

Exhibit A

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

Heritage Oaks Estates East Project EIR

A. Environmental Determination: EIR

1. The City Council of the City of Wheatland finds as follows:

Based on the initial study conducted for the Heritage Oaks Estates East Project (Project), the City of Wheatland's Community Development Department determined, based upon substantial evidence, that the Project 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.*) and the *CEQA Guidelines* (14 California Code of Regulations §15000 *et seq.*), as follows:

- a. A Notice of Preparation (NOP) of the Draft EIR was filed with the Office of Planning and Research and each responsible and trustee agency [and each federal agency involved in approving or funding the Project] on March 29, 2024, and was circulated for public comments for a 30-day review period from March 29, 2024 to April 29, 2024. A public scoping meeting was held on April 25, 2024 at 6:00 PM.
 - b. A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the Office of Planning and Research on July 3, 2024 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.
 - c. An official 45-day public comment period for the Draft EIR was established by the Office of Planning and Research. The public comment period began on July 3, 2024 and ended on August 16, 2024.
 - d. A Notice of Availability (NOA) of the Draft EIR was posted at the County Clerk's Office, placed in the Marysville Appeal-Democrat, posted on the City's website, and mailed to all interested groups, organizations, and individuals who had previously requested notice in writing on July 3, 2024. The NOA stated that the City of Wheatland had completed the Draft EIR and that copies were available for review online at <http://www.wheatland.ca.gov/departments/community-development/> or for purchase or review at the City of Wheatland, Community Development Department, 111 C Street, Wheatland, CA 95692. The letter also indicated that the official 45-day public review period for the Draft EIR would end on August 16, 2024.
 - e. Following closure of the public comment period, all comments received on the Draft EIR during the comment period, the City's written responses to the significant environmental points raised in those comments, and any information added to the Draft EIR by the City were assembled to produce the Final EIR.
2. The following information is incorporated by reference and made part of the record supporting these findings:

a. The Draft and Final EIR and all documents relied upon or incorporated by reference include the following:

- Cal-Adapt. *Local Climate Change Snapshot for Wheatland, California*, Available at: <https://cal-adapt.org/tools/local-climate-change-snapshot>. Accessed April 2024.
- California Air Pollution Control Officers Association. *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity*. August 2021.
- California Air Resources Board. *2022 Scoping Plan for Achieving Carbon Neutrality*. November 16, 2022.
- California Air Resources Board. *Aerometric Data Analysis and Management (iADAM) System*. <https://www.arb.ca.gov/adam/select8/sc8start.php>. Accessed April 2024.
- California Air Resources Board. *Air Quality and Land Use Handbook: A Community Health Perspective*. April 2005.
- California Air Resources Board. *Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling*. Available at: <https://ww2.arb.ca.gov/our-work/programs/atcm-to-limit-vehicle-idling/about>. Accessed April 2024.
- California Air Resources Board. *Ambient Air Quality Standards*. May 4, 2016. Available at: <https://ww2.arb.ca.gov/sites/default/files/2020-07/aaqs2.pdf>. Accessed April 2024.
- California Air Resources Board. *Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation*. August 29, 2023.
- California Air Resources Board. *California Ambient Air Quality Standards (CAAQS)*. Available at: <https://ww2.arb.ca.gov/resources/california-ambient-air-quality-standards>. Accessed April 2024.
- California Air Resources Board. *Glossary of Air Pollution Terms*. Available at: <https://ww2.arb.ca.gov/glossary>. Accessed April 2024.
- California Air Resources Board. *Inhalable Particulate Matter and Health (PM_{2.5} and PM₁₀)*. Available at: <https://ww2.arb.ca.gov/resources/inhalable-particulate-matter-and-health>. Accessed March 2024.
- California Air Resources Board. *In-Use Off-Road Diesel Vehicle Regulation*. December 10, 2014. Available at: <https://ww2.arb.ca.gov/our-work/programs/use-road-diesel-fueled-fleets-regulation/about>. Accessed April 2024.
- California Air Resources Board. *Overview: Diesel Exhaust & Health*. Available at: <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>. Accessed March 2024.
- California Air Resources Board. *Reducing Toxic Air Pollutants in California's Communities*. February 6, 2002.
- California Building Standards Commission. *California Green Building Standards Code*. Available at: <https://codes.iccsafe.org/content/CAGBC2022P1>. Accessed June 2024.
- California Department of Conservation, Division of Mines and Geology. *A General Location Guide For Ultramafic Rocks in California – Areas More Likely to Contain Naturally Occurring Asbestos*. August 2000.
- California Department of Conservation. *California Important Farmland Finder*. Available at: <https://maps.conservation.ca.gov/DLRP/CIFF/>. Accessed May 2023.

- California Department of Forestry and Fire Protection. *Fire Hazard Severity Zone Viewer*. Available at: <https://egis.fire.ca.gov/FHSZ/>. Accessed May 2023.
- California Department of Resources Recycling and Recovery. *Estimated Solid Waste Generation Rates*. Available at: <https://www2.calrecycle.ca.gov/wastecharacterization/general/rates>. Accessed June 2024.
- California Department of Resources Recycling and Recovery. *Jurisdiction Diversion/Disposal Rate Detail*. Available at: <https://calrecycle.ca.gov/lgcentral/datatools/reports/divdisprtsm/>. Accessed June 2024.
- California Department of Resources Recycling and Recovery. *SWIS Facility/Site Activity Details Recology Ostrom Road LF Inc. (58-AA-0011)*. Available at: <https://www2.calrecycle.ca.gov/SolidWaste/SiteActivity/Details/733?siteID=4075>. Accessed May 2024.
- California Department of Transportation. *Scenic Highways*. Available at: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>. Accessed May 2023.
- California Department of Transportation. *Traffic Noise Analysis Protocol*. April 2020.
- California Environmental Protection Agency. *GeoTracker*. Available at: <https://geotracker.waterboards.ca.gov/search>. Accessed May 2023.
- Caltrans. *Vehicle Miles Traveled-Focused Transportation Impact Study Guide*. May 20, 2020.
- City of Wheatland Fire Authority. *2022 Annual Report*. 2022.
- City of Wheatland. *City of Wheatland Bikeway Master Plan*. October 2014.
- City of Wheatland. *City of Wheatland Climate Action Plan*. October 2018.
- City of Wheatland. *City of Wheatland General Plan Background Report*. Adopted July 2006.
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- Cordua Irrigation District, Yuba Water Agency, City of Marysville. *Yuba Subbasins Water Management Plan: A Groundwater Sustainability Plan*. December 2019.
- Department of Toxic Substances Control. *EnviroStor*. Available at: <https://www.envirostor.dtsc.ca.gov/public/search.asp>. Accessed May 2023.
- ECORP Consulting Inc. *Biological Resources Assessment for the Heritage Oaks East Project*. November 27, 2023.
- ECORP Consulting, inc. *Cultural Resources Inventory and Evaluation Report for the Heritage Oaks East Project*. December 2023.
- Feather River Air Quality Management District. *AB2588 Air Toxics “Hot Spots” Program Annual Report*. November 30, 2020.
- Feather River Air Quality Management District. *Indirect Source Review Guidelines: A Technical Guide to Assess the Air Quality Impact of Land Use Projects Under the California Environmental Quality Act*. June 7, 2010.
- Feather River Air Quality Management District. *State and National Ambient Air Quality Standards*. Available at: <https://www.fraqmd.org/state-and-national-ambient-air-quality-standards>. Accessed April 2024.

- Feather River Air Quality Management District. *Stations and Data*. Available at: <https://www.fraqmd.org/stations-and-data>. Accessed April 2024.
- Federal Emergency Management Agency. *Flood Insurance Rate Map 06077C0465F*. Effective October 16, 2009.
- Federal Highway Administration. *Roadway Construction Noise Model User's Guide*. January 2006.
- Federal Transit Administration. *Transit Noise and Vibration Impact Assessment Guidelines*. May 2006.
- Governor's Office of Planning and Research. *Technical Advisory on Evaluating Transportation Impacts in CEQA*. December 2018.
- Health Effects Institute. *Understanding the Health Effects of Ambient Ultrafine Particles*. January 2013.
- Intergovernmental Panel on Climate Change. *Climate Change 2021: The Physical Science Basis Summary for Policymakers*. Available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf. Accessed April 2024.
- Luhdorff and Scalmanini Consulting Engineers. *Water Demand and Supply Assessment with Heritage Oaks Development in the City of Wheatland, California*. October 2023.
- MHM Incorporated. *Basis of Design Report (Revised) Heritage Oaks East Estates Drainage Area Interim Drainage Plan*. May 31, 2024.
- MHM Incorporated. *Technical Report Sanitary Sewer Heritage Oaks East Estates Sewer System Master Plan*. June 30, 2023.
- National Highway Traffic Safety Administration. *In Removing Major Roadblock to State Action on Emissions Standards, U.S. Department of Transportation Advances Biden-Harris Administration's Climate and Jobs Goals*. Available at: <https://www.nhtsa.gov/press-releases/cafe-preemption-final-rule>. Accessed April 2024.
- Sacramento Area Council of Governments. *Beale Air Force Base Land Use Compatibility Plan*. Available at: <https://www.sacog.org/post/yuba-county>. Accessed June 2024.
- Sacramento Metropolitan Air Quality Management District. *Guide to Air Quality Assessment, Chapter 4: Operational Criteria Air Pollutant and Precursor Emissions*. June 2020.
- Sacramento Metropolitan, El Dorado, Feather River, Placer, and Yolo-Solano Air Districts. *Spare the Air Website, Air Quality Information for the Sacramento Region*. Available at: sparetheair.com. Accessed April 2024.
- Saxelby Acoustics, LLC. *Environmental Noise Assessment, Village Farms EIR*. March 1, 2024.
- Schilling, Dane H., City Engineer, City of Wheatland. Personal Communication [email] with Angela DaRosa, Division Manager/Air Quality Specialist, Raney Planning & Management, Inc. May 30, 2024.
- South Coast Air Quality Management District. *Final 2012 Air Quality Management Plan*. December 2012.
- Spaethe, Sondra, Planning and Engineering Supervisor, Feather River Air Quality Management District. Personal Communication [phone] with Briette Shea, Associate/Air Quality Technician, Raney Planning & Management, Inc. May 21, 2020.
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 - U.S. Census Bureau. *Wheatland city, California*. Available at: https://data.census.gov/profile/Wheatland_city,_California?g=160XX00US0685012. Accessed June 2024.
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 - U.S. Environmental Protection Agency. *Final Rule to Revise Existing National GHG Emissions Standards for Passenger Cars and Light Trucks Through Model Year 2026*. Available at: <https://www.epa.gov/regulations-emissions-vehicles-and-engines/final-rule-revise-existing-national-ghg-emissions>. Accessed April 2024.
 - U.S. Environmental Protection Agency. *Green Book: Current Nonattainment Counties for All Criteria Pollutants*. Available at: <https://www3.epa.gov/airquality/greenbook/ancl.html>. Accessed April 2024.
 - U.S. Environmental Protection Agency. *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2019*. April 14, 2021.
 - U.S. Environmental Protection Agency. *Sources of Greenhouse Gas Emissions*. Available at: <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>. Accessed April 2024.
 - Wallace Kuhl & Associates, Inc. *Geotechnical Engineering Report: Heritage Oaks Estates East Infrastructure*. December 6, 2007.
 - Yuba County. *County of Yuba Emergency Operations Plan: All-Hazards*. Adopted August 2015.
 - Yuba Water Agency. *Yuba Subbasins Water Management Plan: A Groundwater Sustainability Plan*. December 2019.
 - Yuba-Sutter Transit. *FY 2019-2021 Triennial Performance Audit of Yuba-Sutter Transit Authority*. December 2022.
 - Yuba-Sutter Transit. *NextGen Transit Plan*. Adopted May 18, 2023.
- b. City of Wheatland. *City of Wheatland General Plan EIR*. July 2006.
- c. City of Wheatland. *City of Wheatland General Plan*. July 2006.
- d. All records of decision, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project.
3. The City Council has final approval authority over the following Project entitlements:
- a. Adoption of the Resolution certifying the EIR, approving the findings of fact and statement of overriding considerations, and adopting the mitigation monitoring plan;
 - b. General Plan Amendment from LDR to Low-Medium Density Residential (LMDR) and Medium Density Residential (MDR);
 - c. Rezone to amend the PD zoning district and General Development Plan to establish site development standards;

- d. Vesting Tentative Subdivision Map; and
 - e. Site Plan and Design Review.
4. With respect to the entitlements over which the City Council has final approval authority and pursuant to *CEQA Guidelines* Section 15090, the City Council certifies that:
- a. The Final EIR constitutes an adequate, accurate, objective, and complete final environmental impact report in full compliance with the requirements of CEQA and the State *CEQA Guidelines*;
 - b. The Final EIR has been presented to the City Council, and the Council has reviewed and considered the information contained in the Final EIR prior to taking action on the Project;
 - c. The Final EIR reflects the City Council's independent judgment and analysis.
5. The City Council has final approval authority over the Project. In support of its approval, the City Council makes the following findings for each of the significant environmental effects and alternatives of the Project identified in the EIR pursuant to Section 15091 of the *CEQA Guidelines*:
- a. Significant or Potentially Significant Impacts Mitigated to a Less-Than-Significant Level.

The following significant and potentially significant environmental impacts of the Project, including cumulative impacts, are being mitigated to a less-than-significant level, as set out below. A detailed discussion of each impact is included in the Draft EIR. Pursuant to Section 21081(a)(1) of CEQA and Section 15091(a)(1) of the *CEQA Guidelines*, as to each such impact, the City Council, based on the evidence in the record before it, finds that changes or alterations incorporated into the Project by means of conditions or otherwise, mitigate, avoid or substantially lessen to a level of insignificance these significant or potentially significant environmental impacts of the Project. The basis for the finding for each identified impact is set forth below.

- **Impact 4.1-6: Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment, or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.** The proposed project is generally consistent with the City's Climate Action Plan (CAP); however, the project would cumulatively contribute to increases of GHG emissions attributable to future development. Because full compliance with the CAP is reliant upon Mitigation Measure 4.1-6, without implementation of Mitigation Measure 4.1-6, which requires the inclusion of traffic calming and congestion management measures, the proposed project could conflict with the City's CAP and result in an impact that is considerably cumulative. Mitigation Measure 4.1-6 would ensure that the potential impact is less than significant and less than cumulatively considerable.
- **Impact 4.3-1: Conflict with a program, plan, ordinance, or policy addressing the circulation system during construction activities.** Construction activities associated with the project could affect the local roadway network, with an increased vehicle presence during construction. In addition, the roadway improvements, such as the installation of new entrances, could result in lane

closures and disrupt traffic flow. However, Mitigation Measure 4.3-1 requires the implementation of a traffic control plan for all construction activities. Mitigation Measure 4.3-1 would ensure the impact is less than significant.

- **Impact 4.3-3: Result in Vehicle Miles Traveled (VMT) which exceeds an applicable threshold of significance, except as provided in CEQA Guidelines Section 15064.3, subdivision (b).** The City of Wheatland has a baseline VMT per capita of 32.3, with CEQA guidelines requiring residential projects to generate a VMT per capita 15 percent less than the City's baseline to satisfy a less-than-significant VMT impact. According to the VMT Analysis prepared for the proposed project, the project would generate 27.98 VMT per capita, above the 27.45 VMT per capita threshold, which would be inconsistent with CEQA guidelines. Mitigation Measure 4.3-3, requires the implementation of community-based travel planning through a residential-based approach to encourage alternative modes of transportation including but not limited to, carpooling, vanpooling, and other ridesharing programs. Mitigation Measure 4.3-3, would ensure the impact is reduced to a less-than-significant level.
- **Impact 4.4-1: Cause a substantial adverse change in the significance of a tribal cultural resource, as defined in Public Resources Code (PRC) Section 21074.** Records of the California Native American Heritage Commission (NAHC) Sacred Lands File indicated the presence of tribal cultural resources within the vicinity of the project site. Ground-disturbing activities associated with the proposed project could cause a substantial change in the significance of a tribal cultural resource as defined in PRC Section 21074 if unknown buried tribal cultural resources are discovered, and a significant impact could occur. Mitigation Measure 4.4-1(a), requires all personnel involved in project implementation to receive project-specific tribal cultural resource awareness training. In addition, Mitigation Measure 4.4-1(b), requires appropriate actions if potential tribal cultural resources, archaeological resources, other cultural resources, articulated, or disarticulated human remains are discovered during construction activities, and Mitigation Measure 4.4-1(c) requires notification of the United Auburn Indian Community of the Auburn Rancheria (UAIC) of ground-disturbing activities and the presence of a Tribal Monitor during ground-disturbing activities. Mitigation Measures 4.4-1(a), 4.4-1(b), and 4.4-1(c) would ensure the impact is less than significant.
- **Impact 4.5-5: Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.** The proposed project would alter the existing drainage pattern of the site through increasing the amount of impervious surface within the site as compared to the site's existing undeveloped condition. A final drainage plan has not yet been prepared, and, thus, the final design of the stormwater drainage system and proper compliance with the specifications of the proposed storm drainage system detailed in the Interim Drainage Plan cannot be confirmed at this time. Thus, a significant impact could occur. Mitigation Measure 4.5-5 requires the applicant, to prepare and submit a Final Drainage Plan as part of the improvement plan and final map submission process. Mitigation Measure 4.5-5 would ensure the impact is less than significant.

- **Impact 4.6.4(a): Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service.** Special-status species include those plant and wildlife species that have been formally listed, are proposed as endangered or threatened, or are candidates for such listing under the federal Endangered Species Act (FESA) and California Endangered Species Act (CESA). According to the Biological Resources Assessment (BRA) prepared for the proposed project, special-status wildlife species have the potential to occur on the project site, as noted below.
 - *Crotch's Bumble Bee*: Crotch's bumble bee was not documented within the California Natural Diversity Database (CNDDDB) as having occurred within five miles of the project site. While the project site is heavily disturbed through regular mowing, the on-site ruderal areas and woodland may represent potential nesting habitat for the species. Thus, the potential exists for Crotch's bumble bee to be present within the project site and significantly impacted through habitat modifications. Pursuant to Mitigation Measure 4.6-1, a qualified biologist shall conduct a preconstruction nesting survey with focus on detecting active Crotch's bumble bee nesting colonies within seven days prior to ground-disturbing activities that are scheduled to occur during the flight season (February through October). If an active nest is detected on-site, a no-disturbance buffer zone shall be established around the nest to reduce the risk of disturbance or incidental take. The buffer shall last until the biologist deems the nesting colony is no longer active. Mitigation Measure 4.6-1 would ensure the impact is less than significant.
 - *Northwestern Pond Turtle*: According to the BRA, northwestern pond turtles have been recorded within five miles of the project site. The nearby portion of the Bear River and upland habitat are suitable dispersal lands for and nesting habitat for the species. Thus, the potential exists for northwestern pond turtle to be present within the project site and significantly impacted through habitat modifications. Pursuant to Mitigation Measures 4.6-2 and 4.6-3, ten days prior to the start of ground- or vegetation-disturbing activities, a qualified biologist shall conduct a focused survey for nests and within 48 hours prior to the start of such activities, a qualified biologist shall conduct a preconstruction survey for northwestern pond turtles within the project site. If northwestern pond turtles are found on-site prior to or during construction, the turtles shall be allowed to move out of the work area on their own volition. If they are unable to leave on their own terms, a qualified biologist shall capture and relocate them at least 100 feet from where they were found. Mitigation Measures 4.6-2 and 4.6-3 would ensure the impact is less than significant.
 - *Valley Elderberry Longhorn Beetle*: The proposed project could have indirect significant impacts to the valley elderberry longhorn beetle (VELB) if construction activities disturbs any occupied elderberry shrubs. Mitigation Measures 4.6-4, 4.6-5, and 4.6-6 require that prior to commencement of construction activities, avoidance zones for elderberry

shrubs shall be established and demarcated, the elderberry shrubs on Malone Avenue shall be transplanted to a portion of Bear River riparian area until completion of construction, and work areas within 30 of elderberry bushes shall be presoaked to minimize dust generation. Mitigation Measures 4.6-4, 4.6-5, and 4.6-6 would ensure the impact is less than significant.

- *Pallid Bat*: Trees located on-site could provide suitable roosting habitat for pallid bat. Therefore, significant impacts could occur if roosting habitat is removed during project construction. Pursuant to Mitigation Measure 4.6-7, prior to any construction activities that may impact habitat, a qualified biologist shall conduct a bat habitat assessment for suitable bat roosting habitat. If a maternity roost is located, the roost shall remain undisturbed until after the maternity season, or until the biologist has determined the roost is no longer active. Mitigation Measure 4.6-7 would ensure the impact is less than significant.
- *Western Red Bat*: The on-site trees and shrubs could provide suitable roosting habitat for the western red bat. Thus, western red bat could be located within the project site, and could be significantly impacted if habitat is removed during project construction. Pursuant to Mitigation Measure 4.6-8, if the shrubs or trees proposed to be removed or trimmed are determined by a qualified bat biologist to be suitable day-roosting habitat, then a qualified bat biologist shall prepare a Bat Management Plan including, specific avoidance and minimization measures such as preconstruction acoustic surveys for western red bats. Mitigation Measure 4.6-8 would ensure the impact is less than significant.
- *Swainson's Hawk*: The project site provides suitable foraging habitat for Swainson's hawk; thus, the proposed project could have significant impact through habitat modification. Mitigation Measure 4.6-9 requires that if construction activities occur between March 1 to August 31, a qualified biologist shall conduct a preconstruction survey for Swainson's hawks' nests on-site and in a 0.25-mile buffer around the project site within 14 days prior to the start of ground- or vegetation-disturbing activities. Mitigation Measure 4.6-10 requires the applicant to consult with CDFW to determine mitigation for loss of on-site Swainson's hawk foraging habitat. Mitigation Measures 4.6-9 and 4.6-10 would ensure the impact is less than significant.
- *Burrowing Owl*: Ruderal areas that cannot be disced or plowed could provide marginally suitable burrowing owl habitat. Thus, while burrowing owls have low potential to occur within the project site, construction activities could significantly impact burrows that are present on-site. Mitigation Measure 4.6-11 requires that prior to commencement of ground-disturbing activities, a qualified biologist shall conduct a take avoidance preconstruction survey to verify the absence of burrowing owls on-site. If an active burrow is located within the project site and destruction is unavoidable, the applicant shall prepare a Burrowing Owl Exclusion Plan to be approved by CDFW. Mitigation Measure 4.6-11 would ensure the impact is less than significant.

- *Tricolored Blackbird*: Riparian vegetation along Grasshopper Slough includes blackberry brambles, which provides suitable breeding habitat for the tricolored blackbird. The blackberry brambles would be adversely impacted by project construction. Thus, the proposed project could have a significant impact, either directly or indirectly through habitat modifications, on tricolored blackbird. Mitigation Measure 4.6-12 requires that within 30 days prior to the start of construction activities, a qualified biologist shall conduct a preconstruction survey for nesting tricolored blackbird on-site and within a 500-foot buffer around the project site to determine whether or not nesting colonies are present. If an active nesting colony is observed, the buffer shall be maintained until a qualified biologist has determined that the colony is no longer active. Mitigation Measure 4.6-12 would ensure the impact is less than significant.
- *Nesting Raptors and Migratory Birds*: The project site contains existing trees that could be used by nesting raptors and migratory birds protected by the Migratory Bird Treaty Act (MBTA). Construction activities could result in mortality of individual birds or adversely affect the nesting success of raptors and migratory birds. Thus, if construction activities were to occur during the breeding season and the aforementioned species are present, the proposed project could have a significant impact. Pursuant to Mitigation Measure 4.6-13, if construction activities being during February 1 to September 30, a qualified biologist shall conduct a preconstruction nesting bird survey on-site and within a 500-foot buffer (for raptors) and a 100-foot buffer (for non-raptor migratory birds) around the project site within 14 days prior to the start of ground- or vegetation-disturbing activities. If active nests are observed, a buffer shall be established and monitored by a qualified biologist until the biologist has determined the nest is no longer active. Mitigation Measure 4.6-13 would ensure the impact is less than significant.
- **Impact 4.6.4(b): Have a substantial adverse effect on any riparian habitat or other Sensitive Natural Community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.** A small area of valley oak woodland and forest habitat is located on-site. While the proposed project is anticipated to avoid the valley oak woodland and forest habitat area, a formal delineation of Sensitive Natural Communities on and/or adjacent to the project site has not yet been conducted. If Sensitive Natural Communities are delineated on the project site and the proposed project would involve disturbance of such a community, a significant impact could occur. Mitigation Measure 4.6-14, requires that prior to the commencement of ground-disturbing activities, a qualified biologist shall conduct vegetation surveys within the project site and establish a 25-foot buffer to delineate any identified Sensitive Natural Communities. Mitigation Measure 4.6-14 would ensure the impact is less than significant.
- **Impact 4.6.4(e): Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.** The proposed project could impact valley oak trees subject to regulation under the Oak Woodlands Conservation Act (PRC Section 21083.4). Because valley oak trees are

present on-site, the project could conflict with the Oak Woodlands Conservation Act and a significant impact could occur. However, pursuant to Mitigation Measure 4.6-15, prior to commencement of ground-disturbing activities, including tree removal, a certified arborist shall prepare an arborist report documenting all trees with a diameter at breast height (DBH) of five inches or greater within the project site, and take appropriate measures if trees are found on-site. Mitigation Measure 4.6-15 would ensure the impact is less than significant.

- **Impact 4.6.5(b, c): Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5 and/or disturb any human remains, including those interred outside of dedicated cemeteries.** According to the Cultural Resources Report, although surface or subsurface cultural resources were not observed on-site, a relatively high potential exists for buried pre-contact archaeological resources to be present within the project site due to the proximity to the Bear River. Additionally, the potential for unrecorded, subsurface archaeological resources to exist within the project site cannot be entirely ruled out. Based on the above, the proposed project could disturb human remains and a significant impact could occur.

If human remains or potentially human remains are found, the archaeologist shall ensure protection measures are taken to protect the discovery from disturbance. The archaeologist shall notify the City of Wheatland and the Yuba County Coroner. If the County Coroner determines the remains are Native American and not the result of a crime scene, they shall notify the NAHC, who shall designate a Native American Most Likely Descendant (MLD) for the proposed project, who shall make recommendations concerning treatment of the remains. If an agreement between the MLD and landowner cannot be reached, the landowner shall rebury the remains where they shall not be further disturbed and recorded with the NAHC. Work shall resume within the no-work radius until the City determines the treatment has been completed to satisfaction. Mitigation Measure 4.6-16 requires, that prior to commencement of any construction activities, a Contractor Awareness Training Program shall be delivered to train equipment operators about cultural resources, which shall be prepared by a qualified professional archaeologist to inform construction personnel about, federal and State regulations pertaining to cultural resources and tribal cultural resources, the subsurface indicators of resources that shall require a work stoppage, mitigation measures, and enforcement of penalties and repercussions for non-compliance with the program. Mitigation Measure 4.6-17 requires that prior to the start of trenching, a qualified professional archaeologist will monitor all trenching activities and any below-ground utility installation associated with project construction, and shall have the authority to temporarily halt ground-disturbing or construction-related work within 100 feet of any discovery of potential historical or archaeological resources. Mitigation Measure 4.6-18 requires that in the event subsurface deposits believed to be cultural or human in origin are discovered during construction, all work shall halt within a 100-foot radius of the discovery, a qualified professional archaeologist shall evaluate the significance of the find and shall have the authority to modify the no-work radius as appropriate, using professional judgement; if the find includes human remains, the professional archeologist shall ensure reasonable protection measures are taken to protect the discovery from disturbance, and shall contact the County Coroner. Mitigation Measures 4.6-16, 4.6-17, and 4.6-18 would ensure the impact is less than significant.

- **Impact 4.6.7(aiii, aiv, c): Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction, or landslides, and/or be located on a geologic unit or soil that is unstable as a result of the project, and potentially result in, on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.** Further analysis of on-site soil conditions is necessary to ensure that the proposed project would not directly or indirectly cause potential substantial adverse effects involving liquefaction or be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site liquefaction. Mitigation Measure 4.6-19 requires that prior to issuance of any grading permits, the project applicant shall submit a design-level geotechnical exploration study produced by a California Registered Civil Engineer and identify best practices to achieve compliance with the California Building Standards Code's geologic soils and seismic requirements; the recommendations of the geotechnical exploration study shall be incorporated and utilized in the project design. Mitigation Measure 4.6-19 would ensure the impact is less than significant.
- **Impact 4.6.7(d): Be located on expansive soil, as defined in Table 18-1B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property.** According to the Geotechnical Engineering Report prepared for the project site, laboratory testing of the near surface clays and silts on-site indicated that on-site soils could exert moderate expansion pressures on foundations and exterior flatwork. Therefore, the Geotechnical Engineering Report provides specific recommendations to ensure impacts related to soil expansion do not occur. Without compliance with the recommendations contained within the Geotechnical Engineering Report, a significant impact could occur. Mitigation Measure 4.6-20 requires implementation of Mitigation Measure 4.9-19, as described above. Mitigation Measure 4.6-20 would ensure the impact is less than significant.
- **Impact 4.6.7(f): Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.** According to the City's General Plan EIR, only a portion of the City's General Plan planning area has been surveyed, and, thus, unknown significant paleontological resources could be uncovered during future ground-disturbing activities associated with development. Because the proposed project would be constructed in areas where surveys have not taken place, the proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature, and a significant impact could occur. However, pursuant to Mitigation Measure 4.6-21, should paleontological resources be discovered during ground-disturbing activities, work shall be halted in the area within 50 feet of the find and the City of Wheatland Community Development Department shall be notified and a qualified paleontologist shall inspect the discovery; if deemed significant, the resource(s) shall then be salvaged and deposited in an accredited scientific institution, with construction allowed to continue in areas outside the buffer zone. Mitigation Measure 4.6-21 would ensure the impact is less than significant.

- Impact 4.6.8(b): Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment.** Based on historic aerial photographs, the project site was previously used as agricultural land. As a result, the potential exists for organochlorine pesticides (OCPs) and arsenic pesticide to be present within surface soils. In addition, an existing well is located on the project site, which if not removed in accordance with County and State regulations could have a significant impact. Furthermore, the site of an unidentified structure located on-site from 1993 to 2006 could contain traces of asbestos-containing materials (ABMs) and lead-based paints (LBPs). Mitigation Measure 4.6-22 requires that prior to approval of grading permits, the project applicant shall ensure that additional testing of on-site soils is conducted to determine lateral and vertical extent of potential contamination of OCPs, ACMs, and LBPs, and the proper disposal of any contaminated soils. In addition, and Mitigation Measure 4.6-23 requires that prior to improvement plan approval, the project applicant shall hire a licensed well contractor to obtain a well abandonment permit from the Yuba County Environmental Health Department (YCEHD) for all on-site wells not proposed for use, and properly abandon the on-site wells. Mitigation Measures 4.6-22 and 4.6-23 would ensure the impact is less than significant.
- Impact 4.6.9(a): Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.** Soils exposed during ground-disturbing activities have the potential to affect water quality either by suspended soil particles and sediments transported through runoff or by sediments transported as dust that eventually reach local water bodies. During project operation, pollutants would have the potential to enter stormwater and affect detention basins and violate water quality standards or waste discharge requirements resulting in a significant impact. However, Mitigation Measure 4.6-24 requires that prior to issuance of any grading permits, the contractor shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the Central Valley Regional Water Quality Control Board (RWQCB), which would identify Best Management Practices (BMPs) to reduce pollutants in stormwater runoff to the maximum extent possible. In addition, Mitigation Measure 4.6-25 requires that prior to approval of final project improvement plans, a detailed BMP and water quality maintenance plan shall be submitted to the City Engineer for review and approval. Mitigation Measures 4.6-24 and 4.6-25 would ensure the impact is less than significant.
- Impact 4.6.9(civ): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would impede or redirect flood flows.** According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 06115C0445D, a portion of the project site is located within a Special Flood Hazard Area (SFHA) without Base Flood Elevation (BFE) (Zone A). As the proposed project has planned development within the SFHA, the project could be exposed to risks associated with flood hazards, which could result in a significant impact. However, Mitigation Measure 4.6-26 requires that prior to construction of the foundation or at the completion of final grading, whichever comes first, project improvement plans shall show that all finished building pad elevations at the site shall be a minimum of one foot above the 100-year BFE, in accordance with Section 15.20.150 of the

City of Wheatland Municipal Code. Mitigation Measure 4.6-27 requires that prior to issuance of building permits, a Hydrology Study must be submitted to the City Engineer demonstrating the project's compliance with all relevant sections of the City's Municipal Code and applicable federal standards. Mitigation Measures 4.6-26 and 4.6-27 would ensure the impact is less than significant .

c. Significant or Potentially Significant Impacts Which Could Not Be Fully Mitigated to a Less-Than-Significant Level.

Mitigation measures to mitigate, avoid, or substantially lessen the following significant and potentially significant environmental impacts of the Project, including cumulative impacts, have been identified. However, pursuant to Section 21081(a)(3) of CEQA and Section 15091(a)(3) of the *CEQA Guidelines*, as to each such impact and mitigation measure, the City Council, based on the evidence in the record before it, specifically finds that the mitigation measures are infeasible or ineffective at reducing the impacts to a less-than-significant level. Each impact and mitigation measure and the facts supporting the finding of infeasibility of each mitigation measure are set forth below. A detailed discussion of each impact is included in the Draft EIR. Notwithstanding the disclosure of these impacts and the finding of infeasibility, the City Council elects to approve the Project due to the overriding considerations set forth below in Section e., Statement of Overriding Considerations.

- **Impact 4.1-2: Conflict with or obstruct implementation of the applicable air quality plan during project operation.** Operation of the proposed project would result in reactive organic gases (ROG) and oxides of nitrogen (NO_x) emissions that would exceed the applicable Feather River Air Quality Management District (FRAQMD) thresholds. Therefore, the proposed project could violate an air quality standard or contribute substantially to an existing or projected air quality violation, and a significant impact could occur. Mitigation 4.1-2(a) requires the use of zero-volatile organic compound (VOC) paints, finishes, adhesives, and cleaning supplies, and Mitigation Measure 4.1-2(b) requires the implementation of Mitigation Measure 4.3-3, as described above. However, even with implementation of Mitigation Measures 4.1-2(a) and 4.1-2(b), operational ROG and NO_x emissions would exceed the applicable thresholds. Because additional feasible mitigation for the reduction of the proposed project's operational emissions to below the applicable thresholds of significance is not currently available, and because the feasibility and relative effectiveness of Mitigation Measures 4.1-2(a) and (b) is not conclusive, even with implementation of the foregoing mitigation measures, the impact would remain significant and unavoidable.
- **Impact 4.1-5: Result in a cumulatively considerable new increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).** Even with implementation of Mitigation Measures 4.1-2(a) and 4.1-2(b), the proposed project would result in cumulative operational emissions that would exceed the applicable FRAQMD thresholds of significance and would be in conflict with the FRAQMD's adopted attainment plans or inhibit attainment of regional Ambient Air Quality Standards (AAQS). Mitigation Measure 4.1-5 requires the implementation of Mitigation Measures 4.1-2(a) and 4.1-2(b), as defined above.

Mitigation Measure 4.1-5 would not reduce operational ROG and NO_x emissions to below the FRAQMD's thresholds of significance, and the proposed project's impact would remain cumulatively considerable and significant and unavoidable.

d. Project Alternatives.

The City Council has considered the Project alternatives presented and analyzed in the Draft EIR and presented during the comment period and public hearing process. Some of these alternatives have the potential to avoid or reduce certain significant or potentially significant environmental impacts, as set forth below. The City Council finds, based on specific economic, legal, social, technological, or other considerations, that these alternatives are infeasible. Each alternative and the facts supporting the finding of infeasibility of each alternative are set forth below.

- **No Project (No Build) Alternative.** The No Project (No Build) Alternative is defined as the continuation of the existing conditions of the project site. Under the No Project (No Build) Alternative the current conditions of the project site would remain, and the site would not be developed. The site is currently undeveloped and consists of generally flat, vacant land that has been subject to prior mass grading and mowing. The No Project (No Build) Alternative would not meet the overall intent of the City's land use designation for this site or any of the project objectives, which include the following:

1.

Therefore, the City Council rejects the No Project (No Build) Alternative.

- **Buildout Pursuant to Existing General Plan Alternative.** Under the Buildout Pursuant to Existing General Plan Alternative, the proposed project would be developed pursuant to the existing LDR designation, as compared to the currently proposed LMDR and MDR designations. Under the Buildout Pursuant to Existing General Plan Alternative, assuming the project were built pursuant to the maximum allowable 4.0 dwelling units per acre (du/ac), the number of residential units on the site would be reduced to a maximum of 594 units, compared to the currently proposed maximum of 685 units, which would be a decrease of 91 units. The Buildout Pursuant to Existing General Plan Alternative would result in a lower density and fewer units which would only partially meet project Objective 1. Objectives 9 and 10 would also only partially be met, as the reduction would result in less funding for maintenance of public facilities, as well as less property and sales tax revenue. The significant and unavoidable impacts would persist under this alternative and given that the alternative is a form of a No Project (No Build) Alternative in accordance with Section 15126(e)(2) of the CEQA Guidelines, it would not be considered the environmentally superior alternative. Therefore, the City Council rejects the Buildout Pursuant to Existing General Plan Alternative.
- **Increased Density Alternative.** The Increased Density Alternative would develop Villages 7, 8, 9 with high-density, affordable multi-family residences. The Increased Density Alternative would require the approval of a General Plan Amendment to change the General Plan land use designation of the indicated portions of the project site to High Density Residential (HDR), which would allow for higher density. The proposed development area of the project site would not change under the Increased Density Alternative, and all other site improvements required under the proposed project would still be developed under the Increased

Density Alternative, including an internal roadway network and utilities improvements. The Increased Density Alternative would also include the same type and amount of the open space areas as the proposed project. The Increased Density Alternative would be considered the Environmentally Superior Alternative. All project objectives would be met, and although impacts to VMT would be fewer there would be greater impacts related to air quality and GHG emissions that were already significant and unavoidable. The alternative would still require the approval of a General Plan Amendment, Rezone and General Development Plan, Vesting Tentative Subdivision Map, and Site Plan and Design Review. The increase in significant and unavoidable impacts related to air quality and GHG emissions are greater than the decrease in impacts related to VMT. Therefore, the City Council rejects the Increased Density Alternative.

e. Statement of Overriding Considerations.

Pursuant to the *CEQA Guidelines* Section 15092, the City Council finds that in approving the Project it has eliminated or substantially lessened all significant and potentially significant effects of the Project on the environment where feasible. The City Council further finds that it has balanced the economic, legal, social, technological, and other benefits of the Project against the remaining unavoidable environmental risks in determining whether to approve the Project, and has determined that those benefits outweigh the unavoidable environmental risks and that those risks are acceptable. The City Council makes this statement of overriding considerations in accordance with Section 15093 of the *CEQA Guidelines* in support of approval of the Project.

The City of Wheatland recognizes that the project would have the following significant and unavoidable impacts on the environment:

- **Impact 4.1-2: Conflict with or obstruct implementation of the applicable air quality plan during project operation .**
- **Impact 4.1-5: Result in a cumulatively considerable new increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).**

The impacts above are outweighed by the benefits offered by the Project. The following specific benefits would be provided by the project:

- The project would provide a variety and diverse mix of housing opportunities at a broad range of new home sales price points.
- The project would enhance transportation circulation within the City by providing new roadways connecting to properties to the west of the community, and pedestrian and bicycle trail connectivity to the north of the community.
- The project would generate new property tax and sales tax revenue to support and enhance public services within the City.
- The project would help the City meet the housing goals of the Regional Housing Needs Allocation (RHNA).

6. Upon approval of the Project, the City shall file a Notice of Determination with the County Clerk of Yuba County and, if the Project requires a discretionary approval from any State agency, with the State Office of Planning and Research, pursuant to the provisions of CEQA Section 21152.

7. Pursuant to *CEQA Guidelines* Section 15091(e), the administrative record of these proceedings is located at, and may be obtained from, the City of Wheatland, Community Development Department, 111 C Street, Wheatland, CA 95692. The custodian of these documents and other materials is the City Clerk.

B. Mitigation Monitoring and Reporting Program

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