

**California State University, East Bay Hayward
Harder Road Parking Structure**

**CEQA Findings of Fact
and Statement of Overriding Considerations**

(Pursuant to Public Resources Code Sections 21081 and 21081.6 and
CEQA Guidelines Sections 15091 and 15093)

Final Revised Environmental Impact Report
(State Clearinghouse Number 2008042100)

Project Files May be Reviewed at:
**California State University, East Bay
Facilities Development & Operations
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CEQA FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE FINAL REVISED EIR FOR THE HARDER ROAD PARKING STRUCTURE PROJECT

1.0 INTRODUCTION

1.1 Purpose

This statement of findings and overriding considerations addresses the environmental effects associated with the proposed Harder Road Parking Structure Project ("the project"), located on the campus of California State University, East Bay ("CSUEB") Hayward, in the City of Hayward. This statement is made pursuant to the California Environmental Quality Act ("CEQA"), specifically Public Resources Code sections 21081 and 21081.6, and the CEQA Guidelines, specifically California Code of Regulations, title 14, sections 15091 and 15093. The potentially significant effects of the project were first identified in 2009 in the Draft and the Final Environmental Impact Reports ("EIRs") (collectively "2009 Final EIR"). The 2009 Final EIR was challenged in court by the City of Hayward ("City") and two local neighborhood groups. The Court of Appeal upheld the 2009 Final EIR in all respects, with the exception of the 2009 Final EIR's analysis of impacts to parklands. The Court of Appeal also directed the Board of Trustees to reconsider the feasibility of funding California State University's ("University's") fair share contribution of off-campus traffic mitigation measures.

Accordingly, in 2017, the University prepared a Partial Recirculated Draft and Final Environmental Impact Report (collectively "2017 PR-EIR") which updates and replaces the parkland analysis from the 2009 Final EIR, including an expanded analysis of the project's impacts on nearby parklands in accordance with the opinion of the Court of Appeal and the peremptory writ of administrative mandamus. The 2017 PR-EIR concludes, consistent with the 2009 FEIR, that the project would not result in a significant adverse impact to parklands. The 2009 Final EIR and the 2017 PR-EIR are collectively referred to herein as the "Revised Final EIR."

In accordance with the peremptory writ of mandate issued by the Alameda County Superior Court following the Court of Appeal's opinion, by the resolution referencing these findings the Board of Trustees has set aside and vacated its September 22, 2009 resolution (RCPG 09-09-14) approving the project and certification of the 2009 FEIR. The Board of Trustees, by the same resolution, has also certified the 2009 FEIR as modified by the 2017 PR-EIR (together the Revised Final EIR) and re-approved the project. In addition, as further set forth herein, the Board of Trustees hereby adopts the revised findings from the September 2009 Board of Trustees approval of the project to address the University's commitment to funding its fair share of off-campus traffic mitigation measures.

Public Resources Code section 21081 and CEQA Guidelines section 15091 require that the lead agency, in this case the California State University ("University") Board of Trustees, prepare written findings for identified significant impacts, accompanied by a brief explanation of the rationale for each finding. CEQA Guidelines section 15091 states, in part, that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In accordance with Public Resource Code section 21081 and CEQA Guidelines section 15093, whenever significant impacts cannot be mitigated to below a level of insignificance, the decision-making agency is required to balance, as applicable, the benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable." In that case, the decision making agency may prepare and adopt a Statement of Overriding Considerations, pursuant to the CEQA Guidelines.

The Revised Final EIR for the project, which was prepared in accordance with section 15132 of the CEQA Guidelines, identified potentially significant effects that could result from project implementation. The Board of Trustees finds that the inclusion of certain mitigation measures as part of the project approval will reduce most, but not all, of those effects to less than significant levels. Those impacts that are not reduced to less than significant levels are identified and overridden due to specific project benefits. (See **Section 9.0**, Statement of Overriding Considerations, below).

In accordance with CEQA and the CEQA Guidelines, the Board of Trustees adopts these findings as part of its certification of the Revised Final EIR for the project. Pursuant to Public Resources Code section 21082.1, subdivision (c)(3), the Board of Trustees also finds that the Revised Final EIR reflects the Board's independent judgment as the lead agency for the project.

1.2 Organization/Format Of Findings

Section 1.0 contains a summary description of the project and background facts relative to the environmental review process. **Section 2.0** identifies the significant impacts of the project that cannot be mitigated to a less than significant level (even though all feasible mitigation measures have been identified and incorporated into the project), while **Section 3.0** identifies the potentially significant effects of the project that would be mitigated to a less than significant level with implementation of the identified mitigation measures. **Section 4.0** identifies the project's potential environmental effects that were determined not to be significant. **Section 5.0** discusses the feasibility of the project alternatives. **Section 6.0** addresses the absence of significant new information requiring recirculation of the EIR, and **Section 7.0** addresses the CEQA-mandated Mitigation Monitoring and Reporting Program prepared for the project. **Section 8.0** identifies the custodian of the record of proceedings for the project, and **Section 9.0** presents the Statement of Overriding Considerations.

1.3 Summary of Project Description

The Harder Road Parking Structure Project would provide approximately 1,100 parking spaces on the campus, including 400 replacement parking spaces that would be needed in the future when existing surface parking lots are developed with campus buildings and 700 spaces to serve the growth in campus population and to serve on-campus housing through 2017. The structure would be located at the northwest corner of the Harder Road and West Loop Road intersection, and the entrance to the structure would be on the east side of the garage from West Loop Road. The parking structure would have a split-level design and would consist of three enclosed levels and the roof level in the eastern portion of the parking structure and five enclosed levels and the roof level in the western portion of the parking structure. For a detailed discussion of the project description and setting, please see Volume II of the Revised Final EIR (specifically Volume II of the 2009 Draft EIR).

The environmental review for the project under CEQA was conducted in conjunction with the review for the CSUEB Hayward Campus Master Plan. Findings regarding the environmental review of the CSUEB Hayward Campus Master Plan were previously adopted by the Board of Trustees and are readopted here.

1.4 Project Objectives

Section 15124 (b) of the *2008 California Environmental Quality Act (CEQA) Statutes and Guidelines* states that a clearly written statement of project objectives sought by the project proponent, including the underlying purpose of the project, shall be included in the project description of the EIR. Project objectives are intended to assist the lead agency develop a reasonable range of alternatives to evaluate in the EIR and to aid the decision makers in preparing findings.

The specific purpose of the proposed Harder Road Parking Structure Project is to provide replacement parking spaces for parking spaces that will incrementally be lost in the near future from development of campus buildings on surface parking lots. In the long term, campus growth will create a demand for additional parking spaces on campus from increased student housing provided on campus, as well as increased staff and faculty positions, and increase in enrollment. The specific project objectives are to:

- Provide parking spaces to replace those that would be lost as a result of the development of new buildings on the campus;
- Serve the projected demand for parking in the near term; and
- Conserve the Campus's limited land resources by providing parking in structures.

All of the objectives of the CSUEB Hayward Campus Master Plan would also apply to the Harder Road Parking Structure Project. The objectives of the CSUEB Hayward Master Plan are to:

- Comply with the CSU system-wide requirement to maintain a master plan for guiding campus development and meeting the educational mission of the University, as defined in the California Education Code.
- Enhance the campus learning environment within a walkable campus core by providing adequate sites for planned and future programs and to accommodate growth in campus enrollment up to the CPEC-approved Master Plan ceiling of 18,000 FTES.
- Create supportive student neighborhoods that would help create a sense of community for both residents and commuting students, and increase on-campus housing to accommodate 5,000 students. In addition, identify locations on campus for faculty and staff housing to strengthen the sense of campus community.
- Plan for other design improvements, including improved campus entry and image to help orient visitors and make destination finding easier; special landmark building sites to create a memorable impression of the campus; and improved campus pedestrian promenades
- Implement comprehensive environmentally sustainable development and operations strategies, including land use and transportation, as well as resource consumption and waste generation.
- Continue the planning and design criteria from the original campus master plan that aim at preserving views of the bay and the hills; creating a clear design vocabulary; and protecting the users from the elements.

1.6 Environmental Review Process

In accordance with the requirements of CEQA and the *State CEQA Guidelines*, a Draft EIR was prepared to address the potential significant environmental effects associated with the development of the Harder Road Parking Structure project. To determine the number, scope and extent of environmental issues, a Notice of Preparation (NOP) of the Draft Environmental Impact Report (Draft EIR) for the Harder Road Parking Structure Project was mailed to state and local agencies and circulated for public review for a period of 30 days, beginning on September 12 and ending on October 13, 2008.

On November 10, 2008, the University issued the 2009 Draft EIR on the Harder Road Parking Structure Project, in addition to the CSUEB Hayward Campus Master Plan and another development project under the Master Plan, proposed by CSUEB. As mandated by state law, a 45-day public comment period (November 10, 2008, through December 24, 2008) was provided by the University. During this period, CSUEB held two public meetings on the Draft EIR on November 18 and December 9, 2008, to receive verbal comments. Transcripts of the meetings were prepared based on a recording of the meeting

proceedings. During the 2009 Draft EIR public review period, the University received written comments on the 2009 Draft EIR.

Section 15088 of the CEQA Guidelines requires that the Lead Agency responsible for the preparation of an EIR evaluate comments on the Draft EIR environmental issues and prepare a written response addressing each of the comments. The intent of the final EIR is to provide a forum to air and address comments pertaining to the information and analysis contained within the draft EIR, and to provide an opportunity for clarifications, corrections, or minor revisions to the draft EIR as needed.

The 2009 Final EIR includes a summary of the verbal comments and the written comments received on the 2009 Draft EIR. The 2009 Final EIR also includes changes to the 2009 Draft EIR. The Board of Trustees certified the 2009 Final EIR and approved the project on September 22, 2009. As described above, the City and two neighborhood groups filed a petition for writ of mandamus challenging the 2009 Final EIR and project approval under CEQA. On November 30, 2015, the Court of Appeal issued and published a revised opinion which affirmed the 2009 Final EIR and project approval was consistent with CEQA with the exception of the 2009 Final EIR's analysis of the project's potential impacts on adjacent parklands. See *City of Hayward v. Trustees of the California State University* (2015) 242 Cal.App.4th 833 ("*City of Hayward*"). The Court of Appeal also directed the Board of Trustees to reconsider its findings on the feasibility of funding the University's fair share of off-campus traffic mitigation measures in light of the guidance provided by the California Supreme Court in *City of San Diego v. Board of Trustees of the California State University* (2015) 61 Cal.4th 945 ("*City of San Diego*"). The Court of Appeal then remanded the case back to the Alameda County Superior Court for issuance of a peremptory writ of mandamus in accordance with the Court of Appeal's opinion.

On October 17, 2016, the Alameda County Superior Court entered two judgments (one for the City case, and one for neighborhood group case) and a peremptory writ of mandamus directing the Board of Trustees to set aside and vacate its 2009 approval of the 2009 Final EIR and the project. With respect to the Board of Trustees future reconsideration of the project, the writ directed the Board of Trustees to (1) undertake further studies and proceedings consistent with the opinion of the Court of Appeal in *City of Hayward* and CEQA to consider project impacts on two adjacent regional parks, and (2) to reconsider the feasibility of funding its fair share contribution of traffic mitigation at off-campus intersections consistent with *City of San Diego*.

Accordingly, the University undertook a new analysis of potential project impacts on adjacent parklands. The University then prepared the draft 2017 PR-EIR which replaces in full the 2009 Final EIR's recreation and parkland impact analysis. The draft 2017 PR-EIR was circulated for agency review and public comment for a 45-day period that ended May 11, 2017. The University then prepared the 2017 PR-EIR

which is comprised of the final 2017 PR-EIR, including the comments and responses to comments, and the draft 2017 PR-EIR. The University then compiled the 2009 FEIR and the 2017 PR-EIR, which together comprise the 2017 Revised EIR. The Revised Final EIR consists of:

- a. The 2009 Draft EIR.
- b. Comments and recommendations received on the 2009 Draft EIR either verbatim or in summary form.
- c. A list or persons of the persons, organizations, and public agencies commenting on the 2009 Draft EIR.
- d. The response of the Lead Agency to significant environmental points raised in the review and consultation process. Items a. through d. constitutes the 2009 Final EIR.
- e. The 2017 Partial Recirculated Draft Environmental Impact Report (2017 Draft PR-EIR).
- f. Comments and recommendations received on the 2017 Draft PR-EIR.
- g. A list of the persons, organizations, and public agencies commenting on the 2017 PR-EIR.
- h. The response of the Lead Agency to significant environmental points raised in the review and consultation process.
- i. Any other information added by the Lead Agency.

2.0 FINDINGS ON SIGNIFICANT UNAVOIDABLE IMPACTS OF THE PROJECT

This section identifies the significant unavoidable impacts that require a statement of overriding considerations to be issued by the Board of Trustees if the Harder Road Parking Structure Project is approved. Based on the analysis contained in the Revised Final EIR, the following impact has been determined to fall within this category of "significant unavoidable impacts."

2.1 Traffic Impact

Construction and full utilization of the Harder Road Parking Structure, accommodating campus growth to 2017-2018, will contribute to sub-standard intersection operations at three study intersections outside of the campus, in either the AM peak hour, PM peak hour, or both peak hours (HPS Impact TRANS-1. The traffic analysis includes the planned SR 238 improvement project, which will improve the capacity of the Mission and Foothill Boulevard corridors; therefore, further capacity improvements are not considered feasible. As congestion grows at the affected intersections and along the corridors, driver responses to the worsening conditions may result in lower growth in non-project travel demand during

the peak commute hours: drivers may shift to other modes of travel, they may shift their time of travel, or they may choose not to make the trip at all. These changes would reduce the volumes and projected poor service levels, although the extent of the reductions cannot be predicted.

Mitigation Measures

The Board of Trustees finds that there are no feasible measures available to mitigate impacts of the proposed Harder Road Structure to intersection operations at three study intersections to a level less than significant. However, the following measure is identified to partially reduce the impact at the intersections:

HPS Mitigation Measure TRANS-1a: The Campus shall implement **MP Mitigation Measure TRANS-1.**

MP MM TRANS-1a: The University shall prepare a comprehensive TDM Implementation Plan that includes the steps necessary to plan for, fund, implement, and monitor the effectiveness of the measures outlined in the Master Plan TDM section and listed below.

Improved Transit Service

- Enhanced AC Transit Route 92 service to the Downtown Hayward BART station, ensuring frequent headways from 6 AM to 11 PM; that are coordinated with BART arrival times to meet passenger demand, provided free to University staff, faculty, and students.

Alternative Mode Use Incentives

- Discounted or free AC Transit passes for all students, faculty and staff
- Discounted BART tickets for students, faculty and staff through the Commuter Check program or a similar program; or a 'Clean Air Cash' program where those choosing to commute by BART receive a cash payment and are not allowed to purchase a normal parking permit
- Carpool matching service and vanpool program
- Preferential parking for carpools and vanpools
- Continued participation in the Alameda County Congestion Management Agency's Guaranteed Ride Home program for alternative mode users
- Provision of a flexible car rental service program (carsharing) on campus to provide access to vehicles for those who choose not to commute to campus by car or residents who do not maintain a car on campus

- Provision for participants in alternative mode programs to purchase a certain number of single-day parking permits to allow for commute flexibility and promote alternative mode use for those who may occasionally need to use a car.

Parking Management

- Provide a scaled parking permit pricing structure that ties the cost of parking to the level of use and location, and that provides the funding needed to maintain and operate the parking system, including provision of new parking lots/structures. In planning for future permit price changes, aim to increase parking costs to a level even with the costs of commuting by bus or BART to the campus to the extent feasible within the context of CSU collective bargaining agreements and equity for students.
- Manage the campus parking supply to achieve a peak occupancy level of 85 percent, to avoid over-supply when new lots/structures are provided and undersupply when new buildings are constructed on sites identified in the Hayward Campus Master Plan.

TDM Implementation Plan Development

As part of its TDM Implementation Plan for the Hayward campus, the University will undertake an alternative transportation and parking study to fully evaluate the cost and projected effectiveness of the strategies listed by the City along with others identified in the Hayward Campus Master Plan. The study will identify alternative combinations of strategies, recommend a preferred combination, and identify specific targets for trip reduction, transit ridership, carpooling, parking provision, and parking permit pricing at regular intervals, scaled to projected enrollment growth and campus building plans. The TDM Implementation Plan will include a monitoring program at three-year intervals tied to the phasing of capital construction and enrollment growth. The monitoring program will include detailed counts at all entrances to assess the relationship between automobile use, other modes of access, and enrollment growth. A critical aspect of the monitoring program will be to ascertain the elasticity of demand for transit in relation to students' and employees' travel patterns, the level of transit service available, cost of automobile use, and parking management. The TDM Implementation Plan will also consider how the provision of additional housing, food service, and convenience services on campus will reduce the need for off-campus trips, particularly at peak hours. This study and implementation plan will be completed within two years of the

adoption of the Master Plan. Based on the TDM Implementation Plan, the University will review its congestion management analysis and revise as warranted. The University will provide an annual report to the City regarding progress on the implementation of the TDM Plan as well as the results of the monitoring, the strategies being implemented, and the effectiveness of these strategies in reducing vehicular traffic.

The City and University will develop a plan and enter into a Memorandum of Understanding (MOU) to address the deficiencies at City intersections and/or roadway segments significantly impacted by the implementation of the Hayward Campus Master Plan and determine appropriate cost sharing based on a fair share analysis. The MOU will include a timetable for improvements at relevant City intersections and a schedule for University contributions tied to capital improvements that support enrollment growth that significantly increases traffic.

MP MM TRANS-1b: The University will conduct periodic traffic counts at the primary gateways (Harder Road, Carlos Bee Boulevard, and the new Third Entrance if and when constructed) to monitor the effectiveness of new TDM programs as they are implemented. This information will be helpful in fine-tuning the TDM programs to ensure maximum effectiveness at reducing growth in single-occupant vehicle travel.

HPS Mitigation Measure TRANS-1b: Once the Harder Parking Structure is constructed, the University will evaluate the parking supply needed to serve the campus without resulting in over or under supply, and will take the appropriate number of parking spaces in surface parking lots offline until required by future enrollment growth.

Findings

The Board of Trustees finds that **HPS Mitigation Measure TRANS-1** would contribute to the mitigation of this project, although not to a less-than-significant level, since the effectiveness of the measures in reducing vehicle trip generation cannot be assured. Therefore, the potential impacts to traffic must be considered unavoidably cumulatively significant even after implementation of all feasible mitigation measures. Pursuant to Public Resources Code section 21081, subdivision (a)(3), as described in the Statement of Overriding Considerations, the Board of Trustees has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR

and the identified impacts to traffic are thereby acceptable because of specific overriding considerations. (See Section 9.0, below)

3.0 FINDINGS ON SIGNIFICANT BUT MITIGATED IMPACTS

This section identifies significant adverse impacts of the project that require findings to be made under Public Resources Code section 21081 and CEQA Guidelines section 15091. The Board of Trustees finds that, based upon substantial evidence in the record, adoption of the mitigation measures set forth below will reduce the identified impacts to less than significant levels.

3.1 Air Quality

3.1.1 *Potential Significant Impacts*

The Revised Final EIR finds that the construction of the proposed Harder Road Parking Structure would generate potentially significant emissions of PM₁₀. The BAAQMD requires compliance with standard construction-related control measures specified in the BAAQMD CEQA Guidelines. Compliance with these measures is generally considered sufficient to reduce construction impacts to a less than significant level. Without this mitigation, the proposed project's construction phase emissions of PM₁₀ would be significant (HPS Impact AIR-1).

3.1.2 *Mitigation Measures*

The Board of Trustees finds that, based on substantial evidence in the record, the potentially significant air quality impacts of the project will be reduced to less than significant levels by implementation of the following mitigation measure.

HPS Mitigation Measure AIR-1: The University shall implement **MP Mitigation Measure AIR-1**.

MP MM AIR-1a: The control measures contained in Table 2 of the *BAAQMD CEQA Guidelines* listed below shall be implemented, as appropriate and feasible, during construction of each project under the proposed Campus Master Plan.

The following Basic Control Measures shall be implemented at all construction sites:

- Water all active construction areas at least twice daily.

- Cover all trucks hauling soil, sand, and other loose materials *or* require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- Pave, apply water three times daily (or as sufficient to prevent dust from leaving the site), or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Sweep daily or as appropriate (with water sweepers using reclaimed water if possible) all paved access roads, parking areas, and staging areas at construction sites.
- Sweep streets daily or as appropriate (with water sweepers using reclaimed water if possible) if visible soil material is carried onto adjacent public streets.

In addition to the Basic Control Measures, the following Enhanced Control Measures shall be implemented at construction sites greater than 4 acres in area:

- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more).
- Enclose, cover, water twice daily (or as sufficient to prevent dust from leaving the site), or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 miles per hour.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

The following Optional Control Measures are strongly encouraged at construction sites that are large in area or located near sensitive receptors, or may, for any other reason, warrant additional emissions reductions:

- Install wheel washers or wash off the tires or tracks of all trucks and equipment leaving the site.
- Install windbreaks or plant trees/vegetative windbreaks at the windward side(s) of construction areas.
- Suspend excavation and grading activity when sustained winds exceed 25 mph.

3.1.3 Findings

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the potential air quality-related impacts of the project to less than significant levels. Accordingly, the Board of Trustees finds that, pursuant to Public Resources Code section 21081, subdivision (a)(1), and CEQA Guidelines section 15091, subdivision (a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate or avoid potentially significant air quality-related impacts of the project as identified in the Revised Final EIR.

3.2 Cultural Resources

3.2.1 Potential Significant Impacts

The analysis in the Revised Final EIR finds that construction associated with the proposed Harder Road Parking Structure Project could result in the disturbance of previously undiscovered historic or prehistoric cultural resources, deposits, artifacts, or human remains, including buried material. In addition, although no evidence of human remains has been reported at the Harder Road Parking Structure project site, human remains have been discovered in archaeological contexts elsewhere within the City of Hayward, and thus there is some potential that this site also could include human remains (HPS Impact CULT-1).

3.2.2 Mitigation Measures

The University Board of Trustees finds that, based on substantial evidence in the record, the potentially significant cultural resources impacts of the project will be reduced to less than significant levels by implementation of the following mitigation measure.

HPS MM CULT-1: The University shall implement **MP Mitigation Measures CULT-1b** and **CULT-3a** through **3d**.

MP MM CULT-1b: Regardless of the location of the project on the campus, all construction contracts for campus projects shall include a standard inadvertent discovery clause, which requires that if an archaeological resource is discovered during construction (whether or not an archaeologist is present), all soil-disturbing work within 100 feet of the find shall cease, and the University shall implement MP Mitigation Measure CULT 1c.

- MP MM CULT-3a:** The University shall implement **MP Mitigation Measure CULT-1** to minimize the potential for disturbance or destruction of human remains in an archaeological context and to preserve them in place, if feasible.
- MP MM CULT-3b:** The University shall arrange for a representative of the local Native American community to monitor any excavation (including archaeological excavation) within the boundaries of a known Native American archaeological site.
- MP MM CULT-3c:** In the event of a discovery of human bone, suspected human bone, or a burial, all excavation in the vicinity will halt immediately and the area of the find will be protected until a qualified archaeologist determines whether the bone is human. If the qualified archaeologist determines the bone is human, or if a qualified archaeologist is not present, the University will notify the County of Alameda Medical Examiner before additional disturbance occurs. The University will ensure that the remains and vicinity of the find are protected against further disturbance until the Coroner has made a finding with regard to PRC 5097 procedures, in compliance with California Health and Safety Code Section 7050.5(b). If it is determined that the find is of Native American origin, the University will comply with the provisions of PRC Section 5097.98 regarding identification and involvement of the Native American Most Likely Descendant (MLD).
- MP MM CULT-3d:** If human remains cannot be left in place, the University shall ensure that the qualified archaeologist and the MLD consult regarding archaeological treatment of human remains, and that appropriate studies, as identified through this consultation, are carried out prior to interring the remains. The University shall provide results of all such studies to the local Native American community, and shall provide an opportunity for local Native American involvement in any interpretative reporting. As stipulated by the provisions of the California Native American Graves Protection and Repatriation Act, the University shall ensure that human remains and associated artifacts recovered from campus projects on state lands are repatriated to the appropriate local tribal group if requested.

3.2.3 Findings

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the potential cultural resources-related impacts of the projects to less than significant levels. Accordingly,

the Board of Trustees finds that, pursuant to Public Resources Code section 21081, subdivision (a)(1), and CEQA Guidelines section 15091, subdivision (a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate or avoid potentially significant cultural resources-related impacts of the project as identified in the Revised Final EIR.

3.3 Hydrology and Water Quality

3.3.1 Potential Significant Impacts

Development of the proposed Harder Road Parking Structure Project would not substantially alter the existing drainage patterns in a way that would result in on- or off-site flooding, but could potentially result in an impact related to erosion and sedimentation in the receiving waters. Bioswales are proposed as part of the parking structure design to provide some treatment to the runoff generated at the site. While these bioswales would help treat the stormwater and provide some limited detention and infiltration of stormwater generated by the project's impervious surfaces, they would not provide adequate detention of stormwater to avoid erosion in the creek that would receive the increased runoff from the project site conveyed to the creek via the campus storm drain. Therefore, as currently designed, the proposed project could potentially lead to erosion and sedimentation in the creek (HPS Impact HYDRO-2). This would be a potentially significant impact.

3.3.2 Mitigation Measures

The Board of Trustees finds that, based on substantial evidence in the record, the potentially significant hydrology and water quality impacts of the project will be reduced to less than significant levels by implementation of the following mitigation measure.

HPS MM HYDRO-2: The University shall incorporate additional BMPs into the proposed project to detain the additional runoff generated at the project site such that post-development peak flows equal pre-development peak flows. These BMPs could include a surface pond, an underground vault, or any other appropriate design feature.

3.3.3 Findings

The Board of Trustees finds that the above mitigation measure is feasible, is adopted, and will reduce the potential hydrology and water quality-related impact of the projects to a less than significant level. Accordingly, the Board of Trustees finds that, pursuant to Public Resources Code section 21081, subdivision (a)(1), and CEQA Guidelines section 15091, subdivision (a)(1), changes or alterations have

been required in, or incorporated into, the project which mitigate or avoid potentially significant hydrology and water quality-related impacts of the project as identified in the Revised Final EIR.

3.4 Transportation and Traffic

3.4.1 *Potential Significant Impacts*

The construction and full utilization of the Harder Road Parking Structure project may result in the need for signalization or provision of traffic capacity improvements at Harder Road/West Loop Road. The addition of project traffic to the Harder Road/West Loop Road intersection to projected traffic flows would result in a projected LOS E for the all-way-stop-controlled intersection of Harder Road and West Loop Road (HPS Impact TRANS-2). A signal may be required at or before this point, depending on several factors, including how effective the campus TDM programs are at limiting trip growth and how much traffic accesses the structure from Carlos Bee vs. Harder Road. The intersection should be signalized when a full signal warrant study indicates that a signal is needed. The University should conduct periodic traffic counts and observations of the intersection and retain a registered traffic engineer to assess the need for and appropriate design of new traffic signals, when traffic volumes or apparent congestion indicate the need for improvements.

3.4.2 *Mitigation Measures*

The Board of Trustees finds that, based on substantial evidence in the record, the potentially significant transportation and traffic impacts of the project will be reduced to less than significant levels by implementation of the following mitigation measure.

HPS Mitigation Measure TRANS-2: The University shall implement **MP Mitigation Measure TRANS-2.**

MP MM TRANS-2: The University shall monitor traffic volumes and conditions periodically at Carlos Bee Boulevard/West Loop Road and Harder Road/West Loop Road, and retain a registered traffic engineer to conduct a full warrant study when peak hour volumes reach the level of the peak hour volume warrant. If the study indicates the need for a signal at either location, the University will construct the new signal. The University will also ensure that the new campus gateway intersection on Hayward Boulevard, if approved by the City and constructed, is signalized and provides a left turn lane to serve traffic turning into the campus.

3.4.3 Findings

The Board of Trustees finds that the above mitigation measure is feasible, is adopted, and will reduce the potential transportation and traffic-related impacts of the projects to less than significant levels. Accordingly, the Board of Trustees finds that, pursuant to Public Resources Code section 21081, subdivision (a)(1), and CEQA Guidelines section 15091, subdivision (a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate or avoid potentially significant transportation and traffic-related impacts of the project as identified in the Revised Final EIR.

4.0 FINDINGS ON IMPACTS DETERMINED NOT TO BE SIGNIFICANT OR LESS THAN SIGNIFICANT

4.1 Less than Significant Impacts with Mitigation

The Board of Trustees finds that, based upon substantial evidence in the record, the following impacts associated with the project are less than significant and mitigation measures are included to further reduce the impacts:

4.1.1 Aesthetics

Implementation of the proposed Harder Road Parking Structure project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (HPS Impact AES-2). Potential project-related impacts from light and glare sources would be less than significant. To ensure that light and glare impacts remain less than significant, **Mitigation Measure HPS MM AES-2** will be implemented.

HPS Mitigation Measure AES-2: The University shall design the exterior lighting of the garage to be down-directed and shall keep the lighting to the minimum required for safe operations.

The Board of Trustees finds that the above mitigation measure is feasible, is adopted, and will reduce the less than significant aesthetics impact of the project. Accordingly, the Board of Trustees finds that, pursuant to Public Resources Code section 21081, subdivision (a)(1), and CEQA Guidelines section 15091, subdivision (a)(1), changes or alterations have been required in, or incorporated into the project which further reduce less than significant aesthetics-related impacts of the project as identified in the Revised Final EIR.

4.1.2 *Biological Resources*

Construction of the proposed Harder Road Parking Structure project would not result in the loss of an active nest of a special-status raptor species. As burrowing owls avoid areas containing a high shrub cover and are not associated with irrigated athletic fields, the species would not be expected to occur on the site as a nesting or wintering species. Additionally, given the absence of mature and large trees, suitable nesting habitat for special-status raptors, including Cooper's hawk and white-tailed kite, is not present. Therefore, the potential loss of an active nest of a special-status raptor species would be a less than significant impact (HPS-Impact BIO-2).

HPS Mitigation Measure BIO-2: Mitigation is not required for the potential loss of a nest of a special-status bird species. However, the University shall implement **MP Mitigation Measure BIO-1b** to prevent the loss of an active nest of a common bird species protected by the Migratory Bird Treaty Act and/or California Fish and Game Code.

MP MM BIO-1b: If a construction project is proposed on the campus that would commence anytime during the nesting/breeding season of native bird species potentially nesting/roosting on the site (typically February through August in the project region), a pre-construction survey of the project vicinity for nesting birds shall be conducted.

This survey shall be conducted by a qualified biologist (i.e., experienced with the nesting behavior of bird species of the region) within two weeks of the commencement of construction activities that would occur during the nesting/breeding season. The intent of the survey shall be to determine if active nests of special status bird species or other species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present within the construction zone or within 500 feet of the construction zone. The survey area shall include all trees and shrubs, as well as grassland habitats (which could be utilized by burrowing owls) in the construction zone and a surrounding 500 feet area. The surveys shall be timed such that the last survey is concluded no more than two weeks prior to initiation of construction or tree removal. If ground disturbance activities are delayed following a survey, then an additional pre-construction survey shall be conducted such that no more than two weeks will have elapsed between the last survey and the commencement of ground disturbance activities.

If active nests are found in areas that could be directly affected or are within 500 feet of construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted within them will be determined through consultation with the CDFG, taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity;
- Distance and amount of vegetation or other screening between the construction site and the nest; and
- Sensitivity of individual nesting species and behaviors of the nesting birds.

Limits of construction to avoid an active nest shall be established in the field with flagging, fencing, or another appropriate barrier, and construction personnel shall be instructed on the sensitivity of nest areas. The biologist shall serve as a construction monitor during those periods when construction activities would occur near active nest areas of special status bird species to ensure that no impacts on these nests occur.

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the less than significant biological resources impact of the project. Accordingly, the Board of Trustees finds that, pursuant to Public Resources Code section 21081, subdivision (a)(1), and CEQA Guidelines section 15091, subdivision (a)(1), changes or alterations have been required in, or incorporated into the project which further reduce less than significant biological resources-related impacts of the project as identified in the Revised Final EIR.

4.1.3 *Geology and Soils*

Development of Harder Road Parking Structure would not expose people and structures to substantial adverse effects associated with fault rupture, but could result in substantial adverse effects related to seismic ground shaking or seismic-related ground failure, including liquefaction, lateral spreading, landslides, and/or settlement (HPS Impact GEO-1).

HPS Mitigation Measure GEO-1: The University shall implement MP Mitigation Measure GEO-1.

MP MM GEO-1: Where existing geotechnical information is not adequate, detailed geotechnical investigations shall be performed for areas that will support buildings or foundations. Such investigations for building or foundation projects on the CSUEB Hayward Campus will comply with the California Geological Survey's Guidelines for Evaluating and Mitigating Seismic Hazards in California (Special Publication 117), which specifically address the mitigation of liquefaction and landslide hazards in designated Seismic Hazard Zones (CGS 2003). All recommendations of the geotechnical investigations will be incorporated into project designs. Recommendations for buildings located near mapped faults, shall be reviewed by the California State University Seismic Review Board prior to project design.

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the less than significant geology and soils impact of the project. Accordingly, the Board of Trustees finds that, pursuant to Public Resources Code section 21081, subdivision (a)(1), and CEQA Guidelines section 15091, subdivision (a)(1), changes or alterations have been required in, or incorporated into the project which further reduce less than significant geology and soils-related impacts of the project as identified in the Revised Final EIR.

4.2 Impacts Less Than Significant without Mitigation

The Board of Trustees finds that, based upon substantial evidence in the record, the following impacts associated with the project are less than significant and no mitigation is required:

- | | |
|----------------------|--|
| Aesthetics | The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: <ul style="list-style-type: none">• Implementation of the proposed Harder Road Parking Structure Project would not have a substantial adverse effect on visual character of the area, including views from Harder Road. |
| Air Quality | The following impacts were found to be less than significant on a project-specific and cumulative basis in the environmental review: <ul style="list-style-type: none">• The Harder Road Parking Structure Project would generate long-term operational emissions of criteria pollutants from increases in traffic that would not adversely affect air quality.• The Harder Road Parking Structure Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard. |
| Biological Resources | The following impacts were found to be less than significant on a project-specific and cumulative basis in the environmental review: <ul style="list-style-type: none">• The construction of the proposed Harder Road Parking Structure Project would not have a substantial adverse effect on special status plant species. |

Hazards and Hazardous Materials	<ul style="list-style-type: none"> • The construction of the proposed Harder Road Parking Structure Project would not result in the loss of an active maternity roost of a special-status bat species. <p>The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review:</p> <ul style="list-style-type: none"> • Harder Road Parking Structure Project development would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires.
Hydrology and Water Quality	<p>The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review:</p> <ul style="list-style-type: none"> • Compliance with NPDES requirements and campus stormwater management policies would result in a less than significant impact on water quality, including erosion and sedimentation, during construction of the proposed Harder Road Parking Structure Project.
Land Use and Planning	<p>The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review:</p> <ul style="list-style-type: none"> • Implementation of the proposed Harder Road Parking Structure Project would not conflict with applicable land use plans, policies, or regulations of an agency with jurisdiction over the project adopted for the purposes of avoiding or mitigating an environmental effect.
Noise	<p>The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review:</p> <p>Implementation of the Harder Road Parking Structure Project would result in increased vehicular traffic on the regional road network, which would increase ambient traffic noise levels at existing on- and off-site noise sensitive uses.</p>

5.0 FEASIBILITY OF PROJECT ALTERNATIVES

Based on the entire record, the Board of Trustees finds that the Revised Final EIR identified and considered a reasonable range of feasible alternatives to the proposed project which are capable, to varying degrees, of reducing identified impacts. The EIR considered the following two alternatives:

5.1 Project Alternatives

The alternatives section of the Revised Final EIR contains an analysis of alternatives to the project, including the "No Project" alternative. Based on the analysis, the Board of Trustees finds as follows:

5.1.1 Alternative 1: Smaller Parking Structure

The smaller parking structure alternative that would avoid the project's significant traffic impacts would comprise approximately 736 spaces. As a result of the fewer spaces, the Smaller Parking Structure alternative would be a structure with three parking levels. The footprint of the alternative would be approximately the same as the proposed project and therefore a total of 4 acres would still be developed with a parking structure at the same location. Under this alternative, because fewer parking spaces would

be provided, those persons unable to find parking on the campus would be forced to park on neighboring streets.

The Smaller Parking Structure alternative would slightly reduce impacts to aesthetics and avoid the proposed project's significant traffic impact at three study intersections. This alternative would have comparable or slightly reduced impacts related to air quality. Impacts related to biological resources, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, noise, public services, and utilities would generally be comparable to those of the proposed project.

By not developing Harder Road Parking Structure with 1,100 parking spaces, this alternative would not provide enough parking spaces to accommodate campus growth under the proposed Master Plan. Additionally, this alternative would not achieve the following objectives to the same extent as the proposed project:

- Provide parking spaces to replace those that would be lost as a result of the development of new buildings on the campus;
- Serve the projected demand for parking in the near term; and
- Conserve the Campus's limited land resources by providing parking in structures.

The Reduced Enrollment is not feasible because it would impede attainment of all project objectives and would not provide many of the benefits outlined in the Statement of Overriding Considerations (**Section 9.0**, below).

5.1.2 *Alternative 2: No Project*

Under the No Project alternative, the Harder Road Parking Structure Project would not be built. In the absence of a parking structure and due to a shortage of on-campus parking, under the No Project alternative, some of the commuters would potentially shift to transit. However, others would still drive and potentially park on city streets near the campus. The Campus may then be required to provide more surface parking.

The No Project alternative would avoid impacts related to aesthetics, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, population and housing, public services, and utilities and service systems. However, because new vehicle trips to the campus would still occur, there still would be significant traffic impacts and less than significant air quality and noise impacts under the No Project alternative. Compared to the proposed project, the No Project alternative would not serve the campus growth or serve the new student housing at Pioneer

Heights. Replacement surface parking lots would need to be constructed, and paved. This alternative would not achieve any of the objectives of the proposed project.

Therefore, the No Project alternative is not feasible because it does not meet any of the project objectives as identified in **Section 1.4**, above and it would not provide any of the benefits outlined in the Statement of Overriding Considerations (**Section 9.0**, below).

6.0 ABSENCE OF SIGNIFICANT NEW INFORMATION

The CEQA Guidelines require 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 EIR for review but before certification. (Cal. Code Regs., tit. 14, §15088.5.) New information can include: (i) changes to the project; (ii) changes in the environmental setting; or (iii) additional data or other information. (Ibid.) The CEQA Guidelines further provide that "[n]ew 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 (including a feasible project alternative) that the project's proponents have declined to implement." (Ibid.)

Here, the Revised Final EIR does not modify the prior 2009 Final EIR with the exception of replacing the parkland analysis with the analysis set forth in the 2017 PR-EIR. The Draft 2017 PR-EIR was circulated for public review and comment, and the Final 2017 PR-EIR incorporated comments and responses to comments on the Draft 2017 PR-EIR. However, as indicated in Final 2017 PR-EIR, these comments and responses to comments do not constitute significant new information under CEQA Guideline § 15088.5. (Cal. Code Regs., tit. 14, §15088.5.) The information in the Final 2017 PR-EIR merely clarifies or amplifies the information in the Draft 2017 PR-EIR, and therefore circulation of the Final 2017 PR-EIR for additional public review and comment is not required. In addition, the Revised Final EIR, including the 2009 Final EIR, does not contain new information except to the extent set forth in the 2017 PR-EIR and therefore the Revised Final EIR does not require re-circulation for public review and comment.

Lastly, all feasible mitigation measures are included in the Mitigation Monitoring and Reporting Program, which is hereby adopted and incorporated into the project. Therefore, having reviewed the information in the Revised Final EIR, the administrative record, the requirements of the CEQA Guidelines, and applicable judicial authority, the Board of Trustees hereby finds that no new significant information was added following public review and thus, recirculation of the Revised Final EIR is not required by CEQA.

7.0 MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Public Resources Code section 21081.6, the Board of Trustees is required to adopt a Mitigation Monitoring and Reporting Program ("MMRP") for the project in order to ensure compliance with the adopted mitigation measures during project implementation. (See also Cal. Code Regs., tit. 14, §15091, subd. (e).) The Board of Trustees finds that the impacts of the project have been mitigated to the extent feasible by the mitigation measures identified in the Revised Final EIR and MMRP. Further, by these findings, the Board of Trustees adopts the MMRP that accompanies the Revised Final EIR.

The Board of Trustees reserves the right to make amendments and/or substitutions to the mitigation measures, if it is determined that the amended or substituted measure will mitigate the identified potential environmental impact to at least the same degree as the original measure, and where the amendment or substitution would not result in a new significant impact on the environment which cannot be mitigated.

8.0 CUSTODIAN OF RECORD

Public Resources Code section 21081.6, subdivision (a)(2), requires the lead agency (*i.e.*, the Board of Trustees) to specify the location and custodian of the documents or other material that constitute the record of proceedings upon which the decision is based. (See also Cal. Code Regs., tit. 14, §15091, subd. (e).) Here, the custodian of the record for the project is CSUEB Hayward. The documents constituting the record are available to the public during ordinary business hours at CSUEB Hayward's Office of Facilities Management and Planning, which is located at 25800 Carlos Bee Boulevard, Hayward, California 94542-3022.

9.0 STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits of the project against its unavoidable environmental risks when determining whether to approve a project. If the specific economic, legal, social, technological or other benefits of the project outweigh the unavoidable adverse environmental effects, those effects may be considered "acceptable." (Cal. Code Regs., tit. 14, §15093, subd. (a).) CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Revised Final EIR or elsewhere in the administrative record. (*Id.* at subd. (b).)

In accordance with the requirements of CEQA and the CEQA Guidelines, the Board of Trustees finds that the mitigation measures identified in the Revised Final EIR and the Mitigation Monitoring and Reporting Program, when implemented, will avoid or substantially lessen virtually all of the significant effects identified in the Revised Final EIR for the Harder Road Parking Structure Project. However, certain significant impacts of the project are unavoidable even after incorporation of all feasible mitigation measures. These significant unavoidable impacts are project-specific impacts of the Harder Road Parking Structure project related to transportation and traffic. (See **Section 2.0**, Findings On Significant Unavoidable Adverse Impacts Of The Project, *supra*.)

The Board of Trustees finds that all feasible mitigation measures identified in the Revised Final EIR that are within the purview of the University will be implemented with the project, and that the remaining significant unavoidable effects are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, technological, or other benefits, including the provision of employment opportunities for highly trained workers, increased access to higher education, and affordable housing for faculty and staff, based upon the facts set forth above, the Revised Final EIR, and the record, as follows:

- Implementation of the Harder Road Parking Structure Project will:
 - Provide parking spaces to replace those that would be lost as a result of the development of new buildings on the campus;
 - Serve the projected demand for parking in the near term; and
 - Conserve the Campus's limited land resources by providing parking in structures.
- The Harder Road Parking Structure will also meet the objectives for the CSUEB Hayward Campus Master Plan.

- The CSUEB Hayward Campus Master Plan will enhance the campus learning environment within a walkable campus core by providing adequate sites for planned and future programs and to accommodate growth in campus enrollment up to the CPEC-approved Master Plan ceiling of 18,000 FTES (Full-Time Equivalent Students).
- The CSUEB Hayward Campus Master Plan guides the development to create supportive student neighborhoods that would help create a sense of community for both residents and commuting students, and increase on-campus housing to accommodate 5,000 students. In addition, identify locations on campus for faculty and staff housing to strengthen the sense of campus community.
- The CSUEB Hayward Campus Master Plan plans for other design improvements, including improved campus entry and image to help orient visitors and make destination finding easier; special landmark building sites to create a memorable impression of the campus; and improved campus pedestrian promenades.
- The CSUEB Hayward Campus Master Plan will implement comprehensive environmentally sustainable development and operations strategies, including land use and transportation, as well as resource consumption and waste generation.
- The CSUEB Hayward Campus Master Plan continues the planning and design criteria from the original campus master plan that aim at preserving views of the bay and the hills; creating a clear design vocabulary; and protecting the users from the elements.