for more desirable uses and by encouraging and assisting in the cooperation and participation of owners, businesses, and public agencies in the revitalization of the Amended Project Area.

e) Revitalized industrial and commercial development will result in the creation and development of local job opportunities and the preservation of the area's existing employment base.

f) Revitalized industrial and commercial development will result in increased sales, business license and other fees, taxes, and revenues to the Town of Windsor.

g) The Amendment will result in an increase, preserve, or improve the community's supply of low- and moderate-income housing (inside or outside of the Amended Project Area).

h) The Amendment will assist with the development of new uses in concert with the community vision for Windsor as outlined in the Town's adopted Specific Plans.

i) The Town Council further finds that any one of the above overriding considerations is sufficient to render the environmental impacts acceptable.