BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

A RESOLUTION OF THE SAN BENITO COUNTY BOARD OF SUPERVISORS CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR THE COUNTY OF SAN BENITO RIVER PARKWAY AND REGIONAL PARK PROJECT AND ADOPTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS, MITIGATION MEASURES, MITIGATION MONITORING AND REPORTING PROGRAM AND STATEMENT OF OVERRIDING CONSIDERATIONS	**Resolution No. 2016-__**

WHEREAS, the County of San Benito desires to develop a River Parkway and Regional Park within the unincorporated County of San Benito, to benefit the residents of the County; and

WHEREAS, the Project (as further defined below) concerns (1) an approximately 20-mile River Parkway, to provide multi-use public trails (e.g., hiking, bicycling, equestrian), open space and parks along an approximately 20-mile corridor of the San Benito River and Tres Pinos Creek; and (2) the adjacent approximately 31-acre Regional Park site, to support active and passive recreation, and to conserve and enhance environmental or historical resources and features on approximately 31 acres of land between the proposed River Parkway to the south and San Benito High School to the north, and west of San Benito Street, in unincorporated San Benito County, California near the southern limits of the City of Hollister ("Project Site"); and

WHEREAS an Environmental Impact Report for the Project, comprised of a Draft Environmental Impact Report ("DEIR") and a Final Environmental Impact Report ("FEIR") (collectively referred to as the "EIR") was prepared in accordance with the California Environmental Quality Act (Pub. Res. Code §21000 *et seq.*), the CEQA Guidelines (14 Cal. Code of Reg's §§15000-15387) and the San Benito County Implementing Procedures for CEQA (collectively, "CEQA") to study the potential environmental impacts of approving the Project, and to propose feasible mitigation measures to avoid or reduce any significant, adverse environmental impacts, and

WHEREAS, the Board of Supervisors of the County of San Benito considered certification of the EIR, adoption of the Mitigation Monitoring and Reporting Program ("MMRP"), and adoption of the CEQA findings including a Statement of Overriding Considerations, at its regularly scheduled meeting on October 25, 20156 at which time it heard and received all oral and written testimony and evidence that was made, presented or filed, and all persons present at the meeting were given the opportunity to hear and be heard with respect to any matter related thereto; and

WHEREAS, at the conclusion of the public testimony, and in accordance with all applicable state and local laws, the Board of Supervisors deliberated and considered certification of the EIR, adoption of the Mitigation Monitoring and Reporting Program ("MMRP"), and adoption of the CEQA findings including a Statement of Overriding Considerations, in light of all evidence in the administrative record for the Project.

NOW THEREFORE BE IT RESOLVED that based on all evidence in the administrative record for the Project, the San Benito County Board of Supervisors hereby makes the following findings and determinations regarding the EIR:

I. INTRODUCTION TO CEQA FINDINGS

These Findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code §21000 et seq., "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, §15000 et seq.) by San Benito County (the "County"), as the lead agency for the San Benito County River Parkway and Regional Park Project (the "Project"). These Findings pertain to the Environmental Impact Report (SCH # 2013091072) (the "EIR"), as that term is defined below.

A. PROJECT DESCRIPTION SUMMARY

The Project consists of two related components: the approximately 20-mile River Parkway and the adjacent approximately 31-acre Regional Park site. The Project requires the certification of the EIR and adoption of the conceptual draft of the San Benito River Parkway Master Plan and the River Parkway Focus Area and Regional Park Master Plan (hereafter, collectively referred to as the "Master Plans") by San Benito County prior to the initiation of the Project.

The guiding vision for the River Parkway (as described more fully in the Master Plans and the Draft EIR, Project Description) is to provide multi-use (hiking/bicycling/equestrian) public trails, open space and parks along an approximately 20-mile corridor of the San Benito River and Tres Pinos Creek. The River Parkway would be divided into five reaches. Reach Three would traverse a more urban environment near the southern limits of the City of Hollister, while the remaining reaches would mainly pass through rural and agricultural areas. Full implementation of all five reaches would require a phased approach. Interim trail access may be provided on the River Parkway until full improvements can be funded, designed, and constructed. Primary and secondary staging areas would be established to provide convenient access for trail users.

The proposed approximately 31-acre Regional Park (as described more fully in the Master Plans and the Draft EIR, Project Description) is intended to have a casual, yet sophisticated, feel with a formal layout at its core and a more natural, curvilinear layout closer to its perimeter. The landscape would be intended to create a native looking environment suited to San Benito County with oaks and sycamore trees. Ornamental plantings would be kept to a minimum and would be located around high profile areas such as entries. The Regional Park is intended to be a diversified regional park that supports opportunities for active and passive recreation and conserves and enhances significant environmental or historical resources and features. The Regional Park would include various components which may include such features as asphalt basketball or multi-use courts, sand and/or turf areas for volleyball courts, ball fields or other sports activities, a swimming pool, playground(s), buildings/structures for community center activities such as gathering rooms or small classrooms, restrooms or administrative offices, garden areas, picnic areas, and surface parking lots. The Regional Park would be a total of approximately 31 acres in size.

B. TYPE OF EIR

An Environmental Impact Report (EIR) has been prepared for the proposed River Parkway and Regional Park Project. As noted above, the Project consists of two components: (1) the approximately 20-mile River Parkway, and (2) a Regional Park located along the River Parkway.

The County prepared a Notice of Preparation (NOP) of an EIR for the proposed Project and distributed the NOP for agency and public review on September 25, 2013 for a 30-day review period. The County also conducted a public scoping meeting during the NOP comment period, which took place in Hollister on October 7, 2013. The intent of the scoping meeting was to provide interested individuals, groups, public agencies and others a forum to provide input to the County verbally in an effort to assist in further refining the intended scope and focus of the EIR. Written comments received during the scoping period are summarized and responded to in Section 1.0 of the DEIR, and are included in full in Appendix A to the DEIR.

A Draft Environmental Impact Report ("DEIR") was released for public and agency review on May 18, 2016, including being posted on the County's website and making it available in hard copy at the County of San Benito Resource Management Agency, Building and Planning Division (2301 Technology Parkway, Hollister, CA) and with the Clerk of the Board of Supervisors (481 Fourth Street, Hollister, CA). The comment period closed on July 1, 2016 after a 45-day review period. The DEIR assesses the potential environmental effects of implementation of the Proposed Project, identifies means to eliminate or reduce potential adverse impacts, and evaluates a reasonable range of potentially feasible alternatives.

The Final EIR ("FEIR") includes comments on the DEIR; written responses to the environmental issues raised in those comments; and revisions to the text of the DEIR reflecting changes made in response to comments and other information. This document incorporates the EIR by reference and comprises the EIR for the Project. The FEIR was published on October 14, 2016 and provided to commenting agencies. In addition to posting the FEIR on the County's website and making it available in hard copy at the County of San Benito Resource Management Agency, Building and Planning Division (2301 Technology Parkway, Hollister, CA) and with the Clerk of the Board of Supervisors (481 Fourth Street, Hollister, CA), the County sent a hard copy to each agency, entity, or individual that submitted written comments on the DEIR.

Given the reasonably available information as of the commencement of environmental review for the Project, for the River Parkway component of the Project, the analysis of environmental impacts in the EIR is at a programmatic level. For the Regional Park component of the Project, the analysis of environmental impacts in the EIR is at a project level.

The degree of specificity required in the EIR corresponds to the degree of specificity involved in the underlying activity (i.e., each of the Project components: the proposed River Parkway and the Regional Park). The CEQA Guidelines provide the standard for the degree of specificity on which this EIR is based. Section 15146 of the CEQA Guidelines states:

> *(a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.*
>
> *(b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.*

The EIR constitutes an accurate, adequate, objective and complete EIR. The analysis provided in the EIR provides sufficient information to disclose and understand the environmental impacts of the proposed River Parkway and Regional Park Project and to permit a reasonable choice of alternatives so far as the environmental aspects are concerned and allows informed decision making and public participation.

C. INCORPORATION OF EIR BY REFERENCE

The EIR, consisting of: (1) the Final EIR volume (which consists of the Introduction, Revisions to the Draft EIR, Responses to Comments, and the MMRP); and (2) the Draft EIR and all appendices attached thereto and all other technical material references therein, is hereby incorporated by reference into these Findings.

1. Absence of Significant New Information

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR but before certification of the Final EIR. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide examples of significant new information under this standard.

The Board of Supervisors recognizes that the FEIR incorporates information obtained by San Benito County since the DEIR was completed, and contains certain additions, clarifications, modifications, and other changes. With respect to this information, the Board of Supervisors finds that the additional information in the FEIR does not show that:

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

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

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

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

Based on the foregoing, and having reviewed the information contained in the EIR and the other information in the administrative record, including, without limitation, the comments on the DEIR and the responses thereto, and the above-described information, the Board of Supervisors finds that no significant new information has been added to the FEIR since public notice was given of the availability of the DEIR that would require recirculation of the EIR.

2. Differences of Opinion Regarding the Impacts of the Project

In certifying the EIR and in approving the Project, the Board of Supervisors recognizes that the Project involves several potentially controversial environmental issues and that a range of technical and scientific opinion exists with respect to those issues. The Board of Supervisors has acquired an understanding of the range of this technical and scientific opinion by its review of the DEIR, the comments received on the DEIR and the responses to those comments in the EIR, as well as testimony, letters, and reports regarding the EIR, its own experience and expertise in assessing those issues and other information in the administrative record. The Board of Supervisors has reviewed and considered, as a whole, the evidence and analysis presented in the DEIR, the evidence and analysis presented in the comments on the DEIR, the evidence and analysis presented in the FEIR, the information submitted on the FEIR, and the reports prepared by the experts who prepared the EIR, San Benito County's consultants, and by staff, addressing those comments. The Board of Supervisors has gained a comprehensive and well-rounded understanding of the environmental issues presented by the Project. In turn, this understanding has enabled the Board of Supervisors to make its findings after weighing and considering the various viewpoints on these important issues. Accordingly, the Board of Supervisors makes the following finding:

The Board hereby ratifies, adopts, and incorporates the analysis and explanation in the EIR and the administrative record, and ratifies, adopts, and incorporates in these Findings the determinations and conclusions of the EIR and other materials in the administrative record relating to environmental impacts and mitigation measures.

The Board of Supervisors hereby finds and determines as follows:

(1) That the Board of Supervisors was presented with administrative record of proceedings, including, without limitation, the EIR, and that the Board of Supervisors independently reviewed and considered the information contained in the EIR, also taking into consideration the other information in the administrative record, prior to making a decision regarding certification and regarding the findings and the approvals set forth below;

(2) That, pursuant to CEQA Guidelines Section 15090 (Title 14 of the California Code of Regulations, Section 15090), the EIR has been completed in compliance with the CEQA; and

(3) That the EIR reflects the Board of Supervisors' independent judgment and analysis.

D. REQUIREMENTS FOR CEQA FINDINGS

Pursuant to Public Resources Code §21081 and CEQA Guidelines §15091, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency makes one or more of the following findings with respect to each significant impact:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report. (The concept of infeasibility also encompasses whether a particular alternative or mitigation measure promotes the project's underlying goals and objectives, and whether an alternative or mitigation measure is impractical or undesirable from a policy standpoint.)

The County has made one or more of these specific written findings regarding each significant impact associated with the Project. Each of those specific findings are presented below, along with a presentation of facts in support of each of these findings.

The County certifies these Findings are based on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental issues identified and discussed. These Findings are based on substantial evidence contained in the administrative record before the County on this Project, including, but not limited to, the Final EIR and other "supporting evidence" cited herein.

II. LOCATION OF AND CUSTODIAN FOR THE RECORD

The documents and other materials that constitute the Record of Proceedings (as defined below) on which the County's Findings of Fact (collectively, "Findings") are based are located at: San Benito County Resource Management Agency, 2301 Technology Pkwy., Hollister, CA 95023. The custodian of these documents is Adam Goldstone. This information is provided in compliance with Public Resources Code § 21081.6(a)(2) and 14 Cal. Code Regs. § 15091(e).

For purposes of CEQA and these Findings, the Record of Proceedings for the Project consists of the following documents, at a minimum:

- All Project application materials.
- All staff reports and related documents prepared by the County with respect to its compliance with the substantive and procedural requirements of CEQA and with respect to the action on the Project.
- All staff reports and related documents prepared by the County and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the County pursuant to CEQA.
- Any transcript or minutes of the proceedings at which the decision-making body of the County heard testimony on, or considered any environmental document on, the Project, and any transcript or minutes of proceedings before any advisory body to the County that were presented to the decision-making body prior to action on the EIR or on the Project.
- All notices issued by the County to comply with CEQA or with any other law governing the processing and approval of the Project.
- All written comments received in response to, or in connection with, the EIR prepared for the Project, including responses to the notice of preparation.

- All written evidence or correspondence submitted to, or transferred from, the County with respect to compliance with CEQA or with respect to the Project.
- Any proposed decisions or findings submitted to the decision-making body of the County by its staff, or the Project proponent, Project opponents, or other persons.
- The documentation of the final County decision, including the Final EIR, and all documents, in addition to those referenced above, cited or relied on in these Findings or in the Statement of Overriding Considerations adopted pursuant to CEQA.
- Any other written materials relevant to the County's compliance with CEQA or to its decision on the merits of the Project, including the initial study, any drafts of any environmental document, or portions thereof, that have been released for public review, and copies of studies or other documents relied upon in the EIR prepared for the Project and either made available to the public during the public review period or included in the County's files on the Project, and all internal agency communications, including staff notes and memoranda related to the Project or to compliance with CEQA.
- Any other materials required to be in the Record of Proceedings by Public Resources Code § 21167.6(e).

III. FINDINGS FOR IMPACTS IDENTIFIED AS INSIGNIFICANT (Class III)

Public Resources Code § 21081 and CEQA Guidelines § 15091 do not require findings of fact for impacts that are less than significant. Under CEQA, no mitigation measures are required for impacts that are less than significant (CEQA Guidelines § 15126.4(a)(3)).

Section 4.0 of the Draft EIR and Appendix A (Initial Study) explain why certain impacts were not found to be significant and therefore did not require mitigation and/or were not discussed in detail in the EIR, pursuant to CEQA Guidelines Section 15128.

IV. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (Class II)

The County hereby finds that mitigation measures have been identified in the EIR that will avoid or substantially lessen the following environmental impacts to a less than significant level. These Findings are based on the discussion of impacts in the detailed issue area analyses in Section 4.0 of the Draft EIR, as well as relevant responses to comments in the Final EIR. The significant impacts and the mitigation measures that will reduce them to a less than significant level are as follows.

Class II impacts are those which are significant but can be mitigated to less than significant by implementation of mitigation measures.

A. AESTHETICS (CLASS II)

1. **Impact AES-4.** The proposed project would introduce new sources of lighting and glare which could increase nighttime ambient light visible to surrounding uses, especially due to lighting from parking lots at the Regional Park Site. Preparation of a lighting plan would be necessary to ensure compliance with County requirements to minimize light pollution. Impacts related to night lighting would be Class II, significant but mitigable.

a. **Mitigation** - The County requires that all components of the Project implement the following mitigation measure.

AES-4 **Lighting Plans and Specifications.** Prior to the issuance of any building permits for the project, lighting plans and specifications for all exterior lighting fixtures and light standards shall be submitted to the San Benito County Planning & Building Department for review and approval. Consistent with lighting requirements in Chapter 19.31 of the County Code of Ordinances, the plans shall demonstrate that all outdoor light fixtures, except streetlights, shall be located, aimed or shielded so as to minimize stray light trespass across property boundaries. Lighting plans for any exterior lighting fixtures in the River Parkway corridor within the city limits of Hollister shall be submitted to the City of Hollister Planning Division for review and approval. These lighting plans shall show all light sources fully shielded from off-site view and downcast where they might adversely affect adjacent properties.

b. **Findings** – With the implementation of the above mitigation, impacts would be less than significant.

c. **Supportive Evidence** – Please refer to pages 4.1-19 through 4.1-20 of the Draft EIR.

B. AGRICULTURE (CLASS II)

1. **Impact AG-3** Operation of the proposed project may result in the conversion of farmland to non-agricultural use through direct and indirect impacts on agricultural productivity. This is a Class II, significant but mitigable impact.

a. **Mitigation** - The County requires that all components of the Project implement the following mitigation measures.

AG-3(a) **Notice of Agricultural Activities.** At trail entrances in agricultural portions of the River Parkway, the following information shall be added to notices about on-going agricultural activities:

- Trail users are advised to stay on the trail and be alert to operating machinery and equipment near the trail.
- The legal ramifications for trespassing or being on the trail after it is closed.

AG-3(b) **Landscaping Coordination.** For portions of the River Parkway adjacent to agricultural operations, any ornamental plant material used along the trail shall be comprised of native and indigenous species. The selected plant palette shall be

reviewed by the Agricultural Commissioner's office prior to approval of landscape plans. Any plant material which may host pests destructive to agriculture shall be prohibited.

b. **Findings** – With the implementation of the above mitigation, impacts would be less than significant.

c. **Supportive Evidence** – Please refer to pages 4.2-11 through 4.2-14 of the Draft EIR.

C. BIOLOGICAL RESOURCES (CLASS II)

1. **Impact B-1**. Implementation of the proposed project could result in impacts to special status plant and animal species. This impact is Class II, significant but mitigable.

a. **Mitigation** – The County requires that all components of the Project implement the following mitigation measures.

B-1(a) **Special Status Plant Species Surveys.** Prior to any vegetation removal, grubbing, or other construction activity for the Regional Park and/or River Parkway components of the project (including staging and mobilization), seasonally-timed special status plant surveys shall be conducted by a qualified biologist no more than two years before initial ground disturbance. These surveys shall be conducted for Monterey spineflower within annual grassland and coastal oak woodland habitat where project impacts will occur. The purpose of these surveys is to document the location(s), acreage(s), and approximate number(s) of Monterey spineflower within construction and mitigation areas so that mitigation can be accomplished. The surveys shall coincide within the bloom period for this species (April through July) and all Monterey spineflower identified on-site shall be mapped onto a site-specific aerial photograph and topographic map at a scale of no less than 1"=200'. Surveys shall be conducted in accordance with the County, CDFW, and USFWS protocols (California Department of Fish and Wildlife, 2009; U.S. Fish and Wildlife Service, 2000). A report of the survey results shall be submitted to San Benito County and/or the implementing entity for review and approval.

B-1(b) **Special Status Plant Species Avoidance, Minimization, and Mitigation.** If Monterey spineflower or other special status plants are found during special status plant surveys [pursuant to mitigation measure B-1(a)], the implementing entity shall redesign the segment to avoid impacting these plant species to the greatest extent feasible. Rare plant occurrences that are not

within the immediate disturbance footprint, but are located within 50 feet of disturbance limits shall have bright orange protective fencing installed at least 30 feet beyond their extent to protect them from harm.

If avoidance is not feasible, seed and/or other plant material (whole plants, underground root structures, etc.) shall be collected from on-site rare plants prior to removal, and/or from other local populations of plant species to be impacted. Seed shall be distributed in areas not proposed for development that have the appropriate habitat characteristics necessary to support the restoration. Seed collection shall be conducted by a qualified biologist holding a rare plant collection voucher/permit. Topsoil may also be salvaged and distributed over temporarily disturbed areas following completion of construction activities provided it is free of non-native invasive species.

The total number and/or total acreage for each special status plant species that will be impacted shall be confirmed once the final design of the project is completed and prior to initiation of ground disturbance activities. Impacted species shall be restored on-site at a minimum of a 2:1 ratio (number of acres/individuals restored to number of acres/individuals impacted) for each species as a component of habitat restoration. A restoration plan shall be prepared and submitted to San Benito County for approval and/or implementing entity. The restoration plan shall include, at a minimum, the following components:

- *Description of the project/impact site (i.e., location, responsible parties, areas to be impacted by habitat type);*
- *Goal(s) of the compensatory mitigation project [type(s) and area(s) of habitat to be established, restored, enhanced, and/or preserved; specific functions and values of habitat type(s) to be established, restored, enhanced, and/or preserved];*
- *Description of the proposed compensatory mitigation site (location and size, ownership status, existing functions and values);*
- *Implementation plan for the compensatory mitigation site (rationale for expecting implementation success, responsible parties, schedule, site preparation, planting plan);*
- *Maintenance activities during the monitoring period, including weed removal as appropriate (activities, responsible parties, schedule);*
- *Monitoring plan for the compensatory mitigation site, including no less than quarterly monitoring for the first*

year (performance standards, target functions and values, target acreages to be established, restored, enhanced, and/or preserved, annual monitoring reports);

- *Success criteria based on the goals and measurable objectives; said criteria to be, at a minimum, at least twice the approximate total number of impacted plants and/or percent relative cover and/or density equivalent to impacted site;*
- *An adaptive management program and remedial measures to address any shortcomings in meeting success criteria;*
- *Notification of completion of compensatory mitigation and agency confirmation; and*
- *Contingency measures (initiating procedures, alternative locations for contingency compensatory mitigation, funding mechanism).*

The restoration plan shall be implemented for a period of at least five years or until restoration has been deemed complete based on the established success criteria.

B-1(c) **California Red-Legged Frog and California Tiger Salamander Avoidance and Minimization.** The following avoidance and minimization measures are adapted from the *Programmatic Formal Endangered Species Act Consultation on Issuance of Permits under Section 404 of the Clean Water Act or Authorizations under the Nationwide Permit Program for Projects that May Affect the California Red-legged Frog* issued on January 1999 by the USFWS. Consultation shall occur with the USFWS to determine that 1) the project is covered under the above programmatic formal consultation through issuance of USACE permits under Section 404 of the Clean Water Act, or 2) take of federally protected species is not anticipated through implementation of the measures below as determined through informal consultation with the USFWS if no federal permits are pursued. Consultation shall also occur with the CDFW for state protected species to either obtain a state Incidental Take Permit or establish concurrence that take would not occur.

- *Within two weeks of the initiation of construction activities of each segment (including mobilization and staging), a CDFW/USFWS-approved biologist shall conduct a survey of the construction area for all life stages of CRLF and CTS. All areas where these species occur shall be avoided until the approved biologist has determined that these species are no longer present. No life stages of these species shall be relocated without a take authorization from the USFWS and/or CDFW. If relocation is authorized, a suitable relocation site shall be identified prior to initiation of construction activities and shall be*

located within the same watershed/streamcourse greater than 500 feet from the project site.

- *Work activities in or adjacent to suitable habitat shall be completed between April 1 and November 1 to the greatest extent feasible.*
- *A CDFW/USFWS-approved biologist shall be present on-site during all ground disturbing activities, including vegetation removal, grading, and exclusion fence installation and removal. Once these activities have been completed, the approved biologist shall conduct periodic inspections of the work site of not less than once per week when construction activities are occurring in/adjacent to suitable habitat. Additional site visits should occur during rain events when special status amphibians are likely to be mobile to ensure that they are not entering work areas.*
- *The implementing entity shall designate a representative who will oversee implementation of all avoidance and minimization measures when the CDFW/USFWS-approved biologist is not present. This representative shall be trained by the CDFW/USFWS-approved biologist in the identification of special status amphibians and in the implementation of all avoidance and minimization measures. This representative shall not have the authority to handle special status species.*
- *Both the implementing entity's representative and the CDFW/USFWS-approved biologist shall have the authority to halt any action which may result in the take of special status species.*
- *Prior to start of construction, exclusion fencing shall be placed along the project boundaries in areas where suitable habitat is present. This fence shall consist of solid silt fencing placed at a minimum of 3 feet above grade and 2 feet below grade and shall be attached to wooden stakes placed at intervals of not more than 5 feet. The fence shall be inspected weekly and following rain events and high wind events and shall be maintained in good working condition until all construction activities are complete.*
- *All vehicle maintenance/fueling/staging shall occur not less than 100 feet from any riparian habitat or water body. Suitable containment procedures shall be implemented to prevent spills. A minimum of one spill kit shall be available at each work location near riparian habitat or water bodies.*
- *At the end of each work day, excavations shall be secured with cover or a ramp provided to prevent wildlife entrapment.*
- *All trenches, pipes, culverts or similar structures shall be inspected for animals prior to burying, capping, moving, or filling.*

- *The CDFW/USFWS-approved biologist shall remove invasive aquatic species such as bullfrogs and crayfish from suitable aquatic habitat whenever observed and shall dispatch them in a humane manner and dispose of properly.*
- *If any federally and/or state protected species are harmed, the CDFW/USFWS-approved biologist shall document the circumstances that led to harm and shall determine if project activities should cease or be altered in an effort to avoid additional harm to these species. Dead or injured special status species shall be disposed of at the discretion of the CDFW and USFWS. All incidences of harm shall be reported to the CDFW and USFWS within 48 hours.*

B-1(d) **Steelhead Habitat Assessment and Impact Avoidance and Minimization**. Once the final design for the trail alignment for the River Parkway has been determined, a USFWS-approved steelhead biologist shall conduct a habitat assessment of the project impact areas to confirm suitable habitat for steelhead. If suitable habitat for steelhead cannot be avoided, any in-stream portions of the proposed River Parkway (where drainage crossings require in-stream work) shall be dewatered/diverted. A dewatering/diversion plan shall be prepared and submitted to the NMFS, and CDFW for review and approval. All dewatering/diversion activities shall be monitored by a qualified fisheries biologist. The fisheries biologist shall be responsible for capture and relocation of fish species out of the work area during dewatering/diversion installation.

- *The implementing entity shall designate a representative to monitor on-site compliance of all avoidance and minimization measures. This representative shall be trained by a qualified fisheries biologist in the identification of the target species and the assessment of the potential for take based on the proposed activities. The representative shall consult with the biologist as necessary to ensure compliance. The representative and the biologist shall have the authority to halt any action which may result in the take of listed species.*
- *Only NMFS/CDFW-approved biologists shall participate in the capture and handling of listed species.*
- *No equipment shall be permitted to enter wetted portions of any affected drainage channel.*
- *All equipment operating within streams shall be in good condition and free of leaks. Spill containment shall be installed under all equipment staged within stream areas and extra spill containment and clean up materials shall be located in close proximity for easy access.*

- *Work within and adjacent to streams shall not occur between November 1 and May 1, unless otherwise approved by NMFS and the CDFW.*
- *If project activities could degrade water quality, water quality sampling shall be implemented to identify the pre-project baseline, and to monitor during construction for comparison to the baseline.*
- *If water is to be pumped around work sites, intakes shall be completely screen with wire mesh not larger than five millimeters to prevent animals from entering the pump system.*
- *If any steelhead are harmed during implementation of the project, the project biologist shall document the circumstances that led to harm and shall determine if project activities should cease or be altered in an effort to avoid further harm to steelhead.*

B-1(e) **Least Bell's Vireo and Western Yellow-billed Cuckoo Surveys.** Development activities within 500 feet of the San Benito River and Tres Pinos Creek riparian corridors shall be avoided during the least Bell's vireo (April 10 to July 31) and western yellow-billed cuckoo (May 15 to July 17) breeding season. If breeding season avoidance is not feasible, a permitted biologist shall conduct focused presence/absence surveys in accordance with the USFWS protocols for least Bell's vireo (2001) and standardized methods for yellow-billed cuckoo survey (Halterman et al, 2009; Laymon, 1998). Any survey methodology that deviates from these protocols shall be approved by the USFWS prior to initiation of the first survey. Surveys shall focus on riparian habitat associated with the San Benito River and Tres Pinos Creek within the River Parkway corridor and adjacent suitable habitat out to 500 feet. Protocol surveys shall be conducted within one year of start of construction (i.e. breeding season prior to), and will continue annually until completion of construction activities if presence is documented in the first year. Documentation of findings, including a negative finding, must be submitted to the USFWS for review. If neither species is detected, no further actions are required.

If least Bell's vireo or western yellow-billed cuckoo are found nesting within the survey area, all activities associated with the River Parkway component shall be halted within 500 feet of the nest site and territory for the remainder of the breeding season. The USFWS and CDFW shall be notified immediately. Should development activities within this zone be required during the breeding season, then additional consultation with USFWS and CDFW shall be required to

establish suitable monitoring procedures and buffers to ensure that "take" does not occur.

If "take" of least Bell's vireo or western yellow-billed cuckoo is necessary to complete development activities, the applicant is required to obtain the applicable regulatory take permit(s). Compensatory mitigation, if necessary, would be determined in coordination with the wildlife agencies.

B-1(f) **San Joaquin Kit Fox Surveys and Avoidance Measures.** Once the final design has been developed for the proposed project, but prior to the start of construction, a CDFW/USFWS approved biologist shall conduct a SJKF early evaluation as well as surveys for SJKF in accordance with the *USFWS San Joaquin Kit Fox Survey Protocol for the Northern Range* (USFWS, 2009). The results of the early evaluation and surveys shall be submitted to the USFWS and CDFW. If the regulatory agencies determine that "take" of SJKF is likely as a result of either the proposed Regional Park or the proposed River Parkway project, the applicant is required to obtain the applicable regulatory take permit(s). Compensatory mitigation, if necessary, would be determined in coordination with the wildlife agencies.

The following avoidance and minimization measures for SJKF shall be implemented during construction of the Regional Park and any sections of the River Parkway considered to be suitable SJKF habitat. These measures are adapted from the *USFWS Standard Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS, 1999):

- *San Joaquin kit fox pre-construction surveys shall be conducted not more than 14 days prior to the beginning of ground disturbance and/or construction associated with the proposed River Parkway project and the proposed Regional Park to determine if potential or occupied dens are present on-site or within 250 feet of the project sites. If an occupied den is located on-site, an avoidance buffer shall be established as follows:*

1. *Potential den: 50 feet – demarcated with flagged stakes*
2. *Atypical den: 50 feet – demarcated with flagged stakes*
3. *Known den: 100 feet – demarcated with orange construction fencing that fully encircles the den, but allows for passage of kit foxes should they be present.*
4. *Natal/pupping den: at least 500 feet – USFWS must be contacted*

Essential vehicles may operate on existing roads and necessary foot traffic will be permitted. All other construction, vehicle operation, material storage, or any other type of surface-disturbing activity shall be prohibited within avoidance buffer. A qualified biologist will monitor the den site to determine when the den site has been vacated. Once it has been confirmed that SJKF are no longer present, the avoidance buffer may be removed and construction may proceed.

- *To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of the Project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks should be installed. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the CDFW should be contacted as noted under measure No. 9 referenced below.*

- *Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.*

- *All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or Project site.*

- *No pets, such as dogs or cats, should be permitted on the Project site to prevent harassment, mortality of kit foxes, or destruction of dens.*

- *Use of rodenticides and herbicides in Project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency,*

California Department of Food and Agriculture, and other State and Federal legislation, as well as additional Project-related restrictions deemed necessary by the USFWS. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.

- *In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the USFWS should be contacted for guidance.*
- *Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox should immediately report the incident to their representative. This representative should contact the CDFW immediately in the case of a dead, injured or entrapped kit fox. The CDFW contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or the wildlife biologist at (530) 934-9309. The USFWS should be contacted at Endangered Species Division, 2800 Cottage Way, Suite W2605, Sacramento, CA 95825, (916) 414-6620 or (916) 414-6600.*
- *The Sacramento Fish and Wildlife Office and CDFW should be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information.*
- *New sightings of kit fox should be reported to the CNDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the USFWS at the address listed under measure number 7.*
- *Fencing of the project site shall incorporate wildlife-friendly fencing design. Fencing plans may use one of several potential designs that would allow SJKF to pass through the fence while still providing for Project security and exclusion of other unwanted species (i.e. domestic dogs and coyotes). Raised fences or fences with entry/exit points of at least 6 inches in diameter spaced along the bottom of the fence to allow species such as San Joaquin kit fox access into and through the project site would be appropriate designs.*
- *All project lighting shall be directed downward and towards the interior of the project site, thus avoiding light*

pollution into adjacent open areas. Use of lighting shall be the minimum necessary to achieve safety and security on the site.

B-1(g) **FESA and CESA Consultation.** To ensure compliance with FESA and CESA, San Benito County shall obtain either Incidental Take Permits (ITP) or written concurrence that implementation of the River Parkway component of the project will not require permits for CRLF, SJKF, CTS, steelhead, western yellow-billed cuckoo, and least Bell's vireo, and that the Regional Park component of the project will not require permits for CRLF, SJKF or CTS. Issuance of ITPs for these species may involve compensatory mitigation, habitat restoration, and/or development of habitat conservation plans in consultation with CDFW and/or USFWS. ITPs may include a variety of other required mitigation that would be generally consistent with those measures outlined above.

B-1(h) **Conduct Burrowing Owl Surveys.** A qualified biologist shall conduct pre-construction clearance surveys prior to ground disturbance activities within all suitable habitat to confirm the presence/absence of burrowing owls. The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within 14 days prior to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required.

If burrowing owls are detected during the pre-construction clearance surveys, avoidance buffers will be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures. Coordination with the CDFW by a qualified biologist shall occur to establish the appropriate avoidance buffer distances specific for the project's activities and level of expected disturbance.

If avoidance of burrowing owls is not feasible, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan will be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993). The Plan shall be provided to the applicable local CDFW office prior to implementation. A qualified biologist shall coordinate with the CDFW to determine the appropriate exclusion methods (passive or active relocation) for the project to relocate burrowing owls to a suitable offsite location. Relocation of owls can only occur during the non-breeding season.

B-1(i) **Western Pond Turtle, Western Spadefoot, San Joaquin Coachwhip and Coast Range Newt Survey, Capture, and Relocation**. Not less than 14 days prior to the start of all construction activities for the Regional Park and/or the River Parkway (including staging and mobilization), a San Benito County approved biologist shall conduct surveys for western pond turtle, western spadefoot, San Joaquin coachwhip and Coast Range newt within suitable habitat. The biologist shall also oversee installation of exclusion fencing where suitable habitat is present to prevent these species from entering active work areas. If any of these species are identified within the work area they shall be captured and relocated to suitable habitat within the same or nearest suitable habitat. CNDDB Field Survey Forms shall be submitted to the CDFW for all special status animal species observed. The relocation site shall include suitable micro habitat and ecological features for each species as follows:

- *Western pond turtle habitat shall include a pool surrounded by vegetation for escape cover.*
- *Western spadefoot habitat shall include open sandy or gravely areas within the San Benito River or Tres Pinos Creek basins*
- *San Joaquin coachwhip habitat shall include suitable small mammal burrows to provide immediate escape and cover*
- *Coast Range newt habitat shall include moist woodland habitat with abundant moist ground cover.*

During the rainy season (approximately November 1 to April 15), western pond turtles and Coast Range newts may actively move through upland habitats outside of drainages. Western spadefoot and San Joaquin coachwhip can occur in upland habitat at any time of the year. If any of these species are observed by construction personnel within or adjacent to the applicable project area, the animal's location shall be communicated to the San Benito County approved biologist. Only the San Benito County-approved biologist shall capture and relocate wildlife. Construction personnel are not permitted to handle animals.

A report of all pre-construction survey efforts for each segment shall be submitted to the implementing entity within 30 days of completion of the survey effort to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report shall also include for each captured special status animal, the UTM coordinates and habitat descriptions of the capture and release site (in UTM

coordinates), the length of time between capture and release, and the general health of the individual(s).

B-1(j) **Special Status Bat Surveys and Impact Avoidance.** A San Benito County approved biologist shall conduct a bat roost-habitat assessment and conduct presence/absence surveys for special status bats where suitable roosting habitat is present. Bat surveys shall be conducted in consultation with the CDFW. Surveys shall be conducted using acoustic detectors and by searching tree cavities, crevices, and other areas where bats may roost. Surveys shall be conducted not less than 30 days prior to initiation of construction activities for each trail segment.

Areas where special status bats are located shall be avoided where feasible. If impacts to bats cannot be avoided, exclusionary devices, such as netting, shall be installed by a San Benito County approved biologist around the roost(s) after the bats have left the roost in the evening and shall be monitored for a minimum of three days to ensure that no bats return to the roost. Once it has been determined that the roost is clear of bats, the roost shall be removed immediately. Exclusion of bats must commence prior to establishment of maternity colonies, which varies by species. If a maternity colony has become established, all construction activities shall be postponed within a 500-foot buffer around the maternity colony until it is determined by a qualified biologist that the young have dispersed. Bat roosts shall be removed after the breeding season has ended but before the onset of winter when temperatures are too cold for bat movement.

If a roost is determined by a qualified biologist to be used by a large number of bats (large hibernaculum), bat boxes near the impacted roost shall be installed to reduce the impact to the bat species present. Bat boxes shall be species-specific in dimensions and should mimic a tree hollow or crevice. Bat boxes shall be installed at a height that is appropriate for the bat species and anti-predator measures, such as small metal spikes on the top, shall be included to protect bats.

A report of survey efforts shall be submitted to the implementing entity within 30 days of completion of the surveys for each segment to document compliance. The report shall include the dates, times, weather conditions, and personnel involved in the surveys. If exclusion devices and/or bat boxes are utilized, the report shall describe how these methods were employed.

B-1(k) **American Badger Pre-construction Surveys and Impact Avoidance.** A qualified biologist shall conduct pre-construction clearance surveys for American badger within the Regional Park Site and within suitable habitat within the final River Parkway impact areas (once the final trail alignment has been determined). Clearance surveys should be conducted for American badger, within 14 days of the start of any ground-disturbing activity. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days of that portion of the site being disturbed. If no potential American badger or kit fox dens are present, no further mitigation is necessary.

If special status species are detected or potential American badger dens are present, the following measures will be implemented:

- *If the qualified biologist determines that potential American badger dens are inactive, the biologist shall excavate these dens during the first clearance survey. The dens shall be excavated by hand with a shovel to prevent badgers from re-use during construction.*
- *If the qualified biologist determines that potential dens may be active, an on-site passive relocation program shall be implemented. This program shall consist of excluding badgers from occupied burrows by installation of one way doors at burrow entrances, monitoring of the burrow for one week to confirm usage has been discontinued, and excavation and collapse of the burrow to prevent reoccupation. After the qualified biologist determines that badgers have stopped using active dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction.*
- *Construction activities shall not occur within 30 feet of active badger dens.*

B-1(l) **Pre-construction Surveys for Nesting Birds.** For construction activities occurring during the nesting season (generally February 1 to August 31), surveys for nesting birds covered by the CFGC and the MBTA (including, but not limited to, Cooper's hawk, Swainson's hawk, tricolored blackbird, California horned lark and loggerhead shrike) shall be conducted by a qualified biologist no more than 14 days prior to initiation of construction activities for the Regional Park, and/or within the final River Parkway impact area (once the final trail alignment is determined), including construction staging and vegetation removal. The surveys shall include the entire disturbance areas plus a 200-foot buffer around any disturbance areas. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to

be determined by the qualified biologist. The buffer shall be a minimum of 50 feet for non-raptor bird species and at least 150 feet for raptor species. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The biologist shall have full discretion for establishing a suitable buffer. The buffer area(s) shall be closed to all construction personnel and equipment until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer.

B-1(m) **Worker Environmental Awareness Program (WEAP).** Prior to initiation of construction activities for each trail segment (including staging and mobilization), all personnel associated with the Regional Park or River Parkway construction shall attend WEAP training, conducted by a qualified biologist, to aid workers in recognizing special status resources that may occur in the applicable project area. The specifics of this program shall include identification of the sensitive species and habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and careful review of the limits of construction and mitigation measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. All employees shall sign a form documenting that they have attended the WEAP training and understand the information presented to them. The form shall be submitted to San Benito County to document compliance.

b. Findings – Compliance with the above mitigation measures and all existing state, local and/or federal regulations would reduce impacts to a less than significant level.

c. Supportive Evidence – Please refer to pages 4.4-33 through 4.4-58 of the Draft EIR.

2. Impact B-2. Implementation of the proposed River Parkway and Regional Park project could result in impacts to riparian and other habitats considered sensitive by local, state, and/or federal agencies, including federally protected wetlands. This impact would be Class II, significant but mitigable.

a. Mitigation – The following measures are required.

B-2(a) **Jurisdictional Delineation**. Once the final design has been developed for the River Parkway (or for each individual trail segment), but prior to the start of construction of the River

Parkway, a qualified biologist shall conduct a jurisdictional delineation of the entire segment disturbance area at those locations where construction activity could affect jurisdictional waters. The jurisdictional delineation shall determine if features are under the jurisdiction of the USACE, RWQCB, and/or CDFW. The result shall be a preliminary jurisdictional delineation report that shall be submitted to San Benito County, USACE, RWQCG and CDFW, as appropriate, for review and approval. Permits shall be obtained from each agency where applicable.

B-2(b) **Wetland and Riparian Habitat Restoration.** Impacts to jurisdictional wetland and riparian habitat shall be mitigated at a ratio of 2:1 for each segment, and shall occur as close to the impacted habitat as possible but within the same watershed. A Habitat Restoration Plan shall be developed by an biologist approved by San Benito County in accordance with mitigation measure B-1(a) above and shall be implemented for no less than five years after construction of the segment, or until San Benito County and/or the permitting authority (e.g., CDFW or USACE) has determined that restoration has been successful.

B-2(c) **Landscaping Plan.** If landscaping is proposed for any portion of the River Parkway, a qualified biologist/landscape architect shall prepare a landscape plan for that segment(s) where landscaping is proposed. This plan shall indicate the locations and species of plants to be installed throughout the segment(s). Drought tolerant, locally native plant species shall be used. Noxious, invasive, and/or non-native plant species that are recognized on the Federal Noxious Weed List, California Noxious Weeds List, and/or California Invasive Plant Council Lists 1, 2, and 4 shall not be permitted. Species selected for planting shall be similar to those species found in adjacent native habitats.

B-2(d) **Invasive Weed Prevention and Management Program.** Prior to start of construction of each segment, an Invasive Weed Prevention and Management Program shall be developed by a qualified biologist approved by San Benito County to prevent invasion areas adjacent native habitat by non-native plant species. A list of target species shall be included, along with measures for early detection and eradication before any species can gain a foothold and out-compete native plant species for resources.

All disturbed areas shall be hydroseeded with a mix of locally native species upon completion of work in those areas. In areas where construction is ongoing, hydroseeding shall occur where no construction activities have occurred within six (6)

weeks since ground disturbing activities ceased. If exotic species invade these areas prior to hydroseeding, weed removal shall occur in consultation with a qualified biologist and in accordance with the restoration plan.

B-2(e) **Compensatory Mitigation for Loss of Purple Needle Grass Grassland Habitat.** If the proposed Regional Park cannot be designed to avoid purple needlegrass grasslands on-site, the total acreage that will be impacted shall be confirmed once the final design of the Regional Park is completed and prior to initiation of ground disturbance activities. The compensatory mitigation ratios have been designed to provide for no-net-loss of valley needlegrass grassland habitat. To achieve this goal, a 1.5:1 (area restored/created/enhanced: area impacted) mitigation ratio is required. The restoration plan shall include, at a minimum, the following components:

- *Description of the project/impact site (i.e., location, responsible parties, areas to be impacted by habitat type);*
- *Goal(s) of the compensatory mitigation project [type(s) and area(s) of habitat to be established, restored, enhanced, and/or preserved; specific functions and values of habitat type(s) to be established, restored, enhanced, and/or preserved];*
- *Description of the proposed compensatory mitigation site (location and size, ownership status, existing functions and values);*
- *Implementation plan for the compensatory mitigation site (rationale for expecting implementation success, responsible parties, schedule, site preparation, planting plan);*
- *Maintenance activities during the monitoring period, including weed removal as appropriate (activities, responsible parties, schedule);*
- *Monitoring plan for the compensatory mitigation site, including no less than quarterly monitoring for the first year (performance standards, target functions and values, target acreages to be established, restored, enhanced, and/or preserved, annual monitoring reports);*
- *Success criteria based on the goals and measurable objectives; said criteria to be, at a minimum, at least 80 percent survival of all planted material and percent relative cover equivalent to impact area;*
- *An adaptive management program and remedial measures to address any shortcomings in meeting success criteria;*
- *Notification of completion of compensatory mitigation and agency confirmation; and*
- *Contingency measures (initiating procedures, alternative locations for contingency compensatory mitigation, funding mechanism).*

The restoration plan shall be implemented for a period of at least five years or until restoration has been deemed complete based on the established success criteria.

b. **Findings** – Compliance with the above mitigation measures and existing State, local and/or federal regulations would reduce impacts to a less than significant level.

c. **Supportive Evidence** – Please refer to pages 4.4-58 through 4.4-61 of the Draft EIR.

3. **Impact B-3.** Implementation of the proposed River Parkway Plan and Regional Park could result in impacts to wildlife movement or nursery sites. This impact would be Class II, significant but mitigable.

a. **Mitigation** – The following measures are required.

B-3(a) **Fence Design.** All project fencing shall be designed to facilitate wildlife movement through the proposed River Parkway and Regional Park and shall include:

- *A minimum 16 inches between the ground and the bottom of the fence to provide clearance for small animals;*
- *A minimum 12 inches between the top two wires, or top the fence with a wooden rail or mesh instead of wire to prevent animals from becoming entangled; and*
- *If privacy fencing is required near open space areas, openings at the bottom of the fence measure at least 16 inches in diameter shall be installed at reasonable intervals to allow wildlife movement.*

The final fence design shall be reviewed by a San Benito County-approved biologist for approval.

B-3(b) **Fish Passage.** If it is determined that components of the River Parkway component of the project are to be located within the San Benito River or its tributaries, they shall be designed in a manner to allow for unimpeded fish passage (e.g. no structures that are perpendicular to stream flow be exposed or at a depth with moderate to high risk for exposure during high flow events).

B-3(c) **Construction Best Management Practices.** The following construction Best Management Practices (BMPs) shall be incorporated into all grading and construction plans for each segment of the River Parkway component and Regional Park:

- *Designation of a 15 mile per hour speed limit in all construction areas.*
- *All vehicles and equipment shall be parked on pavement, existing roads, and previously disturbed areas, and clearing of vegetation for vehicle access shall be avoided to the greatest extent feasible.*

- *The number of access routes, number and size of staging areas, and the total area of the activity shall be limited to the minimum necessary to achieve the goal of the project.*
- *Designation of equipment washout and fueling areas to be located within the limits of grading at a minimum of 100 feet from waters, wetlands, or other sensitive resources as identified by a qualified biologist. Washout areas shall be designed to fully contain polluted water and materials for subsequent removal from the site.*
- *Daily construction work schedules shall be limited to daylight hours only [consistent with mitigation measure N-1(a) (Construction Hours) in Section 4.10, Noise].*
- *Mufflers shall be used on all construction equipment and vehicles shall be in good operating condition.*
- *Drip pans shall be placed under all stationary vehicles and mechanical equipment.*
- *All trash shall be placed in sealed containers and shall be removed from the project site a minimum of once per week.*
- *No pets are permitted on project site during construction.*

b. Findings – Compliance with the above mitigation measures and existing State, local and/or federal regulations would reduce impacts to a less than significant level.

c. Supportive Evidence – Please refer to pages 4.4-61 through 4.4-63 of the Draft EIR.

4. **Impact B-4.** Implementation of the proposed River Parkway Plan and Regional Park could conflict with the County Interim Woodlands Management Ordinance by adversely affecting woodlands. This impact would be Class II, significant but mitigable.

a. Mitigation – The following measures are required.

B-4(a) **Compliance with the Interim Woodlands Management Ordinance.** If either of the proposed Regional Park and River Parkway components of the project cannot be designed to avoid woodlands on-site, the total acreage and type of the habitat, number of trees (including the species and each trees diameter at breast height) and canopy coverage that will be impacted shall be confirmed once the final design of the project component at issue is completed and prior to initiation of ground disturbance activities. This information shall be submitted to the County of San Benito to determine whether a tree pruning/ removal permit will be necessary. If a permit is necessary for impacts to woodlands, the County and/or implementing entity shall apply for and pay all associated fees for the acquisition of a permit. The fees would be applied to restoration activities that assure no net loss of woodlands habitat value.

b. Findings – Compliance with the above mitigation measures and existing State, local and/or federal regulations would reduce impacts to a less than significant level.

c. Supportive Evidence – Please refer to page 4.4-63 of the Draft EIR.

E. CULTURAL RESOURCES (CLASS II)

1. **Impact CR-1** – Construction of the proposed project would involve surface excavation, which has the potential to unearth or adversely impact identified archaeological or historic structures. Impacts would be Class II, significant but mitigable.

   a. **Mitigation** – The following mitigation measures are required to reduce impacts to archaeological resources (CR-1(a)) and historic resources (CR-1(b)) prior to commencement of project construction activities.

      CR-1(a) **Pre-Construction Prehistoric and Archaeological Resources Survey**. Prior to the issuance of any grading permit for portions of the River Parkway trail segments which would involve land that has not been previously surveyed for cultural resources the County of San Benito and/or implementing entity shall contract with a qualified archaeologist to perform a Phase I cultural resources assessment. In the event that prehistoric or archaeological cultural resources are identified during the Phase I assessment, the implementing agency shall implement a Phase II subsurface testing program to determine the resource boundaries within the trail corridor/impact area, assess the integrity of the resource, and evaluate the site's significance through a study of its features and artifacts.

      If the site is determined significant, the County of San Benito and/or implementing entity may choose to cap the resource area using culturally sterile and chemically neutral fill material and shall include open space accommodations and interpretive displays for the site to ensure its protection from development. A qualified archaeologist shall be retained to monitor the placement of fill upon the site and to make open space and interpretive recommendations. If a significant site will not be capped, the results and recommendations of the Phase II study shall determine the need for a Phase III data recovery program designed to record and remove significant prehistoric or archaeological cultural materials that could otherwise be tampered with. If the site is determined insignificant, no capping or further archaeological investigation shall be required, though archaeological monitoring may still be required. The results and recommendations of the Phase II and/or Phase III studies shall determine the need for construction monitoring.

      CR-1(b) **Alteration of Potential Historical Bridges/Structures**. Prior to issuing permits for development of trail segments that would result in alteration of existing rail bridges, trestle structures, or other structures greater than 50 years old (at the time development is anticipated to occur), a qualified architectural historian shall inventory and evaluate the significance of potentially historical bridges and other structures located along the proposed trail alignment.

Preliminary investigations have identified one bridge, the Southside bridge (P-35-00327) within the River Parkway component study area. This bridge has been recommended ineligible for listing in the CRHR and therefore impacts to this resource would not be significant under CEQA. In addition, the Master Plans identified four bridges (Highway 156 Bridge, 4th Street Bridge, Nash Road Bridge, and Union Road Bridge) within the River Parkway component that may be altered as part of the proposed project.

If these bridges or any other structures located along the proposed trail alignment are determined to be historical resources, the following shall be conducted prior to any rehabilitation, changes, alterations, or additions:

A report shall be prepared by a professional architectural historian and shall be accompanied by requisite sets of large format camera Historic American Engineering Record (HAER) Level II black-and-white 8-by-10 inch archival quality prints taken by a professional photographer. A minimum of twelve views shall be documented (two profiles, two centerline shots, four abutment shots, and four engineering details) and two sets of prints shall be sent to the California State Library in Sacramento. Measured drawings shall be prepared of the structure under the supervision of a qualified architectural historian.

After this effort, any proposed rehabilitation, changes, alterations, and additions to historical structures shall comply with the Secretary of the Interior Standards for Rehabilitation. Alterations shall be similar to the surrounding historical landscape and consistent with the character-defining features of the bridge/structure, as determined by procedures implementing the National Historic Preservation Act. Adjacent property owners and local government shall be consulted about the design details of any alterations to existing historical resources. Alterations shall be consistent with applicable local historic preservation policies and guidelines.

b. Findings – Implementation of the above measures would reduce potential impacts to archaeological and paleontological resources to a less than significant level.

c. Supportive Evidence – Please refer to page 4.5-12 to 4.5-16 of the Draft EIR.

2. **Impact CR-2** – Construction of the proposed project would involve surface excavation. Project related construction activities have the potential to unearth or impact previously unidentified cultural resources. Impacts would be Class II, significant but mitigable.

   a. **Mitigation** –The following mitigation measures are required to reduce impacts to previously unidentified cultural resources.

      CR-2(a) **Archaeological Resource Construction Monitoring.** Prior to the commencement of construction activities for each project component, if areas within each project component are identified in the Phase I or Phase II cultural resources assessments completed for the site as sensitive for cultural resources and archaeological monitoring of construction activities is recommended, the following procedures shall be followed:

      An orientation meeting shall be conducted by an archaeologist, general contractor, subcontractor, and construction workers associated with earth disturbing activities. The orientation meeting shall describe the potential of exposing archaeological resources, the types of cultural materials that may be encountered, and directions on the steps that shall be taken if such a find is encountered.

      A qualified archaeologist shall be present during all initial earth moving activities within the identified culturally sensitive areas. In the event that unearthed prehistoric or archaeological cultural resources or human remains are encountered during project construction, Mitigation Measure CR-2(b) shall take effect.

      CR-2(b) **Unanticipated Discovery of Cultural Remains.** If cultural resource remains are encountered during construction or land modification activities, work shall stop within 50 feet of the find and the County of San Benito and appropriate City or County planning, building department (depending on the jurisdiction in which the discovery occurs) or implementing entity shall be notified at once to assess the nature, extent, and potential significance of any cultural remains. The implementing entity shall implement a Phase II subsurface testing program to determine the resource boundaries within the trail corridor/impact area, assess the integrity of the resource, and evaluate the site's significance through a study of its features and artifacts.

      If the site is determined significant, the County of San Benito and/or implementing entity may choose to cap the resource area using culturally sterile and chemically neutral fill material and shall include open space accommodations and interpretive displays for the site to ensure its protection from development. A qualified archaeologist shall be retained to monitor the placement of fill upon the site and to make open space and interpretive recommendations. If a significant site will not be capped, the results and recommendations of the Phase II study shall determine the need for a Phase III data recovery

program designed to record and remove significant cultural materials that could otherwise be tampered with. If the site is determined insignificant, no capping and or further archaeological investigation shall be required. The results and recommendations of the Phase II study shall determine the need for construction monitoring.

b. Findings – Implementation of the above measures would reduce potential impacts to archaeological and paleontological resources to a less than significant level.

c. Supportive Evidence – Please refer to page 4.5-16 to 4.5-18 of the Draft EIR.

3. Impact CR-3 – Construction of the proposed project would involve surface excavation. Although unlikely, these activities have the potential to unearth and/or impact paleontological resources. Impacts would be Class II, significant but mitigable.

a. Mitigation – The following mitigation measures are required in connection with the River Parkway component of the project.

CR-3 **Paleontological Resource Construction Monitoring.** Any excavations exceeding three feet in depth at the River Parkway component of the project shall be monitored on a full-time basis by a qualified paleontological monitor. Ground disturbing activity that does not exceed three feet in depth shall not require paleontological monitoring. If no fossils are observed during the first 50 percent of excavations exceeding three feet in depth, paleontological monitoring shall be reduced to weekly spot-checking under the discretion of the qualified paleontologist.

If fossils are discovered, the qualified paleontologist (or paleontological monitor) shall recover them. Typically fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist shall have the authority to temporarily direct, divert or halt construction activity near the find to ensure that the fossil(s) can be removed in a safe and timely manner. Once salvaged, fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition and curated in a scientific institution with a permanent paleontological collection, along with all pertinent field notes, photos, data, and maps.

b. Findings – Implementation of the above measures would reduce potential impacts to archaeological and paleontological resources to a less than significant level.

c. Supportive Evidence – Please refer to page 4.5-18 to 4.5-19 of the Draft EIR.

F. GEOLOGY AND SOILS (CLASS II)

1. **Impact GEO-1.** Future seismic activity could result in fault rupture along the Calaveras Fault, which underlies the Regional Park Site and Reaches Three, Four, and Five of the River Parkway corridor. Because fault rupture could affect human-occupied structures at the proposed Regional Park, impacts would be Class II, significant but mitigable.

   a. **Mitigation** – The following mitigation measures are required.

   GEO-1 **Fault Evaluation and Structural Setbacks.** Prior to the issuance of a grading permit for the proposed Regional Park and related Access Road, a detailed fault evaluation shall be completed on-site by a registered civil or geotechnical engineer pursuant to applicable County Code and state law requirements. This evaluation shall include excavation of subsurface sediment through Holocene-age alluvium in an attempt to located Holocene-age fault displacements. A geologic report describing the potential for surface fault displacement throughout the Regional Park Site shall be prepared and reviewed by San Benito County. If fault displacement is identified, all human-occupied structures shall be set back a minimum of 50 feet from the fault break, in conformance with the Alquist-Priolo Earthquake Fault Zoning Act.

   b. **Findings** – Implementation of the above measure would reduce potential impacts to a less than significant level.

   c. **Supportive Evidence** – Please refer to pages 4.6-10 to 4.6-11 of the Draft EIR.

2. **Impact GEO-3.** A substantial part of the River Parkway corridor, and a portion of the Regional Park Site, are at risk for seismic-related ground failure. Seismic activity could produce ground-shaking sufficient to cause liquefaction, subsidence, or settlement in these areas. This is a Class II, significant but mitigable impact.

   a. **Mitigation** – The following mitigation measure is required.

   GEO-3 **Geotechnical Report**. Prior to site development of each reach of the River Parkway, and of the Regional Park (including the Access Road), a detailed, site-specific geotechnical report shall be prepared by a registered civil or geotechnical engineer and reviewed by San Benito County. This report shall include confirmation of the extent of any liquefaction, subsidence, and settlement potential of the underlying materials. To the extent determined appropriate by the engineer preparing the report, adequate techniques to minimize the identified hazards shall be prescribed and implemented. Suitable measures to reduce ground-failure impacts could include, but are not limited to, the following:

   - Specialized design of foundations by a structural engineer

- Removal or treatment of liquefiable soils to reduce the potential for liquefaction
- In-situ densification of soils
- Replacement or recompaction of soils, or
- Other alterations to the ground characteristics.

b. **Findings** – Implementation of Mitigation Measure GEO-3 would reduce potential impacts to a less than significant level.

c. **Supportive Evidence** – Please refer to pages 4.6-13 to 4.6-14 of the Draft EIR.

3. **Impact GEO-4.** The River Parkway corridor would be vulnerable to unstable soils where the San Benito River has incised slopes, where agricultural fields abut the riverbank and terrace, and where lateral scour has oversteepened the riverbank. Impacts resulting from slope instability in these areas would be Class II, significant but mitigable.

a. **Mitigation** – The following mitigation measure is required.

GEO-4 **Slope Stability Evaluation.** Prior to issuance of grading permits for each reach of the River Parkway, a detailed, site-specific evaluation of the stability of riverbanks and adjacent terraces shall be performed by a registered engineering geologist or a registered professional civil or geotechnical engineer. If the potential for slope failure is found to exist, then setbacks or retaining walls, where approved by a registered engineering geologist or registered professional civil or geotechnical engineer, shall be identified and implemented as part of the project. The setback distance or design of the retaining walls shall be determined on a site-specific basis by the results of the landslide evaluation study.

b. **Findings** – Implementation of Mitigation Measure GEO-4 would reduce potential impacts to a less than significant level.

c. **Supportive Evidence** – Please refer to pages 4.6-14 to 4.6-15 of the Draft EIR.

4. **Impact GEO-5.** The proposed River Parkway would be vulnerable to erosion from lateral scouring along waterways. Construction and operation of the River Parkway and Regional Park (including the Access Road) also could increase soil erosion due to grading activities and impervious surfaces. However, adherence to the Master Plans' guidelines and local regulations, and completion of site-specific geological surveys would ensure that impacts would be Class II, significant but mitigable.

a. **Mitigation** – Implementation of Mitigation Measure GEO-4 would adequately address the risk of lateral scouring. No additional mitigation measures are required.

b. **Findings** – Implementation of Mitigation Measure GEO-4 would reduce potential impacts to a less than significant level.

c. **Supportive Evidence** – Please refer to pages 4.6-15 to 4.6-16 of the Draft EIR.

5. **Impact GEO-6.** The proposed project could result in on- or off-site liquefaction, subsidence, and collapse. Impacts would be Class II, significant but mitigable.

   a. **Mitigation** – Mitigation Measure GEO-3 requires preparation of a geotechnical report prior to development of each reach of the River Parkway and of the Regional Park Site. To the extent determined necessary to address any seismically-induced liquefaction, subsidence, or settlement issues, then appropriate techniques to minimize hazards shall be prescribed and implemented. Refer to Impact GEO-3 for the complete mitigation measure.

   b. **Findings** – Implementation of Mitigation Measure GEO-3 would reduce potential impacts to a less than significant level.

   c. **Supportive Evidence** – Please refer to pages 4.6-16 to 4.6-17 of the Draft EIR.

6. **Impact GEO-7.** Soils in the River Parkway corridor have a moderate to high potential to expand when wet or contract when dry. Shrinking and swelling of soils could create substantial risks to life or proposed facilities. This is a Class II, significant but mitigable impact.

   a. **Mitigation** – The following mitigation measure is required.

      GEO-7 **Soil Expansion Evaluation and Minimization.** The site-specific geotechnical report required in Mitigation Measure GEO-3 shall include an evaluation of the potential for soil expansion of the underlying materials. If the segment under study is confirmed as being subject to expansive soil hazards, appropriate techniques to minimize hazards shall be prescribed and implemented. Suitable measures to reduce expansive soil hazards could include, but not be limited to: design of foundations by a structural engineer and/or or the replacement of soils beneath the segment.

   b. **Findings** – Implementation of Mitigation Measure GEO-7 would reduce potential impacts to a less than significant level.

   c. **Supportive Evidence** – Please refer to pages 4.6-16 to 4.6-17 of the Draft EIR.

E. HAZARDS AND HAZARDOUS MATERIALS (CLASS II)

1. **Impact HAZ-1.** Grading associated with the project's construction could expose construction workers and passersby to health hazards by releasing contaminants that could be present in the soil. This construction-related hazard is a Class II, significant but mitigable impact.

    a. **Mitigation** – The following mitigation measures are required to reduce human health impacts during construction of the proposed project and apply to all components of the project.

        HAZ-1 **Soil Sampling and Remediation.** Prior to issuance of grading permits for each trail segment and the park (including permits for the Access Road), a detailed site-specific soil assessment shall be completed for that segment under the supervision of a professional geologist or professional civil engineer to determine the presence or absence of contaminated soil along the proposed trail. If soil sampling indicates the presence of any contaminant in quantities not in compliance with applicable laws or regulations, coordination with San Benito County Environmental Health Services to develop and implement a program to remediate or manage the contaminated soil during construction. Disposal shall occur at an appropriate facility licensed to handle such contaminants and remedial excavation shall proceed under the supervision of an environmental consultant licensed to oversee such remediation. The remediation/disposal program shall be approved by San Benito County Environmental Health Services. All correspondence shall be submitted to San Benito County Environmental Health Services prior to issuance of grading permits. All proper waste handling and disposal procedures shall be followed. Upon completion of the remediation/disposal, a qualified environmental consultant shall prepare a report summarizing the project, the remediation/disposal approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests.

    b. **Findings** – With the implementation of the above mitigation, impacts would be less than significant.

    c. **Supportive Evidence** – Please refer to pages 4.8-9 through 4.8-10 of the Draft EIR

F. HYDROLOGY AND WATER RESOURCES (CLASS II)

1. **Impact H-3.** Portions of the proposed project would be constructed within the 100-year flood plain and would be subject to periodic inundation during major storm events. Construction of the proposed River Parkway bridge crossings could also alter the flow characteristics of the waterways they would cross, possibly resulting in greater upstream flooding during major flood events. This is a Class II, significant but mitigable impact.

   a. **Mitigation** – The following measures are required to reduce flood-related impacts.

      H-3(a) **Bridge Design.** The plans for proposed trail bridges shall be submitted to the planning and/or building department of the jurisdiction in which the segment is located for review and approval. Bridges shall be designed to ensure that pre-project flood flows are not exceeded, such that upstream flooding does not occur. All bridge design requirements of the reviewing jurisdiction, as well as all other applicable laws and regulations, shall be implemented. These may include, but would not be limited to: structural anchoring, increase in base-flood elevation, and floodproofing techniques, such as the use of paints, membranes or mortars to reduce seepage, reinforcement to resist water pressure, and addition of mass or weight to structure to resist flotation.

      H-3(b) **Trail Inspection Program.** Within 10 calendar days following any flooding event, the trail shall be inspected by the County or its designee to determine if damage has occurred or if debris has collected and constricted water flow around the bridges. If damage or debris is found, it shall be promptly repaired or cleared. If repair is required, temporary signage shall be posted to indicate the trail's closure until damage is repaired. Routine bridge inspections shall be conducted by the Trail Manager or its designee on an annual basis.

      H-3(c) **Recreational Structure Location.** The recreational structures included in the Regional Park shall not be located within the 100-year floodplain.

   b. **Findings** – Implementation of the above measures would reduce potential impacts to a less than significant level.

   c. **Supportive Evidence** – Please refer to pages 4.9-17 through 4.9-20 of the Draft EIR.

G. NOISE (CLASS II)

1. **Impact N-3.** The proposed park would include uses that would create new noise sources near sensitive receptors that could exceed applicable noise standards. Mitigation regarding the design and use of the amphitheater will reduce these impacts to Class II, less than significant with mitigation.

    a. **Mitigation** – The following mitigation measures are required to reduce park operation-related noise impacts:

        N-3 **Amplified Noise Reduction.** Prior to issuance of building permits for ball fields or any use that may involve amplified noise, the project proponent shall submit a sound control plan specifying sound level limits, permitted hours of operation, and noise monitoring requirements that ensure compliance with San Benito County noise standards. This plan shall include specifications showing the design of the amplification system and identified sound barriers, as necessary.

    b. **Findings** – With implementation of the above mitigation measure, noise generated by operation and use of the proposed park facilities would be reduced to a less than significant level.

    c. **Supportive Evidence** – Please refer to pages 4.10-12 through 4.10-13 of the Draft EIR.

H. TRANSPORTATION AND TRAFFIC (CLASS II)

1. **Impact T-2.** The proposed Regional Park would increase demand for pedestrian and bicycle facilities in the vicinity. Physical improvements to such facilities would be needed to ensure the safety of users. Impacts would be Class II, significant but mitigable.

    a. **Mitigation** – The following mitigation measures are required to reduce park operation-related noise impacts:

        T-2 **Bike Lanes.** During construction of the Regional Park, the striping on San Benito Street shall be renewed on its existing alignment from Union Road to Nash Road, and Class II bike lane signage and pavement markings shall be provided on San Benito Street from Sally Street to Nash Road.

    b. **Findings** – With the striping of bike lanes on San Benito Street and addition of Class II bike lanes signage and pavement markings from Sally Street to Nash Road, impacts on pedestrian and bicycle facilities would be reduced to a less than significant level.

    c. **Supportive Evidence** – Please refer to pages 4.12-14 through 4.12-15 of the Draft EIR.

2. **Impact T-3.** The proposed Regional Park Site would include driveways that provide access from the Access Road (Baler Alley). A minimum storage capacity for vehicles on these driveways would be necessary to prevent excessive queuing at entrances otherwise there may be unacceptable peak hour levels of service. Impacts would be Class II, significant but mitigable.

   a. **Mitigation** – The following mitigation measures are required to reduce park operation-related noise impacts:

      T-3 **Minimum Vehicle Storage Length.** A minimum of two vehicle storage length (or 50 feet) shall be provided for the northbound driveway approach from the Access Road (Baler Alley) and for the driveway approach from the Westside Boulevard Extension.

   b. **Findings** – With implementation of Mitigation Measure T-3, potential queuing impacts at driveways to the Regional Park Site would be reduced to a less than significant level.

   c. **Supportive Evidence** – Please refer to page 4.12-15 of the Draft EIR.

V. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE (Class I)

The County hereby finds that mitigation measures that have been identified in the EIR will lessen the following significant environmental impacts but not to a less than significant level. These Findings are based on the discussion of impacts in the detailed issue area analyses in Section 4.0 of the Draft EIR as well as relevant responses to comments in the Final EIR.

The findings below are for Class I impacts, where implementation of the Project may result in the following significant, unavoidable environmental impacts:

A. AGRICULTURAL RESOURCES

1. **Impact AG-1.** Development of the proposed project would involve conversion of Important Farmland. Due to this irreversible loss of important farmland, impacts would be Class I, significant and unavoidable.

   a. **Mitigation** – For projects that would result in the significant conversion of agricultural land, the preferred method of mitigation is to offset this conversion by protecting off-site agricultural land from urban development. Agricultural conservation easements could potentially be secured to protect DOC-designated Important Farmland in the vicinity of the Regional Park Site, provided that the landowner consents to the transaction and a land trust holds the easement. 2035 General Plan Policy LU3.10 recommends that the loss of Prime Farmland be avoided and replaced at a ratio of up to 1 to 1 to protect this important resource in the County. In San Benito County, the San Benito Agricultural Land Trust currently protects approximately 5,454 acres of working ranches and farms and is working to acquire additional acreage. The Land Trust is devoted to providing financial options to landowners in order to protect the agricultural heritage of San Benito County. The Land Trust may be a potential holder of such easements or fee title for Important Farmland. This

type of mitigation has been found to be feasible in many California communities facing suburban development pressures in traditional agricultural areas with Important Farmland. The mitigation ratios in those communities can range from 1 to 1 (as suggested in the 2035 General Plan) to higher levels reported up to 3 to 1.

Therefore, the following mitigation is required:

AG-1 **Agricultural Conservation.** Prior to issuance of any grading permits, San Benito County shall provide that for every one (1) acre of Important Farmland (Prime Farmland, Farmland of Statewide Importance, and Unique Farmland) on the Regional Park Site that is permanently converted to non-agricultural use as a result of project development, one (1) acre of land of comparable agricultural productivity shall be preserved in perpetuity. Said mitigation shall be satisfied by the applicant through:

1) Granting a perpetual conservation easement(s), deed restriction(s), or other farmland conservation mechanism(s) to the qualifying entity which has been approved by the County, such as the San Benito County Agricultural Trust, for the purpose of permanently preserving agricultural land. The required easement(s) area or deed restriction(s) shall therefore total a minimum of 18.2 acres of Prime Farmland for purposes of the Regional Park Site as well as account for (on a 1:1 basis) any Prime Farmland that is converted as a result of the River Parkway. The land covered by said off-site easement(s) or deed restriction(s) shall be located in San Benito County; or
2) Making an in-lieu payment to a qualifying entity which has been approved by the County, such as the San Benito County Agricultural Trust, to be applied toward the future purchase of a minimum of 18.2 acres of Prime Farmland in San Benito County (to mitigate losses related to the Regional Park as well as account for (on a 1:1 basis) any Prime Farmland that is converted as a result of the River Parkway), together with an endowment amount as may be required. The payment amount shall be determined by the qualifying entity or a licensed appraiser; or
3) Making an in-lieu payment to a qualifying entity which has been approved by the County, such as the San Benito County Agricultural Trust, to be applied toward a future perpetual conservation easement, deed restriction, or other farmland conservation mechanism to preserve a minimum of 18.2 acres of Prime Farmland in San Benito County (to mitigate losses related to the Regional Park as well as account for (on a 1:1 basis) any Prime Farmland that is converted as a result of the River Parkway). The amount of the payment shall be equal to 110% of the amount determined by the qualifying entity or a licensed appraiser; or
4) Any combination of the above.

Prior to issuance of any grading permits for the project, the applicant shall provide evidence of the recorded easement(s), deed restriction(s), or

evidence of payment to the County Planning Department or qualifying entity, such as the San Benito County Agricultural Trust, for approval to demonstrate compliance with this Mitigation Measure AG-1.

b. Findings – Impacts would be unavoidably significant due to the permanent loss of Important Farmland.

c. Supportive Evidence – Please refer to pages 4.2-7 through 4.2-10 of the Final EIR.

B. NOISE (CLASS I)

1. **Impact N-1** – Construction of the proposed project would create temporary noise level and vibration increases that could exceed applicable noise standards. This is a Class I, significant and unavoidable impact.

   a. Mitigation – The following mitigation measures are required to reduce construction-related noise impacts:

   N-1(a) **Acoustical Shelters**. Air compressors and generators used for construction shall be surrounded by temporary acoustical shelters if within 1,500 feet of a sensitive receptor (including residential and institutional land uses).

   N-1(b) **Construction Equipment**. Stationary construction equipment that generates noise that exceeds 60 dBA Ldn at the boundaries of adjacent sensitive receptors in the City or 65 dBA Ldn at the boundaries of adjacent sensitive receptors in the County shall be baffled to reduce noise and vibration levels. All construction equipment powered by internal combustion engines shall be properly muffled and maintained. Unnecessary idling of internal combustion engines shall be prohibited. Whenever feasible, electrical power shall be used to run air compressors and similar power tools.

   b. Findings – Construction related noise effects would be temporary. In addition, with implementation of the above mitigation measures, noise generated by construction equipment would be limited to daytime hours and would be muffled to the extent practicable. Nevertheless, impacts would remain significant and unavoidable.

   c. Supportive Evidence – Please refer to page 4.10-10 to 4.10-11 of the Draft EIR.

C. TRANSPORTATION AND TRAFFIC (CLASS I)

1. **Impact T-5.** Under the "Cumulative Base" and "Cumulative plus Project" scenarios, the proposed Regional Park would add trips to intersections that would be operating at LOS D or worse, including the intersections of Nash Road with Westside Boulevard, West Street, Monterey Street, and San Benito Street. Because right-of-way is not available to institute mitigation at the Nash Road/San Benito Street intersection, impacts would be Class I, significant and unavoidable.

   a. **Mitigation** – The following mitigation measures would be required.

   T-5(a) **Nash Road/Westside Boulevard Intersection.** Prior to the issuance of a grading permit for the proposed Regional Park, the Nash Road/Westside Boulevard intersection shall be converted to an All-Way-Stop-Controlled (AWSC) intersection.

   T-5(b) **Nash Road/West Street Intersection.** Prior to the issuance of a grading permit for the proposed Regional Park, Nash Road shall be striped and modified through this intersection to include a two-way-left-turn (TWLT) median-lane. Alternatively, this intersection shall be signalized, with east-west and north-south permissive phasing.

   T-5(c) **Nash Road/Monterey Street Intersection.** Prior to the issuance of a grading permit for the proposed Regional Park, Nash Road shall be striped and modified through this intersection to include a two-way-left-turn (TWLT) median-lane. Alternatively, this intersection shall be signalized, with east-west and north-south permissive phasing.

   T-5(d) **Nash Road/San Benito Street Intersection.** Prior to the issuance of a grading permit for the proposed Regional Park, a westbound right-turn and a second eastbound through lane shall be added at the intersection of Nash Road and San Benito Street.

   b. **Findings** – With implementation of Mitigation Measure T-5(a), the Nash Road/Westside Boulevard intersection is projected to operate at acceptable LOS "C" or better conditions under the "Cumulative plus Project" scenario. Likewise, implementation of mitigation measure T-5(b) and T-5(c) would improve conditions at the Nash Road/West Street and Nash Road/Monterey Street intersections to LOS "C" or better. At the Nash Road/San Benito Street intersection, the addition of a westbound right-turn lane and a second eastbound through lane at this intersection would hypothetically improve operations during peak hours to LOS "C" or better under all analyzed cumulative scenarios. However, because all quadrants of this intersection are built-out and occupied,

the above improvements may require substantial right-of-way acquisition and may not be feasible. Since no feasible improvements are known at this time, the proposed Regional Park would contribute to a significant and unavoidable exceedance of LOS standards under cumulative traffic conditions at the Nash Road/San Benito Street intersection. Therefore, although the proposed River Parkway would facilitate a change in travel modes from driving to bicycling, overall cumulative impacts to traffic would remain significant and unavoidable.

c. **Supportive Evidence** - Please refer to pages 4.12-16 through 4.10-20 of the Draft EIR.

VI. FINDINGS REGARDING ALTERNATIVES

A. LEGAL REQUIREMENTS FOR ALTERNATIVES

Public Resources Code § 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives...which would substantially lessen the significant environmental effects of such projects." "Feasible" means "capable of being accomplished in a reasonable period of time taking into account economic, environmental, legal, social, and technological factors." (CEQA Guidelines § 15364) The concept of feasibility also encompasses whether a particular alternative promotes the project's underlying goals and objectives, and whether an alternative is impractical or undesirable from a policy standpoint.

The issue of alternatives feasibility arises twice in the CEQA process, once when the EIR is prepared, and again when CEQA findings are adopted. When assessing feasibility in an EIR, the EIR preparer evaluates whether an alternative is "potentially" feasible. Potentially feasible alternatives are suggestions by the EIR preparers which may or may not be adopted by lead agency decision makers. When CEQA findings are made in connection with an EIR certification, the lead agency decision-making body independently evaluates whether the alternatives are actually feasible, including whether an alternative is impractical or undesirable from a policy standpoint.

If a significant impact can be substantially lessened (i.e., mitigated to a less than significant level) by adoption of mitigation measures, lead agency findings need not consider the feasibility of alternatives to reduce that impact. Nevertheless, Chapter 6 of the EIR and these Findings of Fact do consider the ability of potentially feasible alternatives to substantially reduce all of the Project's significant impacts, even those impacts reduced to less-than-significant levels through adoption of mitigation measures.

An EIR must only evaluate reasonable alternatives to a project that could feasibly attain most of the project objectives; and then the EIR evaluates the comparative merits of the identified alternatives (CEQA Guidelines § 15126.6(a)). In all cases, the consideration of alternatives is to be judged against a rule of reason. The lead agency is not required to choose the environmentally superior alternative identified in the EIR if the alternative does not provide substantial advantages over the proposed project; and (1) through the imposition of mitigation measures the environmental effects of a project can be reduced to an acceptable level, or (2) there are social, economic, technological, or other considerations that make the alternative infeasible. (Pub. Res. Code §§21002, 21002.1; CEQA Guidelines §15092)

The following Project alternatives were selected for review in the EIR because of their potential to avoid or substantially lessen Project impacts, or because they were required under CEQA Guidelines (e.g., the No Project alternative). The Project and the identified alternatives are described in more detail in the Draft EIR and Appendices thereto.

Six alternatives were considered in the Draft EIR: Alternative 1: The No Project Alternative, Alternative 2: No Regional Park/Existing Zoning, Alternative 3: Reduced River Parkway, Alternative 4: On-Road Trail Alignment, Alternative 5: Reduced Regional Park, and Alternative 6: Passive Park.

The No Project alternative assumes that the proposed River Parkway and Regional Park Project is not constructed. Further the proposed Access Road that is a part of the Regional Park component of the Project would also not be constructed. However, since regional plans endorse trail construction (e.g., the San Benito County Bikeway and Pedestrian Master Plan [San Benito County Council of Governments, 2009] and the City of Hollister General Plan Transportation Element [City of Hollister, 2005]), this alternative assumes that bicycle/pedestrian trail planning and construction in areas other than the River Parkway corridor would continue as envisioned under existing plans. Under this alternative, bicyclists would either follow existing bike paths, lanes, routes or other County of San Benito and City of Hollister roadways where formal facilities do not exist. Pedestrians would utilize existing sidewalks. In addition, illegal trespassing by pedestrians, bicyclists, and others into the San Benito River would be expected to continue under this alternative.

The No Regional Park/Existing Zoning alternative assumes that the River Parkway trail system is constructed as proposed, but that the Regional Park is not constructed. Rather, this alternative would assume that development of the Regional Park Site would occur consistent with existing zoning. The site is currently zoned Rural Residential by the County of San Benito, which allows for residences on ½ acre minimum lots (where water and sewer services are available). The development area with this alternative would be the same as the proposed Project (approximately 31 acres), and would thus accommodate up to 62 residences consistent with San Benito County Zoning Ordinance. With this alternative, access to the site would be similar to the proposed Project, with the Access Road providing access from Nash Road from the north as well as other access points provided by San Benito Street to the northeast at Baler Alley (connecting to the Access Road) and from San Benito Street to the southeast. Possible future connections via the Westside Boulevard Extension (which is not a component of the Project or this Alternative) could provide further long-term access to the area from the northwest, similar to the proposed Project. This future access point is described in Section 2.0, Project Description.

The Reduced River Parkway alternative would construct the Regional Park as proposed (including the Access Road), but would reduce the length of the proposed River Parkway by eliminating two of the five reaches of the proposed trail network. Reach Four and Reach Five, the southernmost trail segments, would be eliminated. These reaches total approximately eight miles; thus removing these reaches would reduce the length of the River Parkway from approximately 20 miles to 12 miles (a reduction of approximately 40%). Reach One through Reach Three would be constructed as proposed, including construction of the proposed Regional Park adjacent to Reach Three. Along these three segments, the design features would be identical to the proposed project. The purpose of this alternative is to incrementally reduce environmental impacts relating to the River Parkway component while providing a connection between US Highway 101 and the City of San Juan Bautista near Reach One and the City of Hollister near Reach Three. Improvements along the remaining three reaches would be identical to the proposed Project, and would include: a paved trail surface (where feasible), a trail buffer, and various amenities depending on the trail corridor setting, as outlined in the Master Plans. No improvements would be constructed along the eliminated segments.

The On-Road Trail Alignment alternative would construct the proposed Regional Park as proposed, but would eliminate the multi-use trail along the San Benito River corridor and would instead utilize existing on-road facilities, constructing new on-road bicycle improvements where needed. Pedestrians would utilize existing sidewalks or road shoulders. No equestrian facilities would be provided. The On-Road Trail Alignment alternative is shown in Figure 6-2. This alternative would align with State Route (SR) 156/San Juan Hollister Road from US Highway 101 (El Camino Real) to 4th Street, near the City of Hollister. From SR 156/San Juan Hollister Road, the alignment would follow 4th Street/San Juan Road east to San Benito Street in the City of Hollister. The alignment would then travel south along San Benito Street (where it would provide access to the proposed Regional Park) to its terminus with Union Road. The alignment would abut Union Road east to Southside Road. The alignment would then follow Southside Road south and east to the community of Tres Pinos at SR 25 (Airline Highway). Improvements associated with this alternative would be limited to on-road bicycle facilities where existing facilities are not available. It is assumed that this alternative would only construct Class II designated bicycle lanes or Class III designated bicycle routes (and not a separated Class I bikeway), and would therefore not require roadway widening. Because this alternative would be limited to on-road bicycle lanes or bicycle routes, it would not provide many of the trail amenities associated with the proposed project. The length of this alternative would be approximately 19.2 miles, compared to approximately 20 miles for the proposed project. The overall width and length of this alternative would also be substantially reduced when compared to the proposed Project, and would therefore result in less overall disturbance.

The Reduced Regional Park alternative would construct the proposed River Parkway trail system as proposed, but would reduce the size of the proposed Regional Park from approximately 31 acres to approximately 20.4 acres (a reduction of 34.2%). The Access Road would be constructed under this alternative, similar to the proposed Project. However, the Park would be reduced in size and thus would not have as many recreation amenities as the proposed Project, and would also reduce the size of the parking areas. The remaining key Park elements would be located within one of the four parcels that would be used for the proposed Project. The purpose of this alternative is to reduce environmental impacts of the Park while continuing to provide active recreational facilities. Access to this alternative would be provided by the proposed Access Road from Nash Road, as well as from San Benito Street to the northeast at the existing Baler Alley (which would connect to the Access Road) and from San Benito Street to the southeast, similar to the proposed project. In addition to the three proposed access points, pedestrian connections would also be provided to San Benito High School to the north, and a possible tunneled pedestrian crossing associated with the future Westside Boulevard Extension (which is not a component of the proposed Project or this Alternative), similar to the proposed Project.

The Passive Park alternative would construct the proposed River Parkway trail system as proposed, but would construct a passive recreational park in lieu of the proposed Regional Park. This passive park would provide landscaped open space with passive recreation amenities including pathways, picnic areas, educational gardens/life labs, demonstration orchard with ornamental non-fruiting trees, and small playgrounds to compliment the proposed Regional Parkway Reach Three. The active components of the proposed Regional Park would be eliminated. The footprint of the passive park would be the same as the proposed Project (31 acres).

B. FINDINGS ON ALTERNATIVES

The Board finds that the range of potentially feasible alternatives evaluated in the Final EIR reflects a reasonable attempt to identify and evaluate various types of alternatives that would potentially be capable of reducing the Project's environmental effects, while accomplishing at least some of the Project Objectives. The Board finds that the alternatives analysis is sufficient to inform the Board and the public regarding the tradeoffs between the degree to which each alternative to the Project could reduce environmental impacts and the corresponding degree to which the each alternative would hinder the County's ability to achieve the Project Objectives.

The following Project alternatives identified in the Draft EIR are hereby rejected for the following reasons. Evidence supporting the below analysis is presented in Draft EIR, Chapter 6.

The No Project Alternative, the Reduced River Parkway Alternative, and the On-Road Trail Alignment Alternative are considered environmentally superior to the proposed Project. Because the No Project Alternative would eliminate (rather than reduce) all of the anticipated environmental effects of the Project, it would be considered the most environmentally superior alternative. However, this alternative would not accomplish any of the objectives of the proposed Project, including: providing a continuous multi-use trail, promoting tourism and a healthy lifestyle through the River Parkway, or providing a quality, diversified regional park that supports opportunities for active and passive recreation.

By eliminating Reaches Four and Five of the River Parkway, the Reduced River Parkway Alternative would avoid numerous constraints anticipated in the these areas, particularly related to aesthetics, agricultural resources, biological resources, cultural resources, and hydrology and water quality. Since less construction would occur, construction-related impacts to air quality, noise, and traffic would also be reduced, as would ground-disturbance related effects (cultural resources, erosion and erosion-related water quality, biological resources). However, this alternative would not, among other things, meet the goal of providing a continuous multi-use trail for as much of the corridor length as feasible.

The On-Road Trail Alignment Alternative can also be considered environmentally superior to the proposed project. This is primarily because this alternative would substantially reduce the number of improvements required, as well as overall disturbance area (due to the use of existing, disturbed roadway rights-of-way). As a result of the reduced area of disturbance, and the relocation of improvements away from the river corridor, this alternative would reduce impacts related to ground-disturbance related effects (cultural and biological resources, erosion and erosion-related water quality). However, this alternative would not, among other things, provide separation from vehicles for trail users, and would therefore increase impacts related to this hazard. In addition, this alternative would be in conflict with the Project goals of providing a continuous multi-use trail and providing a variety of trails, spaces, and experiences for all types of users.

The Reduced Regional Park Alternative and the Passive Park Alternative would reduce a number of impacts of the proposed Project to a certain extent, particularly those related to traffic and transportation. However, because both of these alternatives would construct the River Parkway as proposed and still construct a Regional Park (either reduced in size or altered to be a passive park), many impacts would be largely similar to the proposed Project. Furthermore, neither of the alternatives would eliminate the significant and unavoidable impacts. In addition, by eliminating the active uses associated with the proposed park, the Passive Park Alternative would, among other

things, be in conflict with the Project goal of providing a diversified regional park that supports opportunities for active and passive recreation.

The No Regional Park/Existing Zoning Alternative would result in impacts that are similar to or greater than the proposed Project. Therefore, this alternative would not be considered environmentally superior.

As set forth herein, the Board has adopted mitigation measures that mitigate most of the significant environmental effects of the Project. While these mitigation measures will not mitigate all impacts of the Project to a less than significant level, they will mitigate those impacts to a level that the Board finds is acceptable. The Board finds that only the Project adequately satisfies the Project Objectives in a manner acceptable to the Board. The Board finds that the remaining alternatives are unable to satisfy the Project Objectives to the same degree as the Project and are infeasible. The Board further finds that, on balance, none of the remaining alternatives has environmental advantages over the Project that are sufficiently great to justify approval of such an alternative instead of the Project, in light of each such alternative's inability to satisfy the Project Objectives to the same degree as the Project. Accordingly, the Board has determined to approve the Project instead of one of the alternatives. In making this determination, the Board finds that when compared to the alternatives described and evaluated in the Final EIR, the Project, as mitigated, provides a reasonable balance between fully satisfying the Project Objectives and reducing potential environmental impacts to an acceptable level. The Board further finds and determines that the Project should be approved, rather than one of the other alternatives, for the reasons set forth below and as further discussed in the Final EIR.

VII. FINDINGS ON CUMULATIVE IMPACTS

A. INTRODUCTION

Chapter 4 of the Draft EIR includes an analysis of the Project's individual and cumulative impacts, as required by CEQA, and describes the scope of cumulative analysis evaluated therein.

CEQA requires that an EIR discuss cumulative impacts of a project when the project's incremental effect is "cumulatively considerable." Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

A cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact.

B. FINDINGS FOR SIGNIFICANT CUMULATIVE IMPACTS FOR WHICH PROJECT'S INCREMENTAL CONTRIBUTION HAS BEEN MITIGATED TO LESS THAN SIGNIFICANT LEVELS (CLASS II IMPACTS)

For the following impacts, the County hereby finds that in Section IV of these Findings, mitigation measures have been identified in the EIR that will avoid or substantially lessen the proposed Project's incremental contribution to the following significant cumulative impacts to a less than significant (i.e., less than cumulatively considerable) level. The significant impacts and the mitigation measures that will reduce them to a less than significant level are as follows:

- Impact AES-4: Mitigation Measure AES-4
- Impact AG-3; Mitigation Measures AG-3(a)-(b)
- Impact B-1; Mitigation Measures B-1(a)-(m)
- Impact B-2; Mitigation Measures B-2(a)-(e)
- Impact B-3; Mitigation Measures B-3(a)-(c)
- Impact B-4: Mitigation Measure B-4(a)
- Impact CR-1; Mitigation Measures CR-1(a)-(b)
- Impact CR-2; Mitigation Measures CR-2(a)-(b)
- Impact CR-3; Mitigation Measure CR-3
- Impact GEO-1; Mitigation Measure GEO-1
- Impact GEO-3; Mitigation Measure GEO-3
- Impact GEO-4; Mitigation Measure GEO-4
- Impact GEO-5; Mitigation Measure GEO-4
- Impact GEO-6; Mitigation Measure GEO-3
- Impact GEO-7; Mitigation Measure GEO-7
- Impact HAZ-1; Mitigation Measure HAZ-1
- Impact H-3; Mitigation Measures H-3(a)-(c)
- Impact N-3; Mitigation Measure N-3
- Impact T-2; Mitigation Measure T-2
- Impact T-3; Mitigation Measures T-3
- Impact T-5; Mitigation Measures T-5(a)-(c)

C. FINDINGS FOR SIGNIFICANT CUMULATIVE IMPACTS FOR WHICH PROJECT'S INCREMENTAL CONTRIBUTION HAS NOT BEEN MITIGATED TO LESS THAN SIGNIFICANT LEVELS (CLASS I IMPACTS)

For the following impacts, the County hereby finds that in Section V of these findings, mitigation measures have been identified in the EIR that will reduce the proposed Project's incremental contribution to the following significant cumulative impacts, but not to a less than significant (i.e., less than cumulatively considerable) level. The significant impacts and the mitigation are as follows:

- Impact AG-1; Mitigation Measures AG-1
- Impact N-1; Mitigation Measures N-1(a-b)
- Impact T-5; Mitigation Measures T-5(d)

VIII. STATEMENT OF OVERRIDING CONSIDERATIONS

The County adopts and makes this Statement of Overriding Considerations concerning the Project's unavoidable significant impacts to explain why the Project's benefits override and outweigh its unavoidable impacts.

The Final EIR has identified and discussed significant effects that may occur as a result of the Project. As set forth in these CEQA Findings, the County has made a reasonable and good faith effort to eliminate or substantially mitigate the impacts resulting from the Project and has made specific findings on each of the Project's significant impacts and on mitigation measures and alternatives. With implementation of the mitigation measures discussed in the Final EIR, most of the Project's effects can be mitigated to a level of less than significant. However, even with implementation of all feasible mitigation, the Project will result in significant and unavoidable impacts as follows:

1. Implementation of the Project would convert agricultural lands including Prime Farmland to non-agricultural uses. (Impact AG-1)
2. Implementation of the Project would expose sensitive receptors to construction noise levels in excess of thresholds. (Impact N-1)
3. Implementation of the Project would cause intersections to operate at levels in excess of standards. (Impact T-5)

In accordance with Section 15093 of the CEQA Guidelines, and having reduced the adverse significant environmental effects of the Project to the extent feasible, having considered the entire administrative record on the project, and having weighed the benefits of the Project against its unavoidable adverse impacts after mitigation, the County hereby finds that the following economic, social, and environmental benefits of the Project outweigh its unavoidable adverse impacts and render them acceptable based upon the following considerations. Each benefit set forth below constitutes an overriding consideration warranting approval of the Project, independent of the other benefits, despite each and every unavoidable impact.

The Project would provide substantial recreation opportunities that will result in a broad range of benefits including, without limitation, economic, health and fitness, educational, environmental, and cultural/historic benefits, as set forth more fully below. The following benefits for the River Parkway and Regional Park are organized under these general categories. The River Parkway and Regional Park would provide each of the following benefits:

- Recreation - The River Parkway and Regional Park Project would provide each of the following recreation benefits:
  - Provide a continuous multi-use trail for use by residents of and visitors to San Benito County.
  - Provide a variety of trails, spaces, and experiences for all types of users. Provide ADA compliant and universally accessible trail opportunities that encourage use by all ages and abilities.
  - With the inclusion of playful and fun concepts, the River Parkway would encourage users of various ages to enjoy the trail resources.
  - Provide access to the river corridor where compatible with environmental and safety considerations.
  - Provide a quality, diversified regional park that supports opportunities for active and passive recreation.
  - Promote, coordinate, facilitate, or provide recreation programs at the Regional Park that serve regional needs, support community livability, connect the community with the Park, and encourage greater recreation participation in areas not served in the area.

- Economic - The River Parkway and Regional Park Project would provide each of the following economic benefits:
  - Develop themes along reaches of the River Parkway which reflect the character of the surrounding area.
  - Promote community awareness to preserve and enhance the ecological, scenic and recreational resources of the River Parkway.
  - Promote economic opportunities which will benefit the community and the River Parkway.
  - Encourage tourism through the River Parkway, including providing special events.
  - Ensure the Parkway and trail access is compatible with adjacent agricultural operations and fields.
  - Provide new job opportunities related to the construction of the River Parkway and Regional Park as well as for maintenance and operations.

- Health and Fitness - The River Parkway and Regional Park Project would provide each of the following health and fitness benefits:
  - Foster community health by providing recreational areas that encourage and enhance physical fitness in the region.
  - Provide options for users of all abilities and ages to encourage walking or biking instead of driving thus promoting a healthy lifestyle through the River Parkway and the use of the Regional Park.
  - Promote connectivity with the adjacent communities, including neighborhoods, schools, business centers, local, state, and national parks, by providing new trail routes.
  - Provide outdoor opportunities for youth as a therapeutic aspect.
  - Provide new trail access with school athletic programs, such as cross-country running.

- Educational - The River Parkway and Regional Park Project would provide each of the following educational benefits:
  - Provide educational components for all users, ages and abilities.
  - Showcase positive features and attributes of the region.
  - Feature hydrologic, geologic, ecological, and historic/cultural interpretive themes.
  - Include various educational components such as interpretive displays, interactive electronic applications, and volunteer docents.
  - Coordinate educational programs with schools and community organizations.

- Environmental - The River Parkway and Regional Park Project would provide each of the following environmental benefits:
  - Promote conservation of natural resources and habitat enhancement.
  - Encourage environmental stewardship.
  - Use native and non-invasive planting along the Parkway, which minimizes water use and maintenance needs.
  - Provide a quality, diversified Regional Park that enhances significant environmental features.
  - Incorporate features and amenities into the Park that fit the local context, contribute to environmental sustainability, and are accessible, safe, and easy to maintain for the long term.

- Cultural/Historic - The River Parkway and Regional Park Project would provide each of the following cultural/historic benefits:
  - Provide opportunities to share the region's cultural/historic heritage along the River Parkway.
  - Include opportunities to learn about the Native American heritage.
  - Connectivity to County Historical Park and the Juan Bautista de Anza National Historic Trail.
  - Provide a quality, diversified Regional Park that enhances historical resources and features.

CONCLUSION

The Final EIR for the River Parkway and Regional Park was prepared pursuant to CEQA and the CEQA Guidelines. The Board of Supervisors has independently determined that the Final EIR fully and adequately evaluates the environmental impacts and identifies feasible mitigation of the proposed Project.

The Board of Supervisors (Board) have balanced the above-referenced Project benefits and considerations against the unavoidable and irreversible environmental risks identified in the Final EIR and have concluded that those impacts are outweighed by the Project benefits. In conclusion, the Board of Supervisors finds that any remaining (residual) effects on the environment attributable to the Project, which are found to be unavoidable in the preceding Findings of Fact, are acceptable due to the overriding concerns set forth in Sections III – VII above and in this Section VIII (Statement of Overriding Considerations). Each finding and overriding consideration by itself constitute a separate, independent, and severable overriding consideration warranting approval of the Project.

The Board hereby concludes that the River Parkway and Regional Park Project should be adopted.

IX. MITIGATION MONITORING AND REPORTING PROGRAM

The County finds that a Mitigation Monitoring and Reporting Program (MMRP) for the Project has been prepared and has been adopted concurrently with these Findings (Public Resources Code, § 21081.6(a)(1)). The MMRP is described in the following sections.

The Board hereby adopts, and incorporates as conditions of approval of the Project, the mitigation measures set forth in the Mitigation Monitoring and Reporting Program ("MMRP") attached to these Findings as **Exhibit C** and incorporated herein by this reference, to reduce or avoid the potentially significant and significant impacts of the Project. In adopting these mitigation measures, the Board intends to adopt each of the mitigation measures recommended for approval by the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted from **Exhibit C**, such mitigation measure is adopted and incorporated in these findings by reference. In addition, in the event the language describing a mitigation measure set forth in **Exhibit C** fails to accurately reflect the mitigation measures in the Final EIR due to a clerical error, the language of the mitigation measures as set forth in the Final EIR shall control.

A. PURPOSE AND INTENDED USE OF THE MMRP

The California Environmental Quality Act (CEQA) requires that an agency adopt a Mitigation Monitoring or Reporting Program (MMRP) prior to approving a project that includes mitigation measures. This MMRP has been prepared in compliance with the requirements of Section 21081.6 of the California Public Resources Code and Sections 15091(d) and 15097 of the CEQA Guidelines.
The purpose of this MMRP is to ensure the adopted mitigation measures adopted in these Findings of Fact for the Project are implemented, in accordance with CEQA requirements. The Findings adopt mitigation measures to avoid or reduce the significant environmental impacts of the Project to the extent feasible. This MMRP clarifies the process for the County to ensure these mitigation measures are implemented, and designates responsibility for implementing, monitoring, and reporting mitigation.

B. MITIGATION MEASURES ADOPTED WITH THE PROJECT

The mitigation measures adopted in these Findings of Fact are listed in Sections IV and V of these findings. Each mitigation measure identifies the parties responsible for implementation.

C. ENFORCEMENT

CEQA requires mitigation measures to be "fully enforceable" through the use of permit conditions, agreements, or other measures within each Lead Agency's authority (Public Resources Code 21081.6(b)). The adopted mitigation measures shall be implemented by the County in accordance with the time frames specified in the MMRP.

D. IMPLEMENTATION AND REPORTING

Mitigation measures will typically occur at, or prior to, the following milestones:

- *During individual environmental review.* These are measures that need undertaking during individual project-level environmental review of component projects. These measures

include items such as assessment of identification of specific project level noise reduction measures, and measures to reduce impacts on biological resources.

- *Prior to issuance of a grading permit.* These are measures that need to be undertaken before earth moving activities begin. These measures include items such as staking the limits of environmentally sensitive areas or vegetation to remain, confirming biological mitigation plans with resource agencies, and including pertinent design details in the project plans.
- *During Project construction.* These measures are those that need to occur as the project is being constructed. They include monitoring the construction site for the proper implementation of dust and emission controls, erosion controls, biological protection, and examining grading areas for the presence of cultural materials.
- *Following construction.* These measures apply to Project components that would go into effect at completion of the Project construction phase, including items such as management or monitoring plans (e.g., revegetation, etc.).

BE IT FURTHER RESOLVED that based on all evidence in the administrative record for the Project, the San Benito County Board of Supervisors hereby directs the Resource Management Agency Director or his designee to file a Notice of Determination with the County Clerk.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO THIS 25th DAY OF OCTOBER, 2016 BY THE FOLLOWING VOTE:

Ayes: Supervisor(s):
Noes: Supervisor(s):
Absent: Supervisor(s):
Abstain: Supervisor(s):

By:_____
Robert Rivas, Chair

ATTEST:
Louie Valdez, Clerk of the Board

By:_____

Date:_____

APPROVED AS TO LEGAL FORM:
San Benito County Counsel's Office

By: Shirley L. Murphy
Shirley L. Murphy, Deputy County Counsel
Date: Oct. 20, 2016

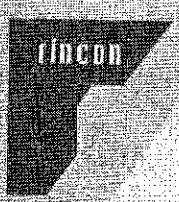
Board of Supervisors Resolution 2016-
Exhibit A

County of San Benito

River Parkway and Regional Park Project

Draft

Environmental Impact Report



May 2016

Environmental Scientists Planners Engineers

Board of Supervisors Resolution 2016-
Exhibit B

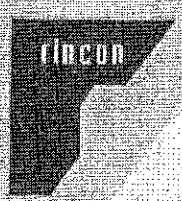
County of San Benito

River Parkway and Regional Park Project

Final

Environmental Impact Report

SCH #2013091072



October 2016

Environmental Scientists Planners Engineers

4.0 MITIGATION MONITORING AND REPORTING PROGRAM

1.1 OVERVIEW

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the River Parkway and Regional Park Project (Project), proposed in San Benito County, California. Public Resources Code Section 21081.6(a) requires that a Lead Agency adopt an MMRP prior to approving a project in order to mitigate or avoid potentially significant impacts that have been identified. The purpose of the MMRP is to ensure that the required mitigation measures identified are implemented as part of the overall project implementation. In addition to ensuring implementation of mitigation measures, the MMRP provides feedback to agency staff and decision-makers during project implementation, and identifies the need for enforcement action before irreversible environmental damage occurs.

The following table summarizes the mitigation measures for each issue area identified in the Environmental Impact Report (EIR) for the River Parkway and Regional Park Project. The table identifies each mitigation measure; the action required for the measure to be implemented; the time at which the monitoring is to occur; the monitoring frequency; and the agency or party responsible for ensuring that the monitoring is performed. In addition, the table includes columns for compliance verification.

1.2 ROLES AND RESPONSIBILITIES

Unless otherwise specified herein, the County is responsible for taking all actions necessary to implement the mitigation measures according to the provided specifications and for demonstrating that each action has been successfully completed. The County, at its discretion, may delegate implementation responsibility or portions thereof to a licensed contractor.

The following table will be used as the checklist to determine compliance with each required mitigation measure.