FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP20-02046, MARATHON PETROLEUM CORPORATION (APPLICANT / OWNER)

I. FINDINGS

A. CEQA Findings

1. Environmental Impact Report

The Martinez Refinery Renewable Fuels Project proposes to modify the existing Marathon Martinez Refinery to repurpose the Refinery for production of fuels from renewable sources rather than from crude oil. Some existing Refinery equipment would be altered or replaced, and additional new equipment units and tanks would be installed, to facilitate production of fuels from renewable feedstock. Crude oil processing equipment that cannot be repurposed for processing of renewable feedstock would be shut down and removed from the Refinery based on an event-based decommissioning plan. As a result of the project, the facility would no longer refine crude oil into petroleum-based products.

The Department of Conservation and Development determined that an environmental impact report (EIR) was required for the project. Accordingly, the County prepared an EIR for the project (State Clearinghouse# 2021020289). The Final EIR includes a Draft EIR, comments on the Draft EIR, and Responses to Comments on the Draft EIR. The Notice of Preparation of the EIR was posted on February 17, 2021, and a public Scoping Meeting was held on March 15, 2021. Both written and oral comments were received during public comment period and the Scoping Meeting; the Scoping Meeting comments were responded to in the Draft EIR, which was released for public review on October 14, 2021, with a Notice of Availability. A 60-day comment period for the Draft EIR began on October 18, 2021, and ended December 17, 2021. During the comment period, the County received 251 comment letters on the Draft EIR for the project. The comment topics included a wide breadth of concerns from local and state agencies as well as organizations and individuals. The major topics include Project Baseline, CEQA Alternatives, CEQA Cumulative Impacts, Land Use & Feedstock Impacts, and Public Safety.

The County's Reponses to Comments received are provided in the Final EIR that has been prepared for the project. The Final EIR also includes County-initiated updates and errata to the Draft EIR. These errata constitute minor text changes to the Draft EIR and occur in Chapter 1 Introduction; Chapter 2 Project Description; Chapter 3 Environmental Impact Analysis, Methodology and Baseline, Section 3.3 Air Quality, Section 3.4 Biological Resources, Section 3.5 Cultural Resources, Section 3.8 Greenhouse Gas Emissions, Section 3.9 Hazards and Hazardous Materials, Section 3.10 Hydrology and Water Resources,

Section 3.15 Utilities and Service Systems; and Chapter 4 Cumulative Impacts. All changes are identified in chapter 4 of the Final EIR. The changes were made primarily to correct grammatical and typographical errors, as well as to improve accuracy and readability of certain passages. The text changes are not the result of any new significant adverse environmental impact, and do not alter the effectiveness of any mitigation included in the pertinent section, and do not alter any findings in the Draft EIR.

2. **Findings Regarding Potential Environmental Impacts**

"No Impact" or "Less than Significant Impact"

Contra Costa County is the lead agency under the California Environmental Quality Act (CEQA) for preparation, review, and certification of the EIR for the Martinez Refinery Renewable Fuels Project. As the lead agency, the County is also responsible for determining the potential environmental impacts of the proposed action, which of those impacts are significant, and which impacts can be mitigated through imposition of feasible mitigation measures to avoid or minimize such impacts to a level of "less than significant." The EIR for the project considered the project's impacts, which are summarized in Table ES-1 of the Draft EIR. The project would have either no impacts or less than significant impacts related to Agriculture and Forestry, Mineral Resources, Population and Housing, Recreation, and Wildfire. Potentially significant impacts were also identified, all of which can be mitigated to a less-than-significant level. These impacts affect the environmental topics of:

- Air Quality
- Biological Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality

Environmental analysis contained in the EIR determined that measures were available to mitigate these potential adverse impacts to less-than-significant levels. The recommended mitigation measures are included within the Mitigation Monitoring and Reporting Plan, which describes the timing and responsible agency for monitoring compliance with all mitigation measures. The mitigation measures have also been incorporated into the recommended conditions of approval.

Significant Unavoidable Environmental Impacts

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, no public agency shall approve and carry out a project where an EIR has been certified, which identifies one or more significant impacts on the environment that would occur if the project is approved, unless the public agency makes one or more findings for each of those significant impacts, accompanied by a brief explanation of the rationale for each finding. The possible findings, which must be supported by substantial evidence in the record, are:

- Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant impact on the environment.

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

- Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

The EIR for the proposed project identified six significant and unavoidable impacts related to air quality, biological resources, hazards, and water quality, including:

Air Quality

Impact AQ-2: NOx emissions from rail traffic in Placer County and marine vessels in the SJVAPCD would exceed significance thresholds, resulting in significant and unavoidable impacts. The County has no authority to impose mitigation measures on rail traffic based on federal preemption, even if any were feasible, on that activity. The NOx emissions from marine vessels (tugs and barges) and rail traffic in the SJVAPCD region are estimated to be 27.06 tpy which would exceed the SJVAPCD CEQA threshold of 10 tpy, with a majority (26.3 tpy) from marine vessels. The overall project will decrease NOx emissions by over 500 tpy. The majority of the emission reductions would take place in the BAAQMD. However, as documented in the EIR, it is well known that Bay Area emissions are transported to the San Joaquin Valley and contribute to air quality standard violations in that region. Therefore, a substantial reduction in NOx emissions in the Bay Area would have a positive effect on air quality in the San Joaquin Valley. Additional mitigations are not warranted given the overall reductions in NOx emissions and explanation of likely reduced NOx in San Joaquin Valley from reductions in NOx in the BAAQMD jurisdiction.

Thus, the project has incorporated components which avoid or substantially lessen the significant environmental effect.

Impact AQ-4: Though the Project would result in an overall reduction in air emissions from the Refinery due to the reduction in the volume of feedstock refined at the facility, cumulative criteria pollutant health risk (i.e., emissions from the Project plus other development in the vicinity of the Project Site) would continue to exceed regional air quality thresholds of significance, and this impact would remain cumulatively significant and unavoidable. The maximum annual average $PM_{2.5}$ concentration at both residential and worker receptors exceeded the significance threshold of 0.8 ug/m^3. $PM_{2.5}$ concentrations were highest in the immediate vicinity of highways and around the cement and aggregate materials handling operations located to the southwest of the facility. The highest residential receptor was located immediately adjacent to Interstate Highway 680, and nearly all $PM_{2.5}$ at that receptor was due to highway mobile source emissions. The highest worker receptor was at the Valley Relocation & Storage Moving Company located across Highway 4 from the cement and aggregate materials handling operations. Over 95 percent of the $PM_{2.5}$ at this receptor was from the two materials handling operations. The impact at other residential and worker receptors was below the threshold of 0.8 µg/m^3. Project $PM_{2.5}$ concentrations are negative (pre- Project $PM_{2.5}$ concentrations exceed post-Project $PM_{2.5}$ concentrations); therefore, implementation of this Project would reduce overall $PM_{2.5}$ concentrations. Additional emissions reductions from non-Project sources would be required to reduce the $PM_{2.5}$ concentration to below the significance threshold. Reductions from other sources are outside the purview of this Project; therefore, the impact on cumulative $PM_{2.5}$ concentration is significant and unavoidable.

Biological Resources

Impact BIO-8: Adverse impacts to special status species, protected habitats, and migratory corridors and nursery sites for native species as a result of a major spill would remain significant and unavoidable. Marathon would be required to update the Refinery's Facility Response Plan (FRP) and Spill Prevention, Control, and Countermeasure Plan (SPCC) to demonstrate preparedness to respond to vegetable oil and animal fat spills. However, there are limitations to thorough containment and cleanup of a major oil spill. As was determined in the Avon and Amorco EIRs certified by the SLC, even with specific procedures to protect sensitive biological resources in the Project vicinity, adverse impacts to special status species, protected habitats, and migratory corridors and nursery sites for native species as a result of a major spill would remain significant and unavoidable. The EIR imposes mitigation measures BIO-1b, BIO-1c and HAZ-1, which require updates and implementation of spill response plans, but discloses that those measures would be

unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Impact BIO-9: Adverse impact to special status species, protected habitats, and migratory corridors and nursery sites for native species from introducing new nonindigenous aquatic species via ballast water and vessel biofouling to the San Francisco Bay Estuary waters remains significant and unavoidable. The EIR imposes mitigation measures BIO-9a but discloses that those measures would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Hazards and Hazardous Materials

Impact HAZ-1: Increased vessel calls would increase the potential for corresponding accidental releases of renewable fuel or feedstocks which would be significant and unavoidable. The EIR imposes mitigation measures BIO-1b, BIO-1c and HAZ-1, which require updates and implementation of spill response plans, but discloses that those measures would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Water Quality

Impact HWQ-1: Consequences of a large spills could result in significant residual impacts. Though the probability of a serious spill would be minimized to the extent feasible with mitigation measures, a large spill could still occur and result in impacts on water quality that would be significant and unavoidable. The EIR imposes mitigation measures BIO-1b, BIO-1c and HAZ-1, which require updates and implementation of spill response plans, but discloses that those measures would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

3. **Findings on Alternatives to the Martinez Renewable Fuels Project**

Alternatives Considered but Eliminated from Further Consideration

The County finds that each of the alternatives eliminated from further consideration in the Draft EIR is infeasible, would not meet most project objectives, and/or would not reduce or avoid significant impacts of the Project, for the reasons detailed in Chapter 5 of the Draft EIR.

Alternatives Analyzed in the EIR

In accordance with CEQA and the CEQA Guidelines, Chapter 5 of the Draft EIR evaluated a reasonable range of alternatives to the Martinez Renewable Fuels Project. The EIR's analysis examined the feasibility of each alternative, the environmental impacts of each alternative, and each alternative's ability to meet the project objectives described in Chapter 1, Section 1.2 of the EIR. In accordance with CEQA and the CEQA Guidelines, the alternatives analysis included an analysis of a no-project alternative and identified the environmentally superior alternative.

FINDING: The County certifies that it has independently reviewed and considered the information on alternatives provided in the Draft EIR and in the administrative record. For the reasons set forth below, the County finds that the alternatives either fail to avoid or substantially lessen the Project's significant impacts (and in some cases increase or create new significant and unavoidable impacts) or are "infeasible" as that term is defined by CEQA and the CEQA Guidelines.

The Draft EIR evaluated three alternatives to the Project:

- Alternative 1 – No Project Alternative
- Alternative 2 – Reduced Renewable Feedstock Throughput Alternative
- Alternative 3 – Green Hydrogen Alternative

Brief summaries of these alternatives and findings regarding these alternatives are provided below.

1) Alternative 1 – No Project Alternative

Under the No Project scenario, the proposed Renewable Fuels Project would not proceed. Rather, Refinery operations would resume as described in Section 2.4 of the Draft EIR. Current permits and entitlements for crude oil refining would remain unmodified and in effect, and the Refinery would operate under those current permits and entitlements. The Refinery's operations are currently permitted by the Bay Area Air Quality Management District to have a crude oil refining capacity of 161,000 barrels per day (bpd). For the 5 years prior to the submittal of land use and air permit applications for the Project, actual Refinery throughput averaged approximately 121,000 bpd. The Refinery would operate 24 hours a day, 7 days a week with an estimated 700 workers consisting of production and maintenance employees on rotating shifts and administrative staff. (See Draft EIR, Chapter 5, Section 5.2.1)

FINDING: In accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the County finds that specific legal, social, technological, or other considerations, including failure to meet project objectives, render the No Project alternative infeasible. This alternative would not achieve most of the objectives of the proposed project, with the exception of maintaining quality jobs. Moreover, the No Project Alternative would result in the same impacts to aesthetics, biological resources, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, and public services as the proposed Renewable Fuels Project and would result in more severe impacts to air quality, energy use, greenhouse gas emissions, transportation, and utilities and service systems than the proposed Renewable Fuels Project. For these reasons, the County rejects this alternative.

2) Alternative 2 – Reduced Renewable Feedstock Throughput Alternative

This alternative would involve conversion of the Refinery from a crude oil processing facility to a facility for the refining of renewable fuels at a reduced capacity compared to the proposed Project. As noted in the Project Description (Section 2.5.2 of the Draft EIR), the proponent anticipates phasing in the Project over two years, with an interim throughput of 23,000 bpd. In the Reduced Renewable Feedstock Throughput alternative, renewable feedstock throughput would not increase beyond this interim maximum. Other components of the Project, including installation of equipment necessary for renewable fuels refining, decommissioning and demolition of crude oil processing units, and changes to pipelines at the Avon and Amorco marine oil terminals (MOTs), would be components of this alternative. The refinery would continue to operate 24 hours per day, 7 days per week, with a level of staffing comparable to the proposed Project (130 to 150 workers) on a rotating shift basis. (See Draft EIR, Chapter 5, Section 5.2.2)

FINDING: In accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the County finds that specific legal, social, technological, or other considerations, including failure to meet project objectives, render the Reduced Renewable Feedstock Throughput alternative infeasible. By limiting renewable feedstock throughput, this alternative would generate fewer jobs, would result in a lower volume of renewable fuels being produced and brought to market to support the State's renewable energy goals, and would not achieve the Project objectives as well as the proposed project. For these reasons, the County rejects the Reduced Renewable Feedstock Throughput alternative as infeasible.

3) Alternative 3 – Green Hydrogen Alternative

In the Green Hydrogen alternative, green hydrogen would be used in the renewable fuels refining process. In contrast to the existing steam methane reforming technology that separates hydrogen atoms from hydrocarbon fuel molecules using the Refinery's existing infrastructure, green hydrogen uses electricity from renewable energy sources to produce hydrogen via electrolysis of water molecules into their constituent elements of hydrogen and oxygen. Under this alternative, the proposed throughput would not change from the proposed Project's throughput of 48,000 bpd of renewable feedstock, though green hydrogen from water electrolysis would be used in the refining process instead of the steam-methane reforming process. (See Draft EIR, Chapter 5, Section 5.2.3)

FINDING: In accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the County finds that specific legal, social, technological, or other considerations, including failure to meet project objectives, render the Green Hydrogen alternative infeasible. While the Green Hydrogen alternative would meet many project objectives, this alternative would not meet the project objective of repurposing and reusing existing Refinery infrastructure. Instead, it would require installation of a new hydrogen plant and renewable energy source(s), such as wind turbines or photovoltaic panels, as a power source for the new hydrogen plant. The County has assumed, for purposes of evaluating this alternative, that the renewable energy source would be solar because wind farms are limited to the County's easternmost areas under General Plan policy (Policy 8-49). Because this alternative would require construction of a renewable energy source on-site, the developed footprint of the Site could increase with installation of solar panels on currently undeveloped lands at the Site. The need for a renewable energy source such as solar means that the Green Hydrogen alternative may have greater impacts on aesthetics, biological resources, and cultural and tribal resources than the proposed Project. A photovoltaic array of sufficient size to provide electricity to a new green hydrogen plant could create a new source of light and glare along the Site's marshes or shoreline. This expansion of infrastructure into largely natural areas outside of the Refinery equipment area would change the existing industrial appearance of the property and could interfere with views of Mt. Diablo from the shoreline, in conflict with County General Plan Goal 9-F and Policy 9-25. Further, among the alternatives evaluated in the EIR, the Green Hydrogen alternative would result in the greatest long-term impacts to biological resources as a result of modifying the natural environment to develop several hundred acres undeveloped acres for use as a photovoltaic array. Finally, the installation of renewable energy infrastructure on currently undeveloped land required by the Green Hydrogen alternative has the potential to disturb unknown historic archaeological and

cultural resources. For these reasons, the County rejects the Green Hydrogen alternative as infeasible.

Environmentally Superior Alternative

FINDING: While the County finds that the Reduced Renewable Feedstock Throughput Alternative is the environmentally superior alternative because it would not result in impacts greater than the proposed Project and would in many cases result in reduced impacts compared to the proposed Project, the County also finds that the Reduced Renewable Feedstock Throughput alternative is infeasible under Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3) because it would not meet many of the basis project objectives. The Reduced Renewable Feedstock Throughput alternative is infeasible because it would generate fewer jobs, result in a lower volume of renewable fuels being brought to market to support the State's renewable energy goals, and would not achieve the Project objectives as well as the proposed project. For these reasons, the County rejects the environmentally superior alternative as infeasible. The County further finds that of the remaining alternatives evaluated in the EIR, each has varying levels of impacts on different environmental resources, as noted in the Findings above, and none of the remaining alternatives is superior to the Project for CEQA purposes. Compared to the remaining alternatives, the Martinez Renewable Fuels Project provides the best available and feasible balance between maximizing attainment of the project objectives and minimizing significant environmental impacts, and the Project is the environmentally superior alternative among those options.

4. **Statement of Overriding Considerations**

As required under Public Resources Code section 21081 and CEQA Guidelines Section 15093, the County, having reviewed and considered the project EIR, all other written materials within the administrative record, and all oral testimony presented at public hearings and other public meetings on the project EIR, has balanced the benefits of the proposed project against the identified unavoidable adverse impacts associated with the project, and hereby adopts all feasible mitigation measures with respect to such impact, certifies the project EIR, and approves this project. After balancing the specific economic, legal, social, technological, and other benefits of the proposed project, the County has determined that the significant and unavoidable adverse impacts identified above are acceptable due to the following specific considerations in the record, which outweigh the unavoidable, adverse environmental impacts of the Martinez Renewable Fuels Project. Each of the considerations in the record, standing alone, is sufficient to support approval of the project, in accordance with CEQA.

The following legal requirements and benefits of the proposed project individually and collectively outweigh the potentially significant unavoidable adverse impacts for the following reasons:

1) The proposed project would repurpose the existing Marathon Martinez Refinery to a renewable fuels production facility allowing the continued operation of an existing industrial facility, preserving high quality jobs in the Martinez area, as well as, minimizing construction activities and related land use impacts associated with producing renewable fuels compliant with California LCFS.

2) The proposed project would reduce hazard impacts at the facility by eliminating further refining of crude oil, reducing the use and volumes of hazardous materials at the Marathon Martinez facility, and reducing the number of operating units at the Facility. Instead, the Facility would use non-hazardous renewable feedstocks as opposed to crude oil to produce transportation fuels.

3) The proposed project would result in large air quality benefits by reducing air emissions associated with the operation of the Martinez Facility. The emission reductions from the proposed project include nitrogen oxides (539.47 tons/year), sulfur dioxide (651.89 tons per year), carbon monoxide (598.64 tons per year), precursor organic compounds (POCs) (91.90 tons per year), particulate matter less than 10 microns in diameter (PM_{10}) (246.69 tons per year) and $PM_{2.5}$ (221.09 tons per year), providing large air quality benefits in the local Martinez and Bay Area. These emission reductions are associated with the shutdown of a number of refinery units, as well as emission reductions from marine vessels, employee vehicles, and trucks. Furthermore, by reducing emissions of air pollutants from existing conditions, the project will forward the goals of the Bay Area Air Quality Management District's 2017 Clean Air Plan. Specifically, the project would be consistent with the plan's Refinery Emissions Reduction Strategy by eliminating sources associated with petroleum refining, and with the plan's call for refineries to transition to clean energy companies by 2050.

4) The proposed project would result in a reduction in toxic air contaminants from the Martinez Facility, resulting in a reduction in cancer risk and chronic health impacts across all receptors within the local Martinez area. This reduction provides a beneficial health impact to all land uses adjacent to the Martinez Facility.

5) The project would provide emission reductions throughout the Bay area by reducing emissions from marine vessels, including nitrogen oxides (245.02 tons/year), sulfur dioxide (401 tons per year), carbon monoxide (4.62 tons per year), precursor organic

compounds (15.23 tons per year), PM_{10} (27.40 tons per year) and $PM_{2.5}$ (10.18 tons per year), providing a beneficial air quality impact in the Bay Area.

6) The proposed project would produce renewable fuels in compliance with California's Low Carbon Fuel Standard (LCFS) mandates, to help allow California to achieve substantial progress towards meeting its renewable energy goals. The LCFS was designed to reduce the State's reliance on petroleum-based fuels and encourage the use of less carbon-intensive fuels in the transportation sector. California officials have identified the LCFS as the centerpiece to the state's efforts to combat climate change, e.g., CARB's 2008 Climate Change Scoping Plan and its subsequent updates. Under California Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, refineries are subject to regulations aimed at reducing California's global warming emissions and transitioning to a sustainable, low-carbon future (CARB 2021). The latest Update to the Climate Change Scoping Plan (CARB 2017) sets goals of a 40-percent GHG emission reduction below 1990 emission levels by 2030 and a substantial advancement toward the 2050 goal to reduce emissions by 80 percent below 1990 emission levels. Key provisions of AB 32 include the Low-Carbon Fuel Standard, which is intended to reduce California's dependency on petroleum by encouraging the provision of low-carbon and renewable alternative fuels, and the Cap-and-Trade Regulation, which discourages major sources of GHG emissions and encourages investment in cleaner, more efficient technologies. By increasing production of renewable fuels, the project will provide a mechanism for compliance with these provisions through providing facilities in California.

7) The proposed project would provide a direct benefit on climate change by decreasing greenhouse gas emissions (88,456 metric tons of CO_2e per year) from stationary mobile sources at the Martinez Facility, as well as mobile sources that visit the Facility. Governor Newsom's Executive Order N-79-20 states: "clean renewable fuels play a role as California transitions to a decarbonized transportation sector" and "to support the transition away from fossil fuels consistent with the goals established in this Order and California's goal to achieve carbon neutrality by no later than 2045, the California Environmental Protection Agency and the California Natural Resources Agency, in consultation with other State, local and federal agencies, shall expedite regulatory processes to repurpose and transition upstream and downstream oil production facilities..." The Governor's Order also directs CARB to "develop and propose strategies to continue the State's current efforts to reduce the carbon intensity of fuels beyond 2030 with consideration of the full life cycle of carbon. Additionally, the California Air Resources Board's November 19, 2020, "California's Greenhouse Gas Goals and Deep Decarbonization" presentation anticipates that biofuels will comprise 19 percent of the

transportation "fuel" sector by 2045." As a major producer of renewable fuels, the project would materially contribute to California's efforts to meet the goals of Executive Order N-79-20.

8) The proposed project would produce renewable fuels that significantly reduce the lifecycle generation of greenhouse gas emissions, as well as other criteria pollutants, including particulate matter, as compared to the manufacture and use of transportation fuels from fossil-fuel feedstocks.

9) The proposed project would reduce emissions from mobile sources by providing cleaner burning fuels in sources that use the renewable fuels, e.g., the Bay Area and California. These emission reductions provide a large air quality benefit as they would occur throughout California or wherever the renewable fuels are used.

10) The proposed project would result in beneficial impacts on energy demand by decreasing the electricity and natural gas demand from the Martinez Facility. Reducing natural gas and electricity consumption assists the public utilities to meet the state's Renewable Portfolio Standard.

11) As evaluated in Section 3.14 – Transportation of the EIR, the proposed project would be consistent with CEQA Guidelines Section 15064.3(b) by resulting in a reduction in vehicle miles travelled from both employee and truck trips.

12) Recycling organic wastes and by-products such as used cooking oils, rendering wastes, and other fats, oils, and greases has a number of environmental and economic benefits. These include reducing demand on landfill space, reducing the carbon footprint of fuels, and generating a second revenue stream from the same material. By accepting large quantities of recyclable fats, oils, and grease to be processed into renewable fuels, the project will help realize those benefits.

In balancing the benefits of the overall project described above with the proposed project's unavoidable and significant adverse environmental impacts, the County finds that the proposed project's benefits individually and collectively outweigh the unavoidable adverse impacts, such that these impacts are acceptable. The County further finds that substantial evidence presented in the FEIR supports adopting the FEIR despite the proposed project's potential adverse impacts.

B. **Growth Management Element Performance Findings**

1. Traffic: The traffic impacts have been reviewed in the July 27, 2021 Transportation Analysis provided by the applicant and are not expected to have any permanent negative impacts on local traffic patterns. The report was prepared in compliance with Measure C 1998 requirements. The project includes conversion of the existing Refinery from its production of fossil fuels to the production of renewable fuels, including renewable diesel, renewable propane, renewable naphtha, and, potentially, renewable jet fuel. The Project would not include any housing or surrounding retail. The Project would involve short-term construction activities and is not anticipated to create a significant increase in the number of permanent jobs at the Refinery. In this context, the Project is not expected to spur new regional population or employment growth and will not result in significant growth-inducing impacts.

2. Water: The Refinery currently consumes 3,100 to 3,300 million gallons of fresh water per year. The Project is expected to reduce the overall water use at the facility by about 70 percent or about 1,310 – 1,320 million gallons of fresh water per year. Therefore, the proposed Project would not require additional water and would decrease water use. Further, the proposed Project would not result in the relocation or construction of new or expanded public water facilities.

3. Sanitary Sewer: The Project would result in decreases in throughput, production and employment at the Refinery, which in turn would be anticipated to result in generation of a lower volume of waste as compared to prior Refinery operations. The Pretreatment Unit produces a wastewater stream that would require partial pretreatment prior to treatment in the existing wastewater treatment facility. Existing tanks would be utilized and repurposed for equalization and biological treatment of the waste stream. Since Marathon treats its wastewater generated from the facility, the project will have no impact on any public wastewater treatment provider.

4. Fire Protection: Refinery operators maintain internal fire response teams and systems for the developed areas of the Refinery. On-site fire suppression systems include fire pumps, foam systems, firefighting engines and trucks, and fire hydrants spaced 200 feet apart in refining process areas and tank farms. As a supplemental fire protection resource, the Refinery and other Bay Area refineries and industrial facilities are members of the Petrochemical Mutual Aid Organization. CCCFPD has in prior years been called to respond to incidents at the Refinery. Additionally, a portion of the Project Site is currently provided emergency fire and emergency medical technician response services by the Contra Costa County Fire Protection District. The closest operating fire station to the Refinery is Contra Costa Fire Station 9, located at 209 Center Avenue in the unincorporated community of Pacheco, approximately 1.6 miles southwest of the Refinery. Access to the Refinery from Station 9 is via public streets (Center Avenue, Marsh Drive, and Solano Avenue). The closest fire station to the Amorco MOT is Station 14 located at 521 Jones Street in the City of Martinez. Access to the terminal from the fire station is via an approximately 1.4-mile route along Alhambra Avenue to Marina Vista Avenue.

5. Public Protection: The Refinery maintains its own private security staff and security infrastructure for day-to-day Site security needs. Public safety services for the Refinery and two terminals are and would continue to be provided by the County Sheriff's Department, the Martinez Police Department and the California Highway Patrol. Police protections services within the City of Martinez are provided by the Martinez Police Department (MPD). As of 2020, the MPD included 33 sworn officers and four vacant positions. The Project would involve short-term construction activities and is not anticipated to create a significant increase in the number of permanent jobs at the Refinery. In this context, the Project is not expected to spur new regional population or employment growth and will not result in significant growth-inducing impacts. Since the project is not expected to induce population growth, no additional demand for public protection services is expected.

6. Parks and Recreation: Recreational facilities proximate to the Project Site include publicly-owned and publicly accessible parks and open spaces, as well as privately-owned lands on the Refinery property. Just east of the Refinery and Avon MOT are several hundred acres of undeveloped marshlands that include the Point Edith Wildlife Preserve, a 761-acre tidal area accessible to the public for wildlife viewing and hunting. The Preserve is managed by the California Department of Fish and Wildlife and located north of the Refinery's on-site marshlands. The closest Martinez City owned park to the Amorco MOT is Waterfront Park, located approximately 2,500 feet west of the property line of the terminal. Approximately 76 acres at the southern end of the Project Site is developed with a complex of recreational baseball, softball and soccer fields that are used by local sports clubs and teams but are part of the property owned by Marathon. The Project would involve short-term construction activities and is not anticipated to create a significant increase in the number of permanent jobs at the Refinery. In this context, the Project is not expected to spur new regional population or employment growth and will not result in significant growth-inducing impacts. Since the project is not expected to induce population growth, no additional demand for parks and recreation facilities is expected.

7. Flood Control and Drainage: The operating portions of the Project Site where modifications and/or construction is proposed are designated Zone X by the FEMA, which means that it is an area determined to be an area of minimal flood hazard. Project construction activities would not result in physical changes in these designated areas. Therefore, the Project would not create or substantially increase risks from flooding. Project activities are not expected to result in the construction of additional impervious surfaces that would substantially alter existing drainage patterns. There are no streams, rivers or other natural drainages within the Project Site that would be impacted by the construction of new units or equipment. Stormwater and surface runoff within the Project Site are already treated within the existing wastewater treatment plant and managed under a NPDES permit. Construction activities are not expected to substantially alter drainage patterns to impede or redirect flood flows. Thus, the project is not expected to impact the flood control or drainage systems or facilities in the County.

C. **Land Use Permit Findings**

1. The project shall not be detrimental to the health, safety, and general welfare of the County.

   Project Finding: The EIR for the proposed Project identified significant impacts that cannot be fully mitigated to less-than-significant levels with implementation of identified mitigation measures. These significant and unavoidable impacts include marine biological resources, hazards, and hydrology and water quality related to marine vessel accidents, and air quality related to rail and vessel emissions outside the San Francisco Bay Area Air Basin. The County may only approve the Project with significant adverse environmental impacts that are not mitigated if the agency finds that specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make imposition of mitigation measures or Project alternatives infeasible (CEQA Guidelines Section 15091). When a public agency determines that a project will have significant and unavoidable effects, Public Resources Code section 21081(b) requires that the public agency make findings of overriding considerations to demonstrate that economic, legal, social, technological, or other benefits of the project outweigh the significant environmental effects of the project. Accordingly, the County has made the requisite findings of overriding consideration and has found that the potential benefits of the project do in fact outweigh the environmental impacts. The project's benefits include providing jobs, improving air quality, reducing the amount of hazardous materials in the area, reduction in greenhouse gas emissions, and decrease energy (electricity and natural gas) demand at the facility.

   The EIR also identifies potentially significant impacts related to: construction-related air emissions; odor; marine and avian biological resources (non-spill related); cultural resources; seismicity; hazards; and tribal cultural resources. However, mitigation measures are identified for these impacts that ensure the Project will not cause a significant impact on the environment. The recommended mitigation measures are included within the Mitigation Monitoring and Reporting Plan, which describes the timing and responsible agency for monitoring compliance with all mitigation measures. The mitigation measures have also been incorporated into the recommended conditions of approval. Therefore, based on the forgoing, the Project will not be detrimental to health, safety, and general welfare of the County.

   The applicant has agreed to enter into a Community Benefits Agreement that provides financial support of workforce training and development and sustainability initiatives within Contra Costa County. This agreement directly supports the general welfare of the County and its residence through the commitment of one million dollars annually for a period of 10 years.

   As detailed in COA #32, the applicant is required to ensure the long-term reusability of the project site by implementing a Work Plan for the demolition and cleanup of the site. The condition requires the applicant to provide financial assurances for the removal of obsolete equipment and site remediation of hazardous materials. This assurance and

continued effort at cleaning up the site will ensure the project is not detrimental to the long-term health, safety, or general welfare of the County and its residents.

2. The project shall not adversely affect the orderly development within the County or the community.

   Project Finding: All elements of the Martinez Refinery Renewable Fuels Project would be located within the existing boundaries of the refinery property already developed for refining operations. The primary elements of the project will be within the portion of the lands designated for Heavy Industry use by the County General Plan and zoned Heavy Industrial ("H-I") under the Contra Costa County Ordinance Code. Pursuant to these designations, refining and other manufacturing operations are allowed and are permitted uses, respectively. Based on the foregoing, the Project will not adversely affect the orderly development of property with the County.

   Condition of Approval #34 requires the applicant to ensure the long-term reusability of the project site by implementing a Work Plan for the demolition and cleanup of the site. The condition requires the applicant to provide financial assurances for the removal of obsolete equipment and site remediation of hazardous materials. This assurance and continued effort at cleaning up the site will ensure the project site is not burdened with obsolete equipment and hazardous materials that would prevent or hinder future development in the County.

3. The project shall not adversely affect the preservation of property values and the protection of the tax base within the County.

   Project Finding: The Refinery has operated as a facility for the production of petroleum-based fuels on the Project Site since its initial construction in 1913. The construction and operation of the project will result in the hiring of temporary and permanent employees at the refinery. Further, implementation of the Project will increase the assessed value of the refinery property, which would expand the County's tax base. The repurposing of the existing refinery to a renewable fuels production facility allows for the continued operation of an existing industrial facility and associated jobs and tax revenue. Furthermore, the Project includes modifications to the Avon and Amorco MOTs to facilitate their use for receipt and distribution of renewable feedstocks and fuels, consistent with supporting economic viability of the County's existing ports, wharves and shipping lanes. Thus, the proposal will not adversely affect the preservation of property values and the protection of the tax base within the County.

4. The project as conditioned shall not adversely affect the policy and goals as set by the General Plan.

   Project Finding: The Refinery equipment and related structures and facilities are on lands designated by the County General Plan as Heavy Industry (HI). While the County has jurisdiction over the land occupied by the associated onshore Refinery, the County does not have jurisdiction over the Avon Terminal. Nonetheless, the County's General Plan

assigns a land use designation of Water (WA) to the Avon MOT, as the waters offshore of unincorporated lands bear relation to the County's long-term planning efforts. The pipeline between the Avon MOT and the Refinery is within a narrow strip of land designated as Open Space (OS). Pursuant to these designations, refining and other manufacturing operations are allowed and are permitted uses, respectively.

The Contra Costa General Plan contains the following relevant policies related to the project.

Countywide Polices

Policy 3-30 A variety of appropriately-sized, well-located employment areas shall be planned in order that industrial and commercial activities can contribute to the continued economic welfare of the people of the county and to the stable economic and tax bases of the county and the various cities. As the industrial project is located in an industrially developed area of the County, it is consistent with this policy.

Policy 3-42 Industrial development shall be concentrated in select locations adjacent to existing major transportation corridors and facilities. As the industrial project is located in an industrially developed area adjacent to major highways and waterway transportation in the County, it is consistent with this policy.

Policy 3-43 Industrial employment centers shall be designed to be unobtrusive and harmonious with adjacent areas and development. As the industrial project is located in an industrially developed area of the County, it is consistent with this policy.

Implementation Measure 3-b During project review, require that proposed uses on the edges of land use designations be evaluated to ensure compatibility with adjacent planned uses. As the industrial project is located in an industrially developed area of the County and is not proposing expansion, it is consistent with this policy.

Implementation Measure 3-d Review proposed land development projects for consistency with land use designations and relevant policies and standards of each element of the General Plan. The project has been evaluated with the land use designations and standards of the General Plan.

Policy 3-106 (Vine Hill/Pacheco Boulevard Area): The residential neighborhood east of I680 shall be buffered from the industrial/landfill-related uses. The project does not propose to expand the refinery use, thus the buffer shall remain.

Fire Protection Polices

Policy 7-58 Sheriff patrol beats shall be configured to assure minimum response times and efficient use of resources. No additional sheriff patrol services are expected since the refinery is an existing use.

Policy 7-62 The County shall strive to reach a maximum running time of 3 minutes and/or 1.5 miles from the first-due station, and a minimum of 3 firefighters to be maintained in all central business district (CBD), urban and suburban areas. Refinery operators maintain internal fire response teams and systems for the developed areas of the Refinery. On-site fire suppression systems include fire pumps, foam systems, firefighting engines and trucks, and fire hydrants spaced 200 feet apart in refining process areas and tank farms. As a supplemental fire protection resource, the Refinery and other Bay Area refineries and industrial facilities are members of the Petrochemical Mutual Aid Organization. CCCFPD has in prior years been called to respond to incidents at the Refinery.

Policy 7-72 Special fire protection measures shall be required in high risk uses (e.g., midrise and high-rise buildings, and those developments in which hazardous materials are used and/or stored) as conditions of approval or else be available by the district prior to approval. Refinery operators maintain internal fire response teams and systems for the developed areas of the Refinery. On-site fire suppression systems include fire pumps, foam systems, firefighting engines and trucks, and fire hydrants spaced 200 feet apart in refining process areas and tank farms. As a supplemental fire protection resource, the Refinery and other Bay Area refineries and industrial facilities are members of the Petrochemical Mutual Aid Organization. CCCFPD has in prior years been called to respond to incidents at the Refinery.

Policy 7-79 Local fire agencies shall be encouraged to identify and monitor uses involving the handling and storage of hazardous materials. As a supplemental fire protection resource, the Refinery and other Bay Area refineries and industrial facilities are members of the Petrochemical Mutual Aid Organization. CCCFPD has in prior years been called to respond to incidents at the Refinery.

Policy 7-136 The environmental review process shall be utilized to monitor the ability of area schools to serve development. No increase in population is expected from the project, thus additional area schools would not be required to serve the project.

<u>Vegetation and Wildlife Policies</u>

8-6 Significant trees, natural vegetation and wildlife populations generally shall be preserved. The project will not impact these resources.

8-9 Areas determined to contain significant ecological resources, particularly those containing endangered species, shall be maintained in their natural state and carefully regulated to the maximum legal extent. Acquisition of the most ecologically sensitive properties within the County by appropriate public agencies shall be encouraged. The environmental document evaluated ecological resources and identified mitigations that will mitigate impacts to them.

8-10 Any development located or proposed within significant ecological resource areas shall ensure that the resource is protected. Mitigation measures have been developed to protect ecological resources surrounding the site.

8-11 The County shall utilize performance criteria and standards which seek to regulate uses in and adjacent to significant ecological resource areas. Mitigation measures have been developed to protect ecological resources surrounding the site.

8-17 The ecological value of wetland areas, especially the salt marshes and tidelands of the bay and delta, shall be recognized. Existing wetlands in the County shall be identified and regulated. Restoration of degraded wetland areas shall be encouraged and supported wherever possible. Mitigation measures have been developed to protect wetland resources surrounding the site.

8-18 The filling and dredging of lagoons, estuaries, and bays which eliminate marshes and mud flats shall be allowed only for water-oriented projects. The project does not propose to dredge or fill waters in the County.

Scenic Resources

Policy 9-32 Major park lands shall be reserved to ensure that the present and future needs of the county's residents will be met and to preserve areas of natural beauty or historical interest for future generations. Apply the parks and recreation performance standards in the Growth Management Element. No population growth is expected from the implementation of the project, thus no additional park resources are needed.

Policy 9-35 Regional-scale public access to scenic areas on the waterfront shall be protected and developed, and water-related recreation, such as fishing, boating, and picnicking, shall be provided. The project will not impact public access to scenic areas on the waterfront since the refinery is existing.

9-D To preserve and protect areas of identified high scenic value, where practical, and in accordance with the Land Use Element Map. The project will not expand into any scenic resources.

9-F To preserve the scenic qualities of the San Francisco Bay/Delta estuary system and the Sacramento-San Joaquin River/Delta shoreline. The project will not expend into scenic resources on the waterfront. All development is located within the existing refinery facility.

9-13 Providing public facilities for outdoor recreation should remain an important land use objective in the county, as a method of promoting high scenic quality, for air quality maintenance, and to enhance outdoor recreation opportunities of all residents. The industrial project on a developed industrial site will not impact access to outdoor recreation.

9-24 The appearance of the county shall be improved by eliminating negative features such as non-conforming signs and overhead utility lines, and by encouraging aesthetically designed facilities with adequate setbacks and landscaping. Project development is proposed within the existing refinery. Obsolete equipment will be removed, consistent with the policy.

9-25 Maintenance of the scenic waterways of the county shall be ensured through public protection of the marshes and riparian vegetation along the shorelines and delta levees, as otherwise specified in this Plan. The project will not expand into scenic areas as the development will take place on the developed portion of the industrial property.

9-27 Physical and visual public access to established scenic routes shall be protected. The project is located within an existing private industrial facility and will not block physical or visual public access.

Implementation Measure 9-b Carefully study and review any development projects which would have the potential to degrade the scenic qualities of major significant ridges in the county or the bay and delta shoreline. The project is located within an existing industrial facility and will not further detriment the delta shoreline.

Noise Polices

Policy 11-1 establishes the acceptability of proposed new land uses within existing noise-impacted areas in accordance with the State of California General Plan Guidelines. The maximum exterior noise level considered to be "normally acceptable" for single-family residential uses is 60-dBA Ldn, and noise levels of up to 70-dBA Ldn are considered to be "conditionally acceptable." The maximum exterior noise level considered to be "normally acceptable," without condition, for industrial uses is 70-dBA Ldn. This policy does not apply to temporary noise levels, such as from construction. The project is not expected to create noises that would exceed thresholds within surrounding properties.

Policy 11-8 states that construction activities shall be concentrated during the hours of the day that are not noise-sensitive for adjacent land uses and should be commissioned to occur during normal work hours of the day to provide relative quiet during the more sensitive evening and early morning periods. These limitations would be included as conditions of approval and the facility operates in an industrial area located away from other land uses.

5. The project shall not create a nuisance and/or enforcement problem within the neighborhood or community.

Project Finding: The construction of the new equipment units would take place within the currently developed portions of the Project Site and are not expected to introduce nuisance sources. The EIR for the project included an assessment of the potential for the Project to cause a public nuisance by subjecting surrounding land uses (receptors) to objectionable odors. The primary source of odors from pre-Project operations are the treatment of sour gas streams, the Sulfur Recovery Unit (SRU), the Sulfuric Acid Plant (SAP), storage of crude oil and the wastewater treatment plant. The SRU, SAP, and crude oil storage would be shut down as part of this Project resulting in a reduction of odors. The wastewater treatment plant will be upgraded with a new Moving Bed Biological Reactor unit. Odors from wastewater are often created when treatment systems are under

designed or there is poor control of operational variables. The new wastewater treatment plant will have an equalization tank to provide a consistent feed to the plant creating fewer process swings and better control of process operating limits. The controls for chemical addition and outfall would be automated with updated technology that is more reliable. The combination of these upgrades will result in reduced odor from the wastewater treatment plant.

Potential new sources of odor are the storage of renewable feedstock, including tallow. In order to determine the level of potential odor and whether controls would be needed, Marathon visited three facilities where fat, oils, and grease were stored. Noticeable odors were not observed at these facilities and odor control technologies used at these sites were incorporated into the design for this Project. Odor management controls including carbon canisters, nitrogen blanketing of storage tanks and a vapor recovery system would be used to reduce odors from the storage tanks and loading and unloading activities. An operational Odor Management Plan (OMP) will be developed and implemented, intended to become an integrated part of daily operations at the Facility and other sites, so as to prevent any objectionable offsite odors and effect diligent identification and remediation of any potential objectionable odors generated by the facility and associated sites. The Odor Management and Control Plan (OMCP) will include continuous evaluation of the overall system performance, identification of trends to provide an opportunity for improvements to the plan, and updating the odor management and control strategies, as necessary.

The clean air strategy of the BAAQMD includes the preparation of plans for the attainment of ambient air quality standards, adoption and enforcement of rules and regulations concerning sources of air pollution, and issuance of permits for stationary sources of air pollution. The facility would implement control measures for emissions that would be incorporated into applicable permits issued by the BAAQMD and enforced by the district.

Transportation conditions during construction were analyzed assuming the maximum number of construction trips. The traffic analysis in Section 3.14, Transportation, of the DEIR, is based on a construction schedule that presumes a total of 1,400 workers, most working day shifts. During construction, the number of truck trips would be estimated at between 60 and 310 trips per day, depending on timing and phasing. A number of trips would be used for deliveries and distribution of petroleum coke and products manufactured at the Refinery. Project truck trips would be scheduled to avoid peak travel times along major highways, and full road closures would not be expected.

Due to the number of employees expected during Project construction, a short-term increase in vehicle trips and construction traffic would last for the duration of construction. The transportation impacts during Project construction would be less than significant. The Project would not require an increase in the number of workers required to operate the Refinery, and no long-term operational traffic impacts would be expected. Therefore, the proposal will not create a nuisance and/or enforcement problem within the neighborhood or community.

Condition of Approval #34 requires the applicant to ensure the long-term reusability of the project site by implementing a Work Plan for the demolition and cleanup of the site. The condition requires the applicant to provide financial assurances for the removal of obsolete equipment and site remediation of hazardous materials. This assurance and continued effort at cleaning up the site will ensure the project site does not become a nuisance and reduces the risk of hazardous materials impacting neighboring communities.

6. The project as conditioned shall not encourage marginal development within the neighborhood.

   Project Finding: The Martinez Refinery Renewable Fuels Project will be primarily located in areas zoned H-I under the County Ordinance Code and designated Heavy Industry in the County General Plan. The open waters of the Carquinez Strait and lower Suisun Bay are offshore to the north of the Project site. Onshore, undeveloped lands on and around the Project site include marsh habitats between open water and onshore facilities and ruderal/upland habitat onshore between the marsh habitat and developed lands. Developed lands in the immediate and general vicinity of the Project site include a variety of residential, commercial, industrial, and public uses. Just east of the Refinery and Avon MOT are several hundred acres of undeveloped marshlands. This area includes the Point Edith Wildlife Preserve, a 761-acre tidal area accessible to the public for wildlife viewing and hunting. The unincorporated residential community of Clyde is east of the Refinery's on-site marshlands, on the opposite side of Port Chicago Highway from the Refinery's eastern property line. The Contra Costa Water District's Mallard Reservoir, and multiple complexes of light industrial warehouse buildings are also located east of the Project site. The refinery will not alter its use of the buffer zones. The proposal is intended to repurpose the existing refinery and would not expand development on the site. Therefore, it is not expected that the project would encourage marginal development within the neighborhood.

7. That special conditions or unique characteristics of the subject property and its location or surroundings are established.

   Project Finding: The Martinez refinery has existed in its present location for more than 100 years and is one of the few areas in the County suitable for the proposed project. The project areas are zoned Heavy Industrial District (H-I) by the County Ordinance Code. This designation allows a permitted use of oil refining and other manufacturing operations. The project will not result in any changes in the existing use of the refinery in that propane and butane are both already produced at the facility. Unique characteristics of the project have been reviewed in the EIR, including geologic characteristics described in the geotechnical investigation conducted by Hultgren-Tillis Engineers, the Biological Technical Report prepared by ERM Worldwide Group Ltd, and aesthetic characteristics identified in the project plans and satellite imagery. Any special conditions or unique characteristics have been fully evaluated and established.