California State University, East Bay
Pioneer Heights Phase IV Student Housing Project

CEQA Findings of Fact

(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
25800 Carlos Bee Boulevard
Hayward, California 94542-3022

CEQA FINDINGS OF FACT
REGARDING THE FINAL REVISED EIR FOR THE PIONEER HEIGHTS PHASE IV STUDENT HOUSING PROJECT

1.0 INTRODUCTION

1.1 Purpose

This statement of findings addresses the environmental effects associated with the proposed Pioneer Heights Phase IV Student Housing 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 15092. The potentially significant effects of the project were first identified in the 2009 Draft and Final Environmental Impact Reports ("EIR") for the project (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 the 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 Final EIR. The Board of Trustees, by the same resolution, has also certified the 2009 Final EIR 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 these revised findings from the September 2009 Board of Trustees approval of the project.

Public Resources Code section 21081 and CEQA Guidelines section 15091 require that the lead agency, in this case the 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. 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 Pioneer Heights Phase IV Project. There are no significant impacts of the project that are unavoidable, after incorporation of feasible mitigation measures. For this reason, a statement of overriding considerations that would determine if the benefits of the project outweigh unavoidable adverse effects is not required.

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 potentially significant effects of the project that would be mitigated to a less than significant level with implementation of the identified mitigation measures. **Section 3.0** identifies the project's potential environmental effects that were determined not to be significant. **Section 4.0** discusses the feasibility of the project alternatives. **Section 5.0** addresses the absence of significant new information requiring recirculation of the EIR, and **Section 6.0** addresses the CEQA-mandated Mitigation Monitoring and Reporting Program prepared for the project. **Section 7.0** identifies the custodian of the record of proceedings for the project.

1.3 Summary of Project Description

The proposed Pioneer Heights Phase IV Project would develop the fourth phase of the Pioneer Heights student housing neighborhood and would provide 600 beds in mostly double units within four structures. The buildings would be four to six stories high with elevations ranging from 45 to 65 feet. An open space area would be developed in the middle of the complex. For a detailed discussion of the project description and setting, please see Volume II of the Final Revised EIR (specifically, Volume II of the 2009 Draft EIR).

The environmental review 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 CEQA 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 need for the Pioneer Heights Phase IV Project is to construct the next four buildings within the existing Pioneer Heights student housing neighborhood to provide additional on-campus housing for students. Additionally, the specific objectives are to:

- House more students on campus while providing a safe environment, one that is supportive of the learning experience;
- Implement the Master Plan vision concept of student neighborhoods;
- Develop facilities in a manner that promotes a logical development pattern; and
- Improve the pattern of campus development to ensure adequate capacity for planned growth.

All of the objectives of the CSUEB Hayward Campus Master Plan also apply to the Pioneer Heights Phase IV Project. The objectives of the CSUEB Hayward Campus 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 CEQA Guidelines, a Draft EIR was prepared to address the potential significant environmental effects associated with the development of the Pioneer Heights Phase IV 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 Pioneer Heights Phase IV 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 Pioneer Heights Phase IV Project, in addition to the CSUEB Hayward Campus Master Plan and another development project under the Master Plan, proposed by the 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 2009 Draft EIR on November 18 and December 9, 2008, to receive verbal comments. Transcripts of the meeting 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 University has prepared the Revised Final EIR which consists of the following:

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. constitute 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 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.

2.1 Aesthetics

2.1.1 Potential Significant Impacts

The proposed Pioneer Heights Phase IV Project would create a new source of substantial light or glare which could adversely affect day or nighttime views in the area. The project would add new sources of nighttime lighting in an area that is mostly dark at this time although there is an existing parking lot nearby that is lit at night and the existing Pioneer Heights housing is also illuminated with both interior and exterior lighting. Given the proximity of the proposed project to the Grandview Avenue residential area and the fact that development is proposed in an area that currently is not lit at night, conservatively

it is concluded that the impact related to light and glare would be potentially significant (PH Phase IV Impact AES-2).

2.1.2 Mitigation Measures

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

PH Phase IV MM AES-2a: The University shall carefully design the buildings for Pioneer Heights Phase IV Project to make sure that light and glare along the project's eastern and northern façade is minimized. Landscaping for the eastern portion of the project site shall be selected to include fast growing tall trees and to ensure that it aesthetically screens the new buildings and helps reduce light and glare.

PH Phase IV MM AES-2b: All lighting proposed within and outside the buildings on the eastern and northern facade of the proposed housing development shall be limited to the minimal amount of lighting needed for safe operations.

2.1.3 Findings

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the potential aesthetics-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 aesthetics-related impacts of the project as identified in the Revised Final EIR.

2.2 Biological Resources

2.2.1 Potential Significant Impacts

According to the analysis in the Revised Final EIR, construction of the Pioneer Heights Phase IV Project could result in the loss of an active nest of a special-status raptor species. As burrowing owls avoid areas containing a high density of trees (which provide perches and cover for predators), the species would not be expected to occur on the site as a nesting or wintering species. However, the eucalyptus trees on the

project site provide potential nesting habitat for special-status raptors, including Cooper's hawk and white-tailed kite. The suitability of the nesting habitat is enhanced by the presence of adjacent grassland foraging habitat. The project–related loss of potential nesting habitat would not be substantial given the abundance of oak trees and extent of woodlands in the surrounding open space area. Additionally, the proposed project would not result in the loss of high-value foraging habitat, given the disturbed and wooded condition of the site. Therefore, the loss of potential raptor foraging and nesting habitat associated with the proposed project would not be substantial. However, should an active nest be present within or near the construction zone, the removal of trees could result in the direct loss of an active nest of a special status bird species. Additionally, loud noise associated with construction activity has the potential to disturb nesting occurring in close proximity to the construction zone and result in the abandonment of an active nest. Therefore, the loss of an active nest of Cooper's hawk or white-tailed kite is considered a potentially significant impact (PH Phase IV Impact BIO-2).

The analysis in the Revised Final EIR also concludes that construction of the proposed Pioneer Heights Phase IV Project could result in the loss of an active maternity roost of a special-status bat species. The eucalyptus trees on the project site provide potential, but low quality roosting habitat for special-status bat species, including pallid bat, hoary bat, fringed myotis, long-legged myotis, and yuma myotis. The suitability of the roosting habitat is limited by the proximity of the trees to an active construction zone, the type of tree present (i.e., eucalyptus), the use of portions of the tree grove as a ropes course, and the relatively low density of trees. However, there is some potential that an active roost could be present. Therefore, if trees are removed during the nesting season of native bats (generally April 1 through August 31) and an active maternity roost were present in the trees, the loss of an active maternity roost would be a potentially significant impact (PH Phase IV Impact BIO-3).

2.2.2 Mitigation Measures

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

PH Phase IV MM BIO-2: The University shall implement MP Mitigation Measure BIO-1b.

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.

PH Phase IV MM BIO-3: The University shall implement **MP Mitigation Measure BIO-1d.**

MP MM BIO-1d: If trees or buildings are to be removed/demolished during the nesting season of native bat species in California (generally April 1 through August 31), the presence of active maternity roosts in trees or buildings shall be evaluated by a qualified biologist prior to their removal. If it is determined that the trees or structures to be removed provide potential bat roosting habitat, a focused survey shall be conducted by a qualified bat biologist to determine if active maternity roosts of special status bats are present. Should an active maternity roost of a special status bat species be identified, the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist. Once all young have fledged, the tree or structure may be removed or demolished.

2.2.3 Findings

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the potential biological resources-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 biological resources-related impacts of the project as identified in the Revised Final EIR.

2.3 Cultural Resources

2.3.1 Potential Significant Impacts

The analysis in the Revised Final EIR finds that construction associated with the proposed Pioneer Heights Phase IV Project could result in the disturbance of previously undiscovered historic or prehistoric cultural resources, deposits, artifacts, or human remains, including buried material (PH Phase IV Impact CULT-1). In addition, although no evidence of human remains has been reported at the Pioneer Heights Phase IV 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 (PH Phase IV Impact CULT-3).

2.3.2 Mitigation Measures

The 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.

PH Phase IV MM CULT-1: The Campus shall implement **MP Mitigation Measures CULT-1b, -3, and -4**

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-1c: For an archaeological site that is encountered during the pedestrian survey conducted on a project site or during construction, the University shall:

- Retain a qualified archaeologist to determine whether the resource qualifies as an historical resource or a unique archaeological resource.
- If the resource is determined to be a historical resource or a unique archaeological resource, the qualified archaeologist, in consultation with the University, shall prepare a research design and archaeological data recovery plan for the recovery of the categories of data for which the site is significant, and implement the data recovery plan prior to or during development of the site. The archaeologist shall also perform appropriate technical analyses, prepare a full written report and file it with the appropriate information center, and provide for the permanent curation of recovered materials.

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 5096.98 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.

MP MM CULT-4a: As part of the construction contract, the University shall inform construction contractors to watch for paleontological resources during grading and excavation and to inform the campus immediately if such resources are encountered.

MP MM CULT-4b: If paleontological resources are discovered, all ground-disturbing activities within 100 feet of the find will be halted and a qualified paleontologist will be retained by the University to evaluate the find and recommend appropriate handling and treatment of the find. If the find is determined to be significant or potentially significant, the paleontologist will design and carry out a data recovery plan consistent with the Standards of the Society of Vertebrate Paleontologists. Adequate recordation and recovery would, at a minimum, include the following:

- Development of a site specific environmental and contextual information

- Archival research
- Excavation of the resource and its accurate recordation
- For a significant major find, identification of a museum or repository for curation of the resource.

2.3.2 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 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 cultural resources-related impacts of the project as identified in the Revised Final EIR.

2.4 Hydrology and Water Quality

2.4.1 Potential Significant Impacts

The analysis in the Revised Final EIR finds that development of the proposed Pioneer Heights Phase IV 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 along the perimeter of the project site and a shallow infiltration planter located in the quad area in the middle of the site are proposed as part of the project design to provide some treatment to the runoff generated at the site. Stormwater generated by the project's impervious surfaces would be collected by downspouts and conveyed into the bioswales and infiltration planter, which in turn would discharge into the campus storm drain system. The storm drain would discharge the increased runoff into a creek in the western portion of the campus. 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 (PH Phase IV Impact HYDRO-2). This would be a potentially significant impact.

2.4.2 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.

PH Phase IV 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.

2.4.3 Findings

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the potential hydrology and water 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 hydrology and water quality-related impacts of the project as identified in the Revised Final EIR.

2.5 Noise

2.5.1 Potential Significant Impacts

Construction of the Pioneer Heights Phase IV Project could expose existing on-site noise-sensitive receptors to elevated construction noise levels. The nearest off-campus residences are at least 900 feet away from the proposed project site, and therefore construction activities would not increase noise levels at these off-campus residences by more than 6 decibels. The existing student housing in Pioneer Heights I on the other hand is approximately 300 feet from the proposed project site and therefore construction activities associated with the proposed project would elevate noise levels at Pioneer Heights I by more than 6 decibels. There is no policy in the CSUEB Hayward Campus Master Plan that would limit the hours of construction on the campus. Therefore, this impact would be considered significant for construction activities occurring between the hours of 7:00 PM and 7:00 AM on weekdays and Saturdays or between 10 AM and 6 PM on Sundays and holidays (PH Phase IV Impact NOI-2).

2.5.2 Mitigation Measures

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

PH Phase IV MM NOI-2: The University shall implement **MP Mitigation Measure NOI-3a** through **-3b**.

MP MM NOI-3a: Construction activities on campus shall be restricted to between the hours of 7:00 AM and 7:00 PM on weekdays and Saturdays and 10:00 AM to 6:00 PM on Sundays and holidays. (Project-Level)

MP MM NOI-3b: Prior to initiation of campus construction within 500 feet of a noise sensitive receptor, the University shall approve a construction noise mitigation program including but not limited to the following.

- All noise-producing project equipment and vehicles using internal combustion engines shall be equipped with exhaust mufflers and air-inlet silencers where appropriate, in good operating condition that meet or exceed original factory specification.
- Mobile or fixed "package" equipment (e.g., arc-welders, air compressors) shall be equipped with shrouds and noise control features that are readily available for that type of equipment.
- All mobile or fixed noise producing equipment used on the project, which is regulated for noise output by local, state or federal agency, shall comply with such regulation while engaged in project-related activities.
- Electrically powered equipment shall be used instead of pneumatic or internal combustion powered equipment, where practicable.
- Material stockpiles and mobile equipment staging, construction vehicle parking and maintenance areas shall be located as far as practicable from noise-sensitive land uses.
- Stationary noise sources such as generators or pumps shall be located away from noise-sensitive land uses as feasible.
- The use of noise-producing signals, including horns, whistles, alarms, and bells shall be for safety warning purposes only. No project-related public address loudspeaker, two-way radio, or music system shall be audible at any adjacent noise-sensitive receptor except for emergency use.

- The erection of temporary noise barriers shall be considered where project activity is unavoidably close to noise-sensitive receptors.

- The noisiest construction operations shall be scheduled to occur together to avoid continuing periods of the greatest annoyance, wherever possible.

- Construction vehicle trips be routed as far as practical from existing residential uses.

- The loudest campus construction activities, such as demolition, blasting, and pile driving, shall be scheduled during summer, Thanksgiving, winter, and spring breaks when fewer people would be disturbed by construction noise.

- Whenever possible, academic, administrative, and residential areas that will be subject to construction noise shall be informed a week before the start of each construction project.

2.5.3 Findings

The Board of Trustees finds that the above mitigation measures are feasible, are adopted, and will reduce the potential noise-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 noise-related impacts of the project as identified in the Revised Final EIR.

2.6 Transportation and Traffic

2.6.1 Potential Significant Impacts

The construction of the Pioneer Heights Phase IV Project would add vehicle, pedestrian and bicycle traffic to the vicinity of Harder Road/West Loop Road and Harder Road/Pioneer Heights Access Road/pedestrian crossing, potentially causing congestion and safety concerns. While the project would not significantly affect traffic conditions at external intersections, the additional pedestrian, bicycle and vehicle traffic generated by the 600 new campus residents would affect local circulation in the south campus area, particularly in the vicinity of the existing signalized pedestrian crossing and vehicle access road at Pioneer Heights and the all-way stop-controlled intersection of Harder Road/West Loop Road as the number of crossings will increase with this project. The Campus has planning, design and construction processes in place to ensure that site access for all modes is provided for new residential and academic building construction projects, and that good connections between new buildings and the rest of campus are provided. These practices will be employed in the planning, design and construction of the

Pioneer Heights Phase IV Project. However, the impact (PH Phase IV Impact TRANS-2) would be potentially significant.

2.6.1 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.

PH Phase IV MM TRANS-2: The University will review the operation of the signalized pedestrian crossing at Pioneer Heights/Harder Road, including the interaction between vehicles accessing the residential parking and pedestrians, and develop improvements if needed to address the larger pedestrian volume associated with the Project. Improvements may include diverting vehicle access to a roadway further west, roughly half-way between the West Loop intersection and the signal, to eliminate direct conflicts between vehicles and pedestrians at this high-pedestrian-activity location.

2.6.3 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 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 transportation and traffic-related impacts of the project as identified in the Revised Final EIR.

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

3.1 Impacts Less than Significant with Additional Mitigation

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

Development of the Pioneer Heights Phase IV Project 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 (PH Phase IV Impact GEO-1).

PH Phase IV Mitigation Measure GEO-1: No mitigation required other than 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 University 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 measure is feasible, is adopted, and will reduce the less than significant geology and soils-related 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 impact of the project as identified in the Revised Final EIR.

3.2 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:

- Implementation of the proposed Pioneer Heights Phase IV Project would not have a substantial adverse effect on scenic vistas from Grandview Avenue.

Air Quality

The following impacts were found to be less than significant on a project-specific and cumulative basis in the environmental review:

- The Pioneer Heights Phase IV Project would generate long-term operational emissions of criteria pollutants from increases in traffic and stationary and area

	sources that would not adversely affect air quality. • The Pioneer Heights Phase IV Project would not expose maximally exposed individuals to cancer risks exceeding 10 in one million or to ground level concentrations of non-carcinogenic toxic air contaminants that would result in a Hazard Index greater than 1.0 for the maximally exposed individual. • The Pioneer Heights Phase IV 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 impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • The construction of the proposed Pioneer Heights Phase IV Project would not have a substantial adverse effect on special status plant species.
Geology and Soils	The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • Development of Pioneer Heights Phase IV Project 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.
Hazards and Hazardous Materials	The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • Pioneer Heights Phase IV Project development would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires.
Hydrology and Water Quality	At the program and project levels of environmental review, the following impacts were found to be less than significant on a project-specific and cumulative basis: • 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 Pioneer Heights Phase IV Project.
Land Use and Planning	The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • Implementation of the proposed Pioneer Heights Phase IV 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	The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • Daily operations within the Pioneer Heights Phase IV Project would not expose existing off-site and future on-site noise sensitive receptors to elevated noise levels.
Population and Housing	The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • Implementation of the proposed Pioneer Heights Phase IV Project would provide 600 student housing beds, increasing the on-campus residential population by 600 students.
Transportation and Traffic	The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • The proposed Pioneer Heights Phase IV Project would not cause an intersection to

	degrade to an unacceptable level of service, nor would it add significant delay to intersections that would operate at unacceptable levels of service in 2011.
Utilities and Service Systems	The following impact was found to be less than significant on a project-specific and cumulative basis in the environmental review: • Implementation of the proposed Pioneer Heights Phase IV Project would not result in significant environmental impacts associated with the construction of wastewater facilities.

4.0 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 Revised Final EIR considered the following three alternatives:

4.1 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:

4.1.1 Alternative 1: Reduced Student Housing

Similar to the proposed Pioneer Heights Phase IV Project, the Reduced Student Housing alternative would expand student housing provided on campus at the same site as the proposed project. Under this alternative, however, Phase IV of Pioneer Heights would be designed similar to the existing phases in the complex that are three to four stories. This alternative would construct four buildings similar to the proposed project, but each building would be a maximum of four stories high. Under this alternative, elimination of the top two floors in each building would reduce the total number of student beds to 400. Note that this configuration of the Reduced Student Housing alternative was devised in order to reduce the heights of the proposed buildings.[1]

The Reduced Student Housing alternative would slightly reduce the project's impacts to aesthetics. This alternative would increase impacts related to traffic and air quality due to the increase in vehicle trips generated by students residing off campus. 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.

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1 Note that the Reduced Student Housing alternative could also be developed by eliminating one of the four buildings that make up the proposed project. Under that variation, the remaining buildings would still be 6 stories high but the total housing provided under the variation would be 450 student beds. Most impacts of that variation would be similar to those described in this section for the Reduced Student Housing alternative.

By not developing Pioneer Heights Phase IV with 600 beds, this alternative would not achieve the campus target of 3,000 beds in the Pioneer Heights complex, and would make it difficult for the University to achieve its goal of providing 5,000 beds on-campus at buildout of the proposed Master Plan. Development of a Reduced Student Housing alternative would not represent the most efficient use of the limited land area that the University has for development. Additionally, this alternative would not achieve the following objectives to the same extent as the project:

- Provide on-campus housing for students
- Implement the Master Plan vision concept of student neighborhoods of housing more students on campus while providing a safe environment, and one that is supportive of the learning experience

The Reduced Project Alternative is not feasible because it would impede attainment of all project objectives.

4.1.2 Alternative 2: No Project

Under the No Project Alternative, the proposed Pioneer Heights Phase IV Project would not be built. The No Project alternative would avoid impacts related to aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, population and housing, public services, traffic, and utilities and service systems. Compared to the proposed project, under the No Project Alternative about 600 students could require housing in the City of Hayward and other Bay Area communities. Traffic and traffic-related air quality and noise impacts would worsen in conjunction with the housing impacts. 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 identified in **Section 1.5**.

5.0 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, §15087.4.) 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 FEIR 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 (MMRP), 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.

6.0 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.

7.0 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 Pioneer Heights Phase IV Project. 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.